

Agenda Item	<b>6.2</b>
Report No	<b>PLS-077-21</b>

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 14 December 2021  
**Report Title:** 21/04243/S36: Renewable Energy Systems Ltd (RES)  
Land 2.8KM SE Of Little Lyne, Glenferness  
**Report By:** Area Planning Manager – South

### **Purpose/Executive Summary**

**Description:** Cairn Duhie Wind Farm- Application under Section 36C of the Electricity Act to vary conditions 1 (Duration of the Consent, from 30 to 32 years) and 2 (Commencement of Development, from a period of 3 years to 6 years from consent)

**Ward:** 18 - Nairn And Cawdor

**Development category:** Major

**Reason referred to Committee:** Major Development

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

### **Recommendation**

**RAISE NO OBJECTION** to the application as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

1.1 The Highland Council has been consulted by the Scottish Government's Energy Consents Unit (ECU) on an application made under Section 36C of the Electricity Act 1989 (as amended) to make the following amendments to the existing consent for Cairn Duhie Wind Farm:

1. Extension of the duration of consent from 30 to 32 years; and
2. Extension to the commencement of development from a period of 3 years from consent to a period of 6 years from consent.

As a consequence, the wording on the 2017 decision notice for conditions 1 and 2 will need to be altered as follows. A copy of the 2017 decision letter is included as Appendix 1 to this report:

	Original wording on the 2017 Section 36 consent	Proposed wording of condition
1	This consent shall expire after a period of 30 years from the date of Final Commissioning	This consent shall expire after a period of 32 years from the date of Final Commissioning.
2	The Development shall be commenced no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereinafter direct in writing.	The Development shall be commenced no later than six years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereinafter direct in writing.

1.2 The Cairn Duhie Wind Farm was granted consent by Scottish Minister in 2017 for the following:

- 20 wind turbines with maximum tip height of 110 metres, with foundations and associated hardstandings;
- Approximately 10.3 km of access tracks;
- A permanent, free standing meteorological/wind monitoring mast;
- A 10m high communications mast;
- Six temporary guyed meteorological masts;
- Creation of a new site entrance from the public road network;
- A control building and temporary construction compound;
- A temporary storage area;
- Drainage works;
- Woodland and tree management;
- Landscaping and ecological enhancement works; and

- Associated ancillary works; and Engineering operations.

1.3 As stated above, Section 36 consent was granted by Scottish Ministers on 6 October 2017, subject to 33 planning conditions. Condition 2 stated that the

- ‘Development shall be commenced no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereinafter direct in writing’.

As per the terms of condition 2, Scottish Ministers issued a direction on 5 October 2020, that extended the implementation period until 30 September 2021. This was requested by the applicant due to the disruption due to the Covid-19 pandemic.

1.4 Since this initial request was made, and the formal submission of the application subject to the report, the applicant have requested, and had granted by Scottish Ministers, a further direction thus extending the implementation period until 30 September 2022. The current section 36c variation application seeks to extend the commencement of development from a period of 3 years from consent to a period of 6 years from consent i.e. by 6 October 2023.

1.5 No physical changes are proposed to the consented 2017 scheme. This variation only relates to the time limits for implementation of the consent and the operational period once constructed. In addition, to the impacts of the Covid-19 pandemic, the applicant has also stated the following reasons for the variation request:

Reason for extending the life period of the project

- Condition 6 of the 2017 consent requires that a scheme of radar mitigation be agreed and put in place prior to commencement of development. Following removal of onshore wind subsidies in 2015 it became apparent that it would not be economically viable for Cairn Duhie to address this condition on a standalone basis. In recognition of this issue, the applicant has engaged with other developers and the Scottish Government to find a multi-party solution to aviation impacts at Inverness Airport. Although not yet finalised it appears that a viable solution will be found which will likely see cost divided between several projects in the area.
- The applicant has stated that wind turbine technology continues to evolve at pace and the understanding of site conditions and turbine condition monitoring has grown significantly since consent for Cairn Duhie was first sought. A review of the project by the applicant has shown that it is reasonable to expect that Cairn Duhie would have a viable operational lifespan of at least 32 years. The applicant has set out that this extension of the lifespan would maximise the project’s contribution towards the legally binding net zero carbon emissions set out in the Climate Change (Emission Reduction Targets) (Scotland) Act 2019 whilst also improving the economic viability of the project.

Reason for extending commencement from 3 to 6 years.

- This is to afford the time to finalise the proposed multi-party solution to aviation matters concerning Inverness Airport. The applicant notes that other onshore wind developments consented by Scottish Ministers have been granted an implementation period of 6 years; including Crystal Rig

Wind Farm (Phase IV) and Windy Standard III. The applicant consider that the variation would afford an equal opportunity and the time required for Cairn Duhie to contribute to the proposed aviation solution to facilitate its commencement of development and thereafter contribution towards reaching the Net Zero target.

- 1.6 **Pre-Application Consultation:** No formal pre-application was undertaken between the applicants and the Planning Authority.
- 1.7 The Section 36c application is supported by an Environmental Impact Assessment Addendum Report which considers potential new or significant effects beyond those reported as part of the original consent. This includes the following chapters on Landscape and Visual Amenity, Cultural Heritage, Ecology, Ornithology, Hydrology, Hydrogeology, Geology and Peat, Traffic and Transport and Other Issues. In addition, the application is also accompanied by Technical Appendices, a Non-Technical Summary and a Planning Statement. As background information, a copy of the original EIAR for the 2017 permission and a copy of the 2021 application, for a re-design of the site (21/01521/S36), as noted in the planning history (section 3) this is currently pending determination and is not part of the assessment for this current planning application. It is anticipated that the re-design will be presented to the South Area Planning Committee in early 2022.
- 1.8 Variations: No variations have been made to the application since the Planning Authority were consulted on the application.

## 2. SITE DESCRIPTION

- 2.1 The site is located approximately 2km to the south-east of Ferness, 13.5km north/north-west of Grantown-on-Spey and 15km to the south-east of Nairn. The site is bounded to the west by the A939 road and the B9007 to the north. The site covers an area of approximately 666 hectares, although the actual footprint of the consented development is significantly less (approximately 15 hectares). The site includes Cairn Duhie, a low conical hill with land sloping down from it in all directions. The site ranges from 312m Above Ordnance Datum (AOD) to 200m AOD at the northern end. The site is predominantly a mixture of degraded bog and heath habitats with localised wooded areas and scattered mature trees. There are several minor water courses on site of less than 1 m in width and less than 0.5m in depth. The southern part of the site is drained by the Burn of Lochantùtach, which runs east and north to the Dorback Burn on the east. The northern part of the site is drained by the Stripe of Muckle Lyne and the Stripe of Little Lyne. All watercourses form part of the River Findhorn catchment. Access to the site is via the A939.
- 2.2 The site is not covered by any statutory international, national, regional or local landscape-related designations. The closest landscape designations are:

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Distance to Site
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Cairngorms National Park	7.8km to the south
The Cairngorm Mountains National Scenic Area (NSA)	27km to the south
Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA)	2 km to the south
Sutors of Cromarty, Rosemarkie and Fort George SLA	19km to the north-west

2.3 There are no statutory or non-statutory natural heritage designations within the Site. Within 5km of the site the following designations are present:

	Qualifying Feature	Distance to Site
Lower Findhorn Woods Special Area of Conservation (SAC)	Mixed woodland on base-rich soils associated with rocky slopes	2.8km
Lower Findhorn Woods SSSI	Upland mixed ash woodland, bryophyte assemblage, lichen assemblage, and Oligotrophic river/stream	2.8km
Moidach More SAC	Blanket bog	3.5km
Moidach More SSSI	Blanket bog	3.5km

2.4 There are no Scheduled Ancient Monuments, Listed Buildings or Conservation Areas within the application site. The site does contain a number cultural heritage assets of local importance from pre-history, through medieval times to 20th century developments. Within 5km of the site there are four scheduled monuments, six category A listed buildings and one Garden and Designed Landscape.

2.5 There are no Core Paths within the site. The following Core Paths are located within 5km of the site:

- Core Path BS05.01, which comprises the section of the Dava Way<sup>3</sup> to the south of the site, this is within THC administrative area; and
- Core Path DA05, which comprises the section of the Dava Way to the east, northeast and southeast of the site, this located within the administrative area for Moray Council.

The Dava Way is a 38km path which links Forres and Grantown-on-Spey.

2.6 The following table outlines operational, consented/ under construction or schemes within the planning system within approx. 20km of the site.

No. of Turbines	Tip Height (m)

<b>Operational Sites</b>		
Hill of Glaschyle (within Moray Council area)	12	100
Berry Burn (within Moray Council area)	29	104
Paul's Hill (within Moray Council area)	28	100
Tom nan Clach	13	125
Moy	20	125
Roths – Phase 2 (within Moray Council area)	18	125
Roths Phase – 1 (within Moray Council area)	22	100
<b>Consented / Under Construction Sites</b>		
Paul's Hill 2 (within Moray Council area)	6	149.9
Kellas (within Moray Council area)	4	110
<b>Application / Appeal Sites</b>		
Clash Gour (within Moray Council area)	48	180
Berry Burn Extension (within Moray Council area)	9	149.9
<b>Scoping Sites</b>		
Tom na Clach Extension	8	149.9
Ourack	27	180

### 3. PLANNING HISTORY

3.1	PENDING	21/01521/S36: Cairn Duhie Wind Farm Redesign - Erection and operation of wind farm for a period of 35 years, comprising of 16 wind turbines with maximum blade tip height of 149.9m, access tracks, borrow pits, switching station, substation, control building, temporary construction compound, battery storage infrastructure, and ancillary	Pending Determination
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infrastructure.

23 March 2020	20/01277/SCRE: Request for Screening Opinion for proposed S42 - Cairn Duhie Wind Farm	Screening Opinion Issued
27 March 2020	20/00889/SCOP: Cairn Duhie Wind Farm - Erection of 16 turbines up to 149.9m in height to blade tip	Scoping Opinion Issued
09 Oct 2017	13/04142/S36: Cairn Duhie Wind Farm - Erection of 20 wind turbines up to 60 MW total installed capacity	S36 Consent Granted By Scottish Ministers

#### 4. PUBLIC PARTICIPATION

##### 4.1 Advertised: EIA Development

Date Advertised by the applicant in agreement with the Energy Consents Unit:

- Strathspey and Badenoch Herald: 26.08.2021 & 02.09.2021.
- Edinburgh Gazette: 27.08.2021
- The Herald: 27.08.2021

Representations received by 0  
The Highland Council

Representations received by 0  
Energy Consents Unit

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam).

#### 5. CONSULTATIONS

##### 5.1 Consultations undertaken by The Highland Council

5.2 **East Nairnshire Community Council** did not respond to the consultation

5.3 **Cawdor & West Nairnshire Community Council** did not respond to the consultation

5.4 **Auldearn Community Council** did not respond to the consultation

5.5 **Dalnain Bridge Community Council** did not respond to the consultation

5.6 **Grantown On Spey Community Council** did not respond to the consultation

5.7 **Cromdale & Advie Community Council** did not respond to the consultation

5.8 **Contaminated Land Officer:** do not object to the proposed variation.

- 5.9 **Historic Environment Team – Archaeology:** do not object to the proposed variation.
- 5.10 **Flood Risk Management Team:** do not object to the proposed variation.
- 5.11 **Environmental Health Officer:** do not object to the proposed variation.
- 5.12 **Transport Planning Team:** do not object to the proposed variation subject to conditions attached to the deemed planning permission issued by Scottish Ministers.

**Consultations Undertaken by The Scottish Government’s Energy Consents Unit (ECU)**

- 5.13 **Cairngorms National Park Authority** do not object to the proposed variation as the variation only relates to durations of consent and implementation and not landscape effects.
- 5.14 **NATS** do not object to the proposed variation.
- 5.15 **Scottish Water** do not object to the proposed variation.
- 5.16 **BT** do not object to the proposed variation.
- 5.17 **Aberdeen Archaeology Services** do not object to the proposed variation.
- 5.18 **Ministry of Defence** do not object to the proposed variation.
- 5.19 **Historic Environment Scotland** do not object to the proposed variation.
- 5.20 **Highlands and Islands Airport** do not object to the proposed variation.
- 5.21 **Transport Scotland** do not object to the proposed variation subject to conditions.
- 5.22 **Scottish Forestry** do not object to the proposed variation.
- 5.23 **RSPB** do not object to the proposed variation.
- 5.24 **Joint Radio Company** do not object to the proposed variation.
- 5.25 **Mountaineering Council of Scotland** do not object to the proposed variation.
- 5.26 **NatureScot** do not object to the proposed variation.
- 5.27 **Coal Authority** do not object to the proposed variation.
- 5.28 **Scottish Environment Protection Agency** do not object to the proposed variation.



## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

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

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 51 - Trees and Development
- 53 - Minerals
- 54 - Mineral Wastes
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 63 - Water Environment
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 67 - Renewable Energy Developments:
  - Natural, Built and Cultural Heritage
  - Other Species and Habitat Interests
  - Landscape and Visual Impact
  - Amenity at Sensitive Locations
  - Safety and Amenity of Individuals and Individual Properties
  - The Water Environment
  - Safety of Airport, Defence and Emergency Service Operations
  - The Operational Efficiency of Other Communications
  - The Quantity and Quality of Public Access
  - Other Tourism and Recreation Interests
  - Traffic and Transport Interests
- 68 - "Community" Renewable Energy Developments
- 69 - Electricity Transmission Infrastructure
- 72 - Pollution
- 73 - Air Quality
- 77 - Public Access

### **6.2 Inner Moray Firth Local Development Plan (2015)**

The Inner Moray Firth Local Development Plan does not contain any specific land allocations related to the proposed development. It does provide confirmation of the boundaries for the Special Landscape Areas

## **The Highland Council Supplementary Guidance**

### **Onshore Wind Energy Supplementary Guidance, Nov 2016 (OWESG)**

- 6.3 The document provides additional guidance on the principles set out in HwLDP Policy 67 - Renewable Energy Developments and reflects the updated position on these matters as set out in Scottish Planning Policy (SPP). This document forms part of the Development Plan and is a material consideration in the determination of planning applications.
- 6.4 The document includes a Spatial Framework, which is in line with Table 1 of SPP. The site lies partly within a Group 2 Area of Significant Protection, due to the presence Carbon Rich Soils, Deep Peat and Priority Peatland Habitat (CPP). CPP is a nationally important mapped environmental asset that indicates where the resource is likely to be found with a detailed peat assessment being required to guide development away from the most sensitive areas and help inform potential mitigation. Part of the site is also located within Group 3 which describes land which may be suitable for wind farm development.
- 6.5 The following Supplementary Guidance also forms a statutory part of the Development Plan and is considered pertinent to the determination of this application:
- Developer Contributions (November 2018)
  - Flood Risk & Drainage Impact Assessment (Jan 2013)
  - Highland Historic Environment Strategy (Jan 2013)
  - Highland's Statutorily Protected Species (March 2013)
  - Highland Renewable Energy Strategy & Planning Guidelines (May 2006)
  - Managing Waste in New Developments (March 2013)
  - Physical Constraints (March 2013)
  - Special Landscape Area Citations (June 2011)
  - Standards for Archaeological Work (March 2012)
  - Trees, Woodlands and Development (Jan 2013)

## **7. OTHER MATERIAL CONSIDERATIONS**

- 7.1 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.
- 7.2 In addition, 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 (Aug 2010) and The Highland Council Visualisation Standards for Wind Energy Developments (Jul 2016).

## **Scottish Government Planning Policy (SPP) and Guidance**

- 7.3 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.
- 7.4 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).
- 7.5 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.
- 7.6 Paragraph 174 of SPP sets out that proposals to repower 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.
- 7.7 National Planning Framework 4 will, in due course, supersede Scottish Planning Policy and form part of the Development Plan. Draft National Planning Framework 4 was published in November 2021. It comprises four parts, summarised below:
- Part 1 – sets out an overarching spatial strategy for Scotland in the future. This includes priorities, spatial principles and action areas.
  - Part 2 – sets out proposed national developments that support the spatial strategy.
  - Part 3 – sets out policies for the development and use of land which are to be applied in the preparation of local development plans; local place plans; masterplans and briefs; and for determining the range of planning consents. It is clear that this part of the document should be taken as a whole, and all relevant policies should be applied to each application.
  - Part 4 – provides an outline of how Scottish Government will implement the strategy set out in the document.
- 7.8 The Spatial Strategy sets out that we must embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, build a wellbeing economy and create great places. It makes

clear that new development and infrastructure will be required to meet the net zero targets by 2045. To facilitate this, it sets out that we must rebalance our planning system so that climate change and nature recovery are the primary guiding principles for all our decisions. It sets out that significant weight should be given to the global climate emergency when considering development proposals. The draft sets out that the planning system should support all forms of renewable energy development in principle. Specific to this proposal it states that development proposals to extend and expand existing wind farms should be supported unless the impacts identified (including cumulative effects) are unacceptable. It continues to highlight a range of considerations for renewable energy applications, similar to the existing provisions of Scottish Planning Policy.

### **Other Relevant National Guidance and Policy**

7.9 A range of other national planning and energy policy and guidance is also relevant, including but not limited to the following:

- National Planning Framework for Scotland 3, NPF3
- Scottish Energy Strategy (Dec 2017)
- Historic Environment Policy for Scotland (HEPS, 2019)
- PAN 1/2011 - Planning and Noise (Mar 2011)
- Circular 1/2017: Environmental Impact Assessment Regulations (May 2017)
- PAN 60 – Planning for Natural Heritage (Jan 2008)
- 2020 Routemap for Renewable Energy (Jun 2011)
- Onshore Wind Energy (Statement), Scottish Government (Dec 2017)
- Onshore Wind Energy (Statement) Refresh Consultation Draft, Scottish Government (October 2021)
- Siting and Designing Wind Farms in the Landscape, SNH (Aug 2017)
- Wind Farm Developments on Peat Lands, Scottish Government (Jun 2011)
- Energy Efficient Scotland Route Map, Scottish Government (May 2018)
- Assessing Impacts on Wild Land Areas, Technical Guidance, NatureScot (Sep2020)

## **8. PLANNING APPRAISAL**

8.1 As detailed above, this application has been submitted to the Scottish Government for approval under Section 36c of the Electricity Act 1989 (as amended). Should Ministers approve the variation, it will receive deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). While not a planning application, the Council processes S36 applications in the same way as a planning application as a consent under the Electricity Act will carry with it deemed planning permission.

8.2 Schedule 9 of The Electricity Act 1989 contains considerations in relation to the impact of proposals on amenity and fisheries. These considerations mean the

developer should:

- Have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

Reasonably mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

- 8.3 It should be noted that for applications under the Electricity Act 1989 that the Development Plan is just one of a number of considerations and 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, is not engaged.

### **Determining Issues**

- 8.4 While this is the case 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 require to be considered to assess the modifications to the extant consent. This current application seeks only to modify two conditions in relation to the commencement and operational time periods. This would allow the commencement period to be extended beyond the Covid 'emergency period' (September 2022) as outlined in the Scottish Minister direction and detailed in section 1 of this report.
- 8.5 As outlined above, the application has been accompanied by a copy of the original Environmental Impact Assessment Report (EIAR) for the 2017 permission and a copy of the EIAR for the 2021 application for the re-design of the site (21/01521/S36), as noted in the planning history (section 3) this is currently pending determination. In addition, the application includes a 2021 EIAR Addendum Report. This uses the up-to-date survey and technical assessment contained within the pending 2021 re-design application to provide an up-to-date assessment of the policy, regulations and baseline conditions for this application. The 2021 Addendum Report then uses this information to gauge whether the request to vary conditions 1 and 2 of the 2017 consent will alter the level of significance of effects outlined in the extant consent which may affect the planning merits of the request to alter the conditions. As The Highland Council is not the determining authority for the application, The Council is not required to reach a reasoned conclusion in EIA terms for the application, this will be a matter for Scottish Ministers.

### **Planning Considerations**

- 8.6 The principle of the development has been established through the Section 36 Consent and associated deemed planning permission. This is an application to modify conditions. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material

considerations, including the topics considered by the EIAR Addendum.

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

- 8.7 Development Plan policy has not changed since the time of the determination of the original application for the construction and operation which was determined by Scottish Ministers following consideration of the Reporter's Public Local Inquiry Report. A Public Local Inquiry was held following the Council's objection to the application.
- 8.8 If the Council is satisfied that the proposal is not significantly detrimental overall, then the application will accord with the Development Plan.
- 8.9 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. In determining the original application, Ministers considered that impacts had been minimised or mitigated.
- 8.10 Notwithstanding the overarching context of support, SPP recognises that the need for energy and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals. The planning system has a significant role in securing appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy. National policies highlight potential areas of conflict but also advise that detrimental effects can often be mitigated or effective planning conditions can be used to overcome potential objections to development.
- 8.11 While national planning policy has not changed since the decision of the original application, The Scottish Government has published draft National Planning Framework 4 for consultation. As a consultative draft it holds limited weight in the decision making process. However, it will be up to Scottish Ministers to determine the weight to be afforded to it in reaching their determination depending on the status of the document at the time of reaching their determination on the application.

A number of matters of relevance arise out of the draft NPF4 in relation to this proposal and these are explored further below:

- Draft NPF4 identifies electricity generation from renewable sources of, or exceeding 50MW as national development. The proposed development would therefore be classed as a national development as it would have a capacity in excess of 50MW. Such developments have been identified as national developments due to the need an increase in renewable energy production in order to meet net zero targets. It also highlights that Generation is for consumption domestically as well as for export to the UK and beyond, with new capacity helping to decarbonise heat, transport and industrial energy demand. It notes that this has the potential to support jobs and business investment, with wider economic benefits.
- For the first time in a planning policy document, confirmation has been provided that when considering all developments significant weight should be given to the Global Climate Emergency. As a development that

generates renewable energy this proposal has inherent support from this aspect of NPF4, however the impact on the carbon resource as a result of the development will require further consideration to determine whether the impact of the proposed development is positive or negative in this regard.

- Recognising the Ecological Emergency, the draft NPF4 also sets out that proposals should contribute to the enhancement of biodiversity. The proposed development, includes provision for peatland restoration which meets with the provisions of the proposed approach in draft NPF4 for the restoration of degraded habitats and the strengthening of nature networks.
- Considerations for green energy applications have been updated and there is no longer an explicit spatial framework for onshore wind energy developments. Instead, it sets out that proposals for new development, extensions and repowering of existing renewable energy developments should be supported. The proposal subject to this application would be considered a repowering proposal so would benefit from this in principle support. However, it goes on to set out that such proposals should be supported unless the impacts identified (including cumulative effects), are unacceptable. The impacts of the change to the proposal are assessed in relation to this application later in this report. Draft NPF4 also highlights a number of matters which must be taken into account in reaching a determination on an application for renewable energy. Subject to some minor wording changes, this is largely reflective of the considerations set out in SPP paragraph 169.

8.12 Since determination of the original consent a number of publications relating to national energy policy have been published by the Scottish Government. In short, none indicate a relevant distinct policy change. Most relevant to this application are as follows:

- Scottish Energy Strategy: The future of energy in Scotland (Dec 2017)
- On-shore Wind Policy Statement (Dec 2017)
- Scottish Government, Securing a Green Recovery on a Path to Net Zero: Climate Change Plan 2018–2032 – update, December 2020;
- Committee on Climate Change, The Sixth Carbon Budget, *The UK's Path to Net Zero*. (including Policy and Methodology) December 2020;
- National Audit Office, Net Zero Report, December 2020;
- HM Government, Energy White Paper, Powering our Net Zero Future, December 2020
- On-shore Wind Policy Statement Refresh consultation draft October 2021.

8.13 Further to the above, in late 2019 the Scottish Government's targets for reduction in greenhouse gases were amended by The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. This sets targets to reduce Scotland's emissions of all greenhouse gases to net-zero by 2045 at the latest, with interim targets for reductions of at least 56% by 2020, 75% by 2030, 90% by 2040.

- 8.14 The statements of continued strong support relating to onshore wind contained within these documents are acknowledged. Support for onshore wind is anticipated to meet with the continued aspiration to decarbonise the electricity network, enable communities to benefit more directly in their deployment and to support the renewables industry and wider supply chain.
- 8.15 However, it is also recognised that such support should only be given where justified. The Onshore Wind Policy Statement sets out the need for a more strategic approach to new development that acknowledges the capacity that landscapes have to absorb development before landscape and visual impacts become unacceptable. With regard to planning policy, these statements largely reflect the existing position outlined within NPF3 and SPP, a policy framework that supports development in the justified locations. In addition, it must be recognised that the greenhouse gas reduction targets and the targets in the Energy Strategy are related not just to production of green energy but also related to decarbonisation of heat and transportation.
- 8.16 The Scottish Government published Onshore Wind Policy Statement Refresh 2021: Consultative Draft in October 2021. This set out that onshore wind remains vital to Scotland's future energy mix and that we will need additional onshore wind energy toward the target of net zero. In doing so it was clear that additional capacity is not at any cost and it needs to be balanced and aligned with protection of natural heritage, native flora and fauna. The document also highlights the challenges and opportunities faced by the deployment of additional onshore wind energy capacity as well as consulting on a target of an additional 8-12GW of onshore wind energy capacity being delivered. Importantly it notes that the matter of landscape and visual impacts of onshore wind development remains an evolving area. As part of this evolution, it considers that while decisive action to tackle climate change will change how Scotland looks, Scotland's most cherished landscape are a key part of natural and cultural heritage and must be afforded the necessary protection.
- 8.17 The proposal is one which would fit the definition of a "re-powering" project under the terms of paragraph 174 of Scottish Planning Policy, as this will extend the lifetime of the scheme. This sets out that "proposals to repower existing wind farms which are already in suitable sites where environmental and other impacts have been shown to be capable of mitigation can help to maintain or enhance installed capacity, underpinning renewable energy generation targets. The site currently benefits from an extant planning permission. In consenting the original application Scottish Ministers concluded that the applicant had regard to the desirability of preserving natural beauty, of conserving flora, fauna, and geological and physiographical features of special interest and protecting sites, buildings and objects of architectural, historic or archaeological interest. Further Ministers considered that the applicant had done what it reasonably could to mitigate the effects of the development on the aforementioned features. Scottish Ministers. In reaching these conclusions, the Scottish Ministers concluded that the development accorded with the provisions of the Development Plan and Scottish Planning Policy subject to the application of conditions to secure mitigation.



### **Modification to Condition 1 - Extension of Implementation Period**

- 8.18 The applicant is seeking an extension to allow the implementation of the Section 36 consent and associated deemed planning permission until six years from the date of consent of the original consent issued by Scottish Ministers. This is due to a range of factors including the Covid-19 pandemic and the requirement to find an appropriate aviation solution. It is accepted that these matters will have caused unexpected delays to the implementation of the consent. The applicant has cited that other consents issued by Scottish Ministers are of a minimum of five years. These matters are accepted and it is not considered that the proposed extension to the implementation period will have any environmental impacts beyond that of the consented scheme. It is however noted that the schedule of mitigation and pre-commencement ecology conditions will be particularly important given the time which will have passed between the original survey work and the implementation of the consent.

### **Modification to Condition 2 – Extension of Operational Period**

- 8.19 The extension of the operational period may have a number of impacts, but these are not envisaged to extend beyond those identified in the applicant's Environmental Impact Assessment Report, the Council's consultation response to the original application or the matters identified by the Reporter. However, each of the relevant matters addressed in the applicant's Environmental Impact Assessment Report Addendum is included below:

#### **Landscape and Visual Impact**

- 8.20 There have been no new national or local landscape designations since the original application. The EIAR addendum does acknowledge that there have been changes to the baseline conditions in respect of the cumulative wind farm picture. However, under this variation application, no changes are proposed to the height or layout of the turbines. In addition, this is an extant planning permission, so the principle of development has been established. No statutory consultees have raised any objections to the proposed variation to conditions 1 and 2 of the 2017 consent in relation to landscape or visual impacts. Planning conditions 10, 11 and 12 of the extant 2017 permission relating to design of the scheme are unaffected by this proposed variation application.

#### **Cultural Heritage**

- 8.21 There are no new designated heritage assets beyond those identified in the 2013 application. The main change are the potential cumulative effects from the wind farm schemes granted consent since the original application. However, the EIAR addendum has not identified these as significant effects. Historic Environment Scotland and the Councils Historic Environment Team have raised no objection to this variation application. Condition 23 of the 2017 consent which requires a programme of archaeological works will be unaffected by this variation application.

## **Ecology and Ornithology**

- 8.22 The submitted EIAR addendum report identifies that there have been changes in peatland classification and bat survey/assessment since the original application. Updated surveys and the inclusion of a golden plover survey has been undertaken as part of the 2021 re-design application which is currently pending determination. The EIAR addendum, concludes that the changes requested to the commencement period or extending the operational period will result in no new predicted significant effects or an increase in significance of previously assessed effects in relation to ecological interest or any ornithological features. No statutory consultees have raised any objections to the proposed variation to conditions 1 and 2 of the 2017 consent in relation to ecological or ornithological impacts.

## **Hydrology, Hydrogeology, Geology and Peat**

- 8.23 No layout changes are proposed to the extant consent so there would be no additional impacts upon the peat resource. Flood risk, water quality and private water supply information has been updated, no additional significant effects have been identified. Due to the proposed extension in the schemes operational time period from 30 – 32 years the applicants have re-calculated their carbon balance, this has resulted in a positive moderate effect. This assessment is considered appropriate. No statutory consultees have raised any objections to the proposed variation to conditions 1 and 2 of the 2017 consent in relation to hydrology, hydrogeology, geology or peat. Conditions 16 (private water supplies), 24 (CEMP), 25 (ecology) and 27 (ecological clerk of works) attached to the 2017 consent will be unaffected by this variation application.

## **Traffic and Transport**

- 8.24 The EIAR addendum report anticipates that construction will now commence in 2023 subject to Scottish Ministers granting this Section 36c variation application. The original application concluded that no significant residual impacts will occur during the construction phase of the Development, no additional significant effects have been identified under the EIAR addendum. No statutory consultees have raised any objections to the proposed variation to conditions 1 and 2 of the 2017 consent in relation to Traffic and Transport. Conditions 17 (access management), 20 (traffic management plan), 21 (additional signage and temp traffic control measures), 22 (abnormal loads) attached to the 2017 consent will be unaffected by this variation application.

## **Aviation**

- 8.25 Since the original scheme, the MOD radar infrastructure at RAF Lossiemouth has been updated, however, the applicants report that the new radar location is outwith the line of sight for this development. In addition, the height of the turbines are not to be altered by this variation application. No statutory consultees (MOD or NATS) have raised any objections to the proposed variation to conditions 1 and 2 of the 2017 consent in relation to aviation matters. Conditions 6, 8 and 9 of the 2017 consent which relates to a radar mitigation and aviation safety/lighting will be unaffected by this variation application (see appendix 1). On this basis it is

considered that the variation application raises no concerns in respect of aviation.

### **Other material considerations**

- 8.26 The existing consent was granted subject to 33 planning conditions. This variation application only relates to condition 1 and 2. There will be no consequential changes to any of the remaining conditions. None of the consultees have requested any additional conditions.

## **9 CONCLUSION**

- 9.1 The Scottish Government gives considerable commitment to renewable energy and encourages planning authorities to support the repowering of wind farms where it can be demonstrated that they are on suitable sites and environmental and other impacts can be appropriately mitigated. The principle of a wind farm has been established in this location. The key consideration therefore is whether the proposed variations are deemed acceptable. The rationale for the request in light of the Covid-19 pandemic and the reasons outlined in section 1 of this report are considered to be reasonable. No further environmental impacts beyond those considered and accepted by Scottish Ministers in consenting the original application are envisaged. In addition, there are no consultee objections to the proposed variation and no public representations have been made.
- 9.2 The Council has determined its response to this application against the policies set out in the Development Plan, principally Policy 67 of the Highland-wide Local Development Plan. This policy also reflects policy tests of other policies in the plan, for example Policy 28 and those contained within Scottish Planning Policy. Given the above analysis, the application to variations proposed are considered acceptable in terms of the Development Plan, national policy and is acceptable in terms of all other applicable material considerations
- 9.3 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.

## **10. IMPLICATIONS**

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: The wider project will make a contribution to meeting energy targets and provide renewable energy.
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

### Action required before decision issued N

It is recommended that The Highland Council **Raise No Objection** to this variation application subject to the conditions and reasons set out in the existing Section 36 consent and deemed planning permission contained within Appendix 1, with the exception of conditions 1 and 2 which should be reworded as follows:

1.
  - 1) This consent shall expire after a period of 32 years from the date of Final Commissioning.
  - 2) Written confirmation of the date of First Commissioning and Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

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

2. The Development shall be commenced no later than six years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereinafter direct in writing.

**Reason:** to ensure that the consent is implemented within a reasonable time period

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Alison Harvey

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

Relevant Plans:

Document Type	Document No.	Version No.	Date Received
LOCATION PLAN	02914D2202-06		August 21
SITE LAYOUT PLAN	02914-RES-PRO-DR-PT-001		August 21

Carolyn Wilson  
RES UK & Ireland Limited  
Third Floor  
STV  
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Glasgow  
G51 1PQ

6 October 2017

Dear Ms Wilson

**APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR CAIRN DUHIE WIND FARM, IN THE HIGHLAND PLANNING AUTHORITY AREA.**

**Application**

I refer to the application made by RES UK & Ireland Limited (a company incorporated under Companies Acts with registered number 4913493 and having its registered office at Beaufort Court, Egg Farm Lane, Off Station Road, Kings Langley, Hertfordshire, WD4 8LR dated 4 November 2013 for consent under section 36 of the Electricity Act 1989 (“the Electricity Act”) for the construction and operation of the Cairn Duhie Wind Farm, approximately 1.5km south-east of Ferness, off the A939 between Nairn and Grantown on Spey. The wind farm would comprise 20 wind turbines with a generating capacity in excess of 50MW. This letter contains the Scottish Ministers’ decision to grant consent.

Following formal consultation on the application, additional information was submitted on 10 October 2014 which included information relating to carbon balance assessment, peat assessment, forestry replanting, information relating to an additional viewpoint and an assessment of capercaillie connectivity in relation to the Darnaway and Lethen Forest Special Protection Area (SPA). In January 2016 additional information was submitted which included an update to the cumulative landscape and visual impact assessment of the proposal, an assessment of impacts in relation to the Drynachan, Lochindorb and Dava Moor Scenic Landscape Area and information in relation to visual impacts on communities.

**Planning Permission**

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 Scottish Ministers may on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station direct that planning permission be deemed to be

granted in respect of that generating station and any ancillary development. This letter contains the Scottish Ministers' decision on such a direction.

## **Consultation**

The application was advertised and consulted upon in accordance with the requirements of the Electricity Act, the Electricity (Applications for Consent) Regulations 1990 and the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations").

Under paragraph 2(1) of Schedule 8 of the Electricity Act, the relevant Planning Authority must be notified in respect of a section 36 consent application. Notifications were sent to The Highland Council as Planning Authority, and also Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA). A wide range of other relevant organisations were also notified and consulted.

In accordance with the 2000 Regulations, on 4 November 2013, the applicant submitted an Environmental Statement. The applicant complied with the statutory requirements and advertised the application and Environmental Statement in the local and national press giving the public and interested parties the opportunity to make representations.

A total of 2,516 public representations have been received and considered: 1,925 public representations in objection and 591 public representations in support of the proposal. The Public Local Inquiry (PLI) Report provides a summary of the points of the written representations at paragraphs 1.29 and 1.30. The arguments of objector groups Cairn Duhie Action Group and Save Our Dava are summarised at paragraphs 4.47 - 4.60 and 4.61 - 4.68 respectively of the PLI Report. 13 of the representations of objection were received after referral of the proposal for a PLI and these have been taken into account in this decision.

## **Public Local Inquiry (PLI)**

The Highland Council objected to the application and did not withdraw its objection. In accordance with the terms of paragraph 2(2)(a) of Schedule 8 to the Electricity Act a Public Local Inquiry was held.

The pre-examination meeting was held on 27 October 2015. The inquiry sessions were held on 9 and 10 March 2016 and the Hearing session was held on 16 March 2016.

The Reporter's report was received by the Scottish Government Energy Consents Unit on 27 January 2017. The Reporter recommended that the application for section 36 consent for Cairn Duhie Wind Farm should be granted and that Ministers should direct that planning permission be deemed to be granted.

No claims for expenses was made by any party to the PLI.

## **Environmental Matters**

The Scottish Ministers are satisfied that the Environmental Statement and additional information submitted has been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation laid down in those Regulations have been followed.

Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest.

Scottish Ministers are satisfied that the applicant has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects.

Scottish Ministers can confirm that an appropriate assessment has been undertaken in accordance with the Conservation of Habitats and Species Regulations 2010, following advice from SNH, to protect the qualifying interests of the Darnaway and Lethen Forest SPA, Moray and Nairn Coast SPA and Inner Moray Firth SPA from the possible effects of the development. All environmental information used to inform this assessment was drawn from the Environmental Statement and additional information, which has been advertised and made available to the public as required by the 2000 regulations.

The conclusions of Scottish Ministers' assessment is that the Cairn Duhie Wind Farm will not adversely affect the integrity of the Darnaway and Lethen Forest SPA, Moray and Nairn Coast SPA and the Inner Moray Firth SPA.

### **The Scottish Ministers' Considerations**

Part 1(3) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 Regulations") requires that Scottish Ministers must not:

- a) Grant an Electricity Act consent for EIA development; or
- b) Direct that planning permission is deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of EIA development,

unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the Scottish Ministers must take the environmental information into account.

Part 1(4) of the 2017 Regulations outlines the obligations under the EIA process, including the preparation by the Company of an EIA Report or Environmental Statement (ES) - where submitted to Ministers before 16 May 2017; consideration by Ministers of the likely significant effects of the proposed development; and the consultation, publication and notification procedures required.

In accordance with paragraph 3 of Schedule 9 to the Electricity Act the Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Ministers have also had regard to the extent to which the Company has complied with its duty to do what it can to mitigate the effects of the Development.

Scottish Ministers are satisfied that the requirements of the 2017 Regulations and the Electricity Act 1989 have been met.

The Reporter concludes that the proposal is supported by national policies which promote the principle of onshore wind farms and that the location is appropriate. Residual environmental impacts would not be so great as to justify the refusal of the proposal.

The Reporter recommends that consent is granted under section 36 of the Electricity Act 1989 subject to conditions, and that deemed planning permission is granted under section 57 of the Town and Country Planning (Scotland) Act 1997 subject to conditions. Scottish Ministers have considered fully the Reporter's findings, reasoning and conclusion and adopt them for the purposes of their own decision.

An environmental impact assessment has been carried out and Scottish Ministers have taken the environmental information into account. The Scottish Ministers agree with and adopt the reasoning and conclusions of the reporter set out in Chapter 7 of the PLI Report with regard to the significant effects on the environment of the proposed development consisting of turbines of 110 metres height to blade tip and associated infrastructure, including access tracks and ancillary buildings.

Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion is still up to date.

In reaching their decision Ministers have also considered the Onshore Wind Energy Supplementary Guidance published by The Highland Council in November 2016.

### **The Scottish Ministers' Determination**

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 in respect of the construction and operation of the generating station described more particularly in Annex 1.

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

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the applicant must publish a description of the development, the terms of the decision and how a copy of the decision notice is available for inspection, on the application website; in the Edinburgh Gazette and in a newspaper circulating in the locality in which the Development is situated.

Copies of this letter and the consent have been sent to The Highland Council. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

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

<http://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules>

Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.



Yours sincerely



**CATHERINE CACACE**  
**Head of Operations – Energy Consents**  
**A member of the staff of the Scottish Ministers**

## ANNEX 1

### DESCRIPTION OF THE DEVELOPMENT

The Development comprises a wind-powered electricity generating station known as Cairn Duhie Wind Farm, located approximately 1.5km south-east of Ferness, off the A939 between Nairn and Grantown on Spey within the administrative area of The Highland Council, all as specified in the Application and accompanying Environmental Statement submitted on 4 November 2013 and the additional information submitted on 10 October 2014 and January 2016. This is subject to the conditions in Annex 2.

The principal components of the wind farm and ancillary development compromise:

- 20 turbines with a maximum tip height of 110 metres;
- 20 turbine foundations and associated hardstandings;
- Approximately 10.3km of access tracks;
- 1 permanent, free-standing meteorological/wind monitoring mast;
- 1 10m communications mast;
- 6 temporary guyed meteorological masts;
- Road widening works for access of abnormal load vehicles;
- Creation of new site entrance from public road network;
- A control building and temporary construction compound;
- A temporary storage area;
- Drainage works;
- Woodland and tree management;
- Landscaping and ecological enhancement works;
- Associated ancillary works; and
- Engineering operations

## ANNEX 2

### PART 1

#### Conditions applying to the section 36 consent

##### Duration of the Consent

1. (1) This consent shall expire after a period of 30 years from the date of Final Commissioning.
- (2) Written confirmation of the date of First Commissioning and Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

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

##### Commencement of Development

2. The Development shall be commenced no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing.

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

3. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

**Reason:** *To allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

##### Non-assignment of consent

4. (1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent with or without conditions.
- (2) The Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

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

##### Serious Incident Reporting

5. In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

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

### **Radar Mitigation Scheme**

6. (1) No development shall commence unless and until a radar mitigation scheme setting out measures to be taken to minimise any impairment by the Development upon the performance of aerodrome navigation aids at Inverness Airport has been submitted to, and approved in writing by, the Scottish Ministers in consultation with the operator of Inverness Airport. The radar mitigation scheme shall include (but will not be limited to):
- (a) details of the mitigation required to be completed prior to any wind turbine being erected.
  - (b) details setting out how a safety case shall be submitted to the Civil Aviation Authority (CAA).
- (2) No wind turbine shall be erected unless and until those measures required by the radar mitigation scheme under the foregoing condition 6(1)(a) have been carried out and approved in writing by the Scottish Ministers in consultation with the operator of Inverness Airport. The Development shall thereafter be operated fully in accordance with the approved radar mitigation scheme, unless otherwise agreed in writing by the Scottish Ministers in consultation with the operator of Inverness Airport.
- (3) The radar mitigation scheme must set out the appropriate measures to be implemented to mitigate the impact of the Development on the radar and shall be in place for the operational life of the development.
- These measures shall include (but will not be limited to):
- (a) the compatibility and interoperability with the Inverness radar;
  - (b) the proven effective range and coverage;
  - (c) the proven effectiveness of filtering out the turbines without loss of aircraft returns; and
  - (d) the reliability of the mitigation; the security arrangements in place to protect any installation or equipment associated with the radar mitigation scheme.

**Reason:** In the interests of aviation safety.

## Annex 2

### PART 2

#### Conditions applying to Deemed planning permission

##### Implementation in accordance with approved plans and requirements of this section 36 consent

7. Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the application (including the approved drawings listed at Appendix E to this decision), environmental statement (as supplemented or by additional information – ES Addendum – submitted 10 October 2014 and additional information submitted January 2016).

*Reason:* To ensure that the Development is carried out in accordance with the approved details.

#### Aviation Safety

8. (1) Unless and until no less than one month after the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS have been provided with the following information, copied to Scottish Ministers and Highland and Islands Airports Limited (HIAL) and evidence has been provided to the Planning Authority that this has been done:
  - (a) the date of the expected commencement of each stage of construction;
  - (b) the height above ground level of the tallest structure forming part of the Development;
  - (c) a description of all structures over 300 feet high;
  - (d) the maximum extension height of any construction equipment; and
  - (e) the position of the wind turbines and masts in latitude and longitude
- (2) No less than one month prior to Final Commissioning, a revised statement highlighting any changes to the exact position of the wind turbine towers in latitude and longitude from (b) above shall be submitted to the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre), copied to Scottish Ministers, the Planning Authority and Highland and Islands Airports Limited (HIAL).

*Reason:* In the interests of aviation safety.

#### Aviation Lighting Scheme

9. (1) No wind turbines shall be erected unless and until a scheme for aviation lighting for the Development has been submitted to, and approved in writing by

the Planning Authority in consultation with the Ministry of Defence. The scheme shall include details of infra-red aviation lighting which is to be applied.

- (2) No lighting other than that described in the scheme shall be applied, other than that required for health and safety purposes, unless otherwise agreed in advance and in writing by the Planning Authority.
- (3) The Development shall be operated in accordance with the approved scheme.

**Reason:** *in the interests of aviation safety.*

### **Design and operation of wind turbines**

10. (1) No development shall commence unless and until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, size, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to, and approved in writing by, the Planning Authority.
- (2) The wind turbines shall be consistent with the candidate wind turbine or range assessed in the environmental statement, and the tip height shall not exceed 110 metres above ground level.
- (3) The wind turbines shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.
- (4) All wind turbine blades shall rotate in the same direction.
- (5) All wind turbine transformers shall be located within the tower of the wind turbine to which they relate.

**Reason:** *To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.*

### **Signage**

11. No wind turbine, anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plan shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

**Reason:** *In the interests of the visual amenity of the area.*

### **Design of sub-station and ancillary development**

- 12.(1) No development shall commence unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

- (2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

**Reason:** *To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.*

### **Electrical Cabling**

13. All electrical cabling between the wind turbines and the switchgear control building shall be installed and kept underground.

**Reason:** *In the interests of visual amenity.*

### **Micro-siting**

14. (1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on Figure 4.1 of ES Addendum submitted 10 October 2014. However, wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting up to 50 metres within the site. Micro-siting is subject to the following restrictions:
- (a) no wind turbine, building, mast, track or hardstanding shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on Figure 4.1 of ES Addendum submitted October 2014;
  - (b) no wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on Figure 4.1 of ES Addendum submitted 10 October 2014 unless and until a move not exceeding 100m is approved in writing by the Planning Authority in consultation with SEPA and SNH
  - (c) no access track shall be moved more than 50m from the position shown on ES Addendum submitted 10 October 2014 unless and until a move not exceeding 100m is approved in writing by the Planning Authority in consultation with SEPA and SNH;
  - (d) No micro-siting shall encroach further into any buffer areas identified in respect of watercourses, nature conservation, or historic environment; identified in Chapters 8-11 inclusive of Volume 2 of the Environmental Statement (2013);
  - (e) With the exception of watercourse crossings and related tracks, no element of the Development shall be micro-sited to a location within 50 metres of a watercourse (or closer to a watercourse if approved within such distance);
  - (f) no micro-siting shall take place within areas of peat of greater depth than the original location;
  - (g) no micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
  - (h) all micro-siting permissible under this condition shall be approved in advance in writing by the Ecological Clerk of Works ("ECoW")

- (2) No later than one month after the date of First Commissioning an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW [ACoW] or Planning Authority's approval, as applicable.

**Reason:** *to control environmental impacts while taking account of local ground conditions.*

### **Unexploded Ordinance**

- 15.(1) No development shall commence unless and until a scheme to identify and manage the risk of any unexploded ordinance on site is submitted to, and approved in writing by the Planning Authority.
- (2) The approved scheme shall be implemented.

**Reason:** *To ensure any risk of unexploded ordinance is appropriately mitigated, prior to and during the construction phase of the development.*

### **Private Water Supplies**

16. No development shall commence unless and until a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this section 36 consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

**Reason:** *To maintain a secure and adequate water supply to all properties with private water supplies which may be affected by the development.*

### **Access Management Plan**

17. No development must commence unless and until an Access Management Plan to ensure public access is retained in the vicinity of the Cairn Duhie Wind Farm during construction, and thereafter suitable public access is provided during the operational phase of the wind farm, has been submitted to, and agreed in writing by, the Planning Authority.

**Reason:** *In the interests of recreational amenity.*

### **Community Liaison Group**

18. No development shall commence unless and until a Community Liaison Plan has been approved in writing by the Planning Authority after consultation with the relevant local community councils. The plan shall include the arrangements for establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the Company. The terms and conditions of these arrangements



must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures and keep under review the timing of the delivery of turbine components. The terms and conditions shall detail the continuation of the Community Liaison Group until the wind farm has been completed and is fully operational. The approved Community Liaison Plan shall be implemented in full.

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

## Construction Hours

19. (1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07:00 to 19:00 on Monday to Friday inclusive and 07:00 to 16:00 on Saturdays, with no construction work taking place on a Sunday or on a Bank Holiday or Public Holiday. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment unless otherwise approved in advance in writing by the Planning Authority with the exception of emergency works which shall be notified in writing within 24 hours of their occurrence.
- (2) Heavy Goods Vehicle (HGV) movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07:00 to 19:00 Monday to Friday inclusive, and 07:00 to 16:00 on Saturdays, with no HGV movements to or from the site taking place on a Sunday or on a Bank Holiday or Public Holiday.

**Reason:** *In the interests of local amenity*

## Traffic Management Plan

20. (1) No development shall commence unless and until a Construction Traffic Management Plan (CTMP) prepared by a recognised suitably qualified traffic management consultant, has been submitted to, and approved in writing by, the Planning Authority in consultation with the relevant roads authorities and Transport Scotland.

The CTMP, shall include:

- (a) the routing of all traffic associated with the Development on the local road network;
- (b) measures to ensure that the specified routes are adhered to, including monitoring procedures;
- (c) details of all signage and lining arrangements to be put in place;
- (d) provisions for emergency vehicle access;
- (e) identification of a nominated person to whom any road safety issues can be referred; and
- (f) a plan for access by vehicles carrying abnormal loads, the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site.

- (g) A route assessment report for abnormal indivisible loads traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary together with the subsequent delivery of the works;
- (h) The arrangements for the carrying out of a videoed trial run conducted with the local roads authority in attendance to confirm the ability of the local road network to cater for turbine delivery, including details of how three weeks' notice of this trial run will be made to the local roads authority;
- (i) A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- (j) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with Police Scotland and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted;
- (k) A detailed protocol for the delivery of abnormal indivisible loads/vehicles prepared in consultation and agreement of East Nairnshire, Grantown on Spey and Vicinity and Edinkillie Community Councils and the Planning Authority. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media and to emergency services.
- (l) A detailed delivery programme for abnormal load movements, which shall be made available to The Highland Council and community representatives;
- (m) A description of all measures to be implemented by the Company in order to manage traffic during the construction phase; the decommissioning and restoration phase; and major repairs during the operational phase, which involve in excess of 10 HGV arrivals in one day; or abnormal indivisible load deliveries (including routing strategies), with any additional or temporary signage and traffic control;
- (n) The identification and delivery of all upgrades to the public road network, including those at Nairn and Househill, to ensure that it is to a standard capable of accommodating non abnormal indivisible load construction-related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of The Highland Council and Transport Scotland;
- (o) Drainage and wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road;
- (p) A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during the construction period;
- (q) Details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage

- measures, improved geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays;
- (r) Details of traffic management, which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of The Highland Council, as roads authority;
  - (s) 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 shall be carried out by the Company, to the satisfaction of the roads authorities. Appropriate reinstatement works shall be carried out, as required by The Highland Council, at the end of the turbine delivery and erection period; and
  - (t) Measures to ensure that construction traffic adheres to agreed routes;
- (2) The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

**Reason:** *In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.*

#### **Additional Signing and Temporary Traffic Control Measures**

21. (1) During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed unnecessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised quality assured traffic management consultant to be approved in writing by The Highland Council in consultation with Transport Scotland before delivery commences.
- (2) Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements.
- (3) All such movements on The Highland Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events.

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

#### **Abnormal Indivisible Loads Deliveries**

22. No deliveries by abnormal indivisible loads shall take place until an assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the Planning Authority and full engineering details and drawings of any works required to such structures to

accommodate the passage of abnormal indivisible loads have been submitted to and approved by the Planning Authority. Thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

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

### **Programme of Archaeological Works**

- 23.(1) No development shall commence unless and until a programme of archaeological works to be carried out during construction of the Development has been submitted to, and approved in writing by, the Planning Authority.
- (2) The programme of archaeological works shall include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be protected or preserved.
- (3) The approved programme of archaeological works shall be implemented in full.

**Reason:** *To ensure the protection or recording of archaeological features on the site.*

### **Construction and Environmental Management Plan**

- 24.(1) No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all onsite construction works, post-construction reinstatement, drainage and mitigation together with the details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. A summary of the mitigation measures required by this condition shall be provided to the Planning Authority, SNH and SEPA, together with details of the process of controlling implementation of all the mitigation measures.
- (2) The CEMP shall include (but shall not be limited to):
  - (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
  - (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) site specific details for management and operation of any concrete batching plant (including disposal of high alkaline content waste water and substances);
  - (d) a dust management plan;
  - (e) details of measures to be taken to prevent loose or deleterious material being deposited on the local public road network including wheel

cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;

- (f) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
  - (g) details of soil storage and management;
  - (h) a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
  - (i) a drainage management plan to accord with current SuDs best practice guidelines, demonstrating how all surface and waste water arising during and after development will be monitored, managed and prevented from polluting any watercourses or sources;
  - (j) 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;
  - (k) details of sewage disposal and treatment;
  - (l) details of temporary site illumination;
  - (m) details of the construction of the access into the site and the creation and maintenance of associated visibility splays;
  - (n) details of the method of construction of the crane pads;
  - (o) details of the method of construction of the turbine foundations;
  - (p) a scheme to identify and manage the risk of any unexploded ordinance on site;
  - (q) details of the method of working cable trenches;
  - (r) details of the method of construction and erection of the wind turbines and meteorological masts;
  - (s) details of watercourse crossings; and
  - (t) details of post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.
- (3) The approved CEMP shall be implemented in full unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

**Reason:** To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.

## Ecology

- 25.(1) No development must commence unless and until a Bird, Mammal and Fish Protection Plan (the Plan) has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH. The Plan shall address:
- (a) Otters;
  - (b) Badgers;
  - (c) Wildcat;
  - (d) Pine Marten;
  - (e) Water Vole;
  - (f) Bats;
  - (g) Fish within and downstream of the development area, including the River Findhorn; and
  - (h) Breeding Birds
- (2) The Plan shall contain the outcome of pre-construction surveys for these species and proposed mitigation measures to be employed.
- (3) The Plan shall provide details of water quality monitoring and mitigation measures in accordance with current best practice to protect the fish population.
- (4) The approved Plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to the mitigation measures to better protect these species.
- (5) Where a review indicates that amendments are required an updated and amended Plan (the "Amended Plan") shall be submitted for the written approval of the Planning Authority in consultation with SNH.
- (6) The approved Plan and any subsequent approved Amended Plan shall be implemented in full.
- (7) A summary of the mitigation measures required by this condition shall be provided to the Planning Authority, together with details of the process of controlling implementation of all the mitigation measures.

**Reason:** *To ensure that appropriate surveys are carried out to understand potential impacts on birds, mammals and fish and to ensure that suitable protection and mitigation measures are put in place.*

## Planning Monitoring Officer

- 26.(1) No development shall commence unless and until the terms of appointment by the Company of an independent and suitably qualified environmental consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
- (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;

- (b) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
  - (c) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

**Reason:** *To enable the development to be suitably monitored to ensure compliance with the planning permission and the conditions attached to it.*

### **Ecological Clerk of Works**

- 27.(1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works (“ECoW”) by the Company have been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA. The terms of appointment shall:
- (a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement, ES Addendum submitted 10 October 2014, the Construction and Environmental Management Plan approved under condition 24, the Outline Habitat Management Plan at Technical Appendix 8.7 of the Environmental Statement and the Bird, Mammal and Fish Protection Plan approved in terms of condition 25;
  - (b) require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
  - (c) Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
  - (d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works;
- (3) No later than six months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for approval in consultation with SNH and SEPA.
- (4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

**Reason:** To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the decommissioning, restoration and aftercare phases.

### Television Reception

28. (1) No development shall commence unless and until a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of the first wind turbine. The results of the baseline television reception survey shall be submitted to the Planning Authority.
- (2) The approved Television Reception Mitigation Plan shall be implemented in full.
- (3) Any claim by any person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any wind turbine to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer and the results of the investigation shall be submitted to the Planning Authority.
- (4) Should any impairment to the television signal be attributable to the Development, the impairment shall be remedied so that the standard of reception at the affected property is equivalent to the baseline television reception.

**Reason:** To ensure local television services are sustained during the construction and operation of the Development.

### Financial Guarantee

29. (1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 32 is submitted to the Planning Authority. The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 32.
- (2) No development shall commence unless and until the value of the financial guarantee has been agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs referred to in condition 32 has been submitted to, and approved in writing by the Planning Authority.
- (3) No development shall commence unless and until documentary evidence that the bond or other financial provision approved by virtue of paragraph (1) is in place, has been submitted to the Planning Authority, and the Planning Authority has confirmed in writing that it is satisfactory
- (4) Thereafter, the Company shall:



- (a) ensure that a bond or other suitable financial provision is maintained throughout the duration of this permission;
  - (b) The value of the financial guarantee shall be reviewed by agreement or by a suitably qualified independent professional no less than every five years after the Commencement of Development and every five years until such times as the wind farm is decommissioned and the site restored and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.
  - (c) each review must be:
    - (i) conducted by a suitably qualified independent professional;
    - (ii) provided within three months of each five year period ending, with a copy submitted upon publication to the landowner(s) and the Planning Authority; and
    - (iii) approved in writing by the Planning Authority without amendment or, as the case may be, approved in writing by the Planning Authority following amendment to their reasonable satisfaction.
- (5) Where a review approved by virtue of paragraph (2)(c) recommends that the amount of the bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, that must be done within one month of receiving the approved review, or another timescale as may be agreed in writing by the planning authority, and in accordance with the recommendations contained therein.

**Reason:** to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

## Replanting of Forestry

- 30.(1) No development shall commence unless and until a woodland planting scheme to compensate for the removal of 9.07 hectares of existing woodland ("the Replanting Scheme") as described in Section 5 of the ES Addendum submitted on 10 October 2014 has been submitted for the written approval of the Planning Authority in consultation with Forestry Commission Scotland Conservator. The plan shall indicate the retention and management of the woodland areas highlighted yellow in the Company's drawing No. 02914D2505-06.
- (2) The Replanting Scheme shall comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:
- (a) details of the location of the area to be planted;
  - (b) details of owners and occupiers of the land to be planted;
  - (c) the nature, design and specification of the proposed woodland to be planted;

- (d) details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
  - (e) the phasing and associated timescales for implementing the Replanting Scheme;
  - (f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
  - (g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.
- (3) Unless and until otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless and until all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales it contains have been obtained.
- (4) In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained an amended Replanting Scheme shall be submitted to the Planning Authority for approval in consultation with Forestry Commission Scotland Conservator. Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless and until all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales it contains have been obtained.

**Reason:** *To secure replanting to mitigate against effects of deforestation arising from the Development.*

### **Redundant Turbines**

- 31.(1) Unless otherwise agreed in writing by the Planning Authority, if one or more wind turbine fails to generate electricity for a continuous period of twelve months a scheme setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored shall be submitted for the written approval of the Planning Authority no later than one month after the date of expiry of the twelve month period.
- (2) The approved scheme shall be implemented within six months of the date of its approval, to the satisfaction of the Planning Authority.

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

### **Site Decommissioning, Restoration and Aftercare**

- 32.(1) The Development shall be decommissioned and cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning. The total period for decommissioning and restoration of the site in accordance with this condition shall not exceed three years from the date of Final Commissioning without the prior written approval of the Scottish Ministers in consultation with the Planning Authority.

- (2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site and final site restoration. It shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.
- (3) No later than 2 years prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare strategy shall be submitted for the written approval of the Planning Authority in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provision which shall include:
- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- i) 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;
  - ii) a dust management plan;
  - iii) 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;
  - iv) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
  - v) soil storage and management;
  - vi) 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;
  - vii) sewage disposal and treatment;
  - viii) temporary site illumination;
  - ix) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
  - x) details of watercourse crossings; and
  - xi) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the finalised decommissioning plan.
- (4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until otherwise

agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

**Reason:** *To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.*

## Noise

- 33.(1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:
- (a) 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 within 14 days of receipt in writing of a request to do so.
  - (b) There shall be no first commissioning of the Development until the Company has received written approval from the Planning Authority of 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)
    - (i) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority in terms of b. above to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the submitted Noise Measurement & Mitigation Scheme. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
    - (ii) 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 (i) of this condition. The independent consultant's assessment must be undertaken in accordance with the submitted Noise Measurement & 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.

- (d) The assessment of the rating level of noise immissions in terms of c. above shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph c and such others as the independent consultant considers likely to result in a breach of the noise limits.
- (e) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location.
- (f) Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property 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 proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the submitted Noise Measurement and Mitigation Scheme shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.

- (g) No development shall commence unless and until a Noise Measurement and Mitigation Scheme has been submitted to the Planning Authority. The scheme shall include:
- (i) 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 to be agreed in writing by the Planning Authority.
  - (ii) Details of potential mitigation measures to be implemented within one week of identifying that the agreed noise limits are exceeded which will ensure that those limits are complied with.
- (h) 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 for compliance measurements to be made under paragraph e, 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 the submitted Noise Measurement and Mitigation Scheme and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (i) Where a further assessment of the rating level of noise immissions from the wind farm is required, 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 pursuant to paragraph (d) above unless the time limit has been extended in writing by the Planning Authority.
- (j) 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 Tables 1&2 attached to this condition, the Company shall implement relevant mitigation measures identified in the submitted Noise Measurement and Mitigation Scheme which will ensure that those limits are complied with. Thereafter, these measures will remain in place.

**Reason:** to protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

## SCHEDULE OF NOISE GUIDANCE NOTES

These notes form part of condition 25 (A) – 31 (H). They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm.

Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farm" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

- **NOTE 1**

- a) Values of the  $L_{A90,10min}$  noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a 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 shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local 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 3.5m away from the building facade or any reflecting surface except the ground at a location agreed with the Local Planning Authority.
- c) The  $L_{A90,10min}$  measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.
- d) The Company shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods on the wind farm site to enable compliance with the conditions to be evaluated. The mean wind speed at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

- **NOTE 2**

- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise.
- b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the

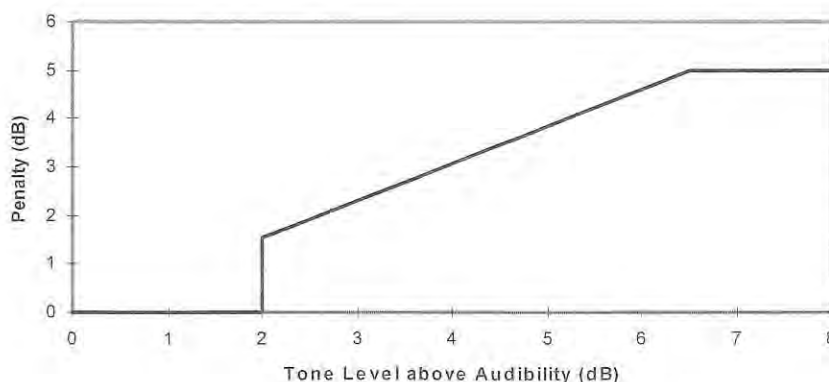
occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.

- c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local Planning Authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured  $L_{A90,10min}$  noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

• **NOTE 3**

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used.

- a) For each 10-minute interval for which  $L_{A90,10min}$  data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean 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 standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference,  $\Delta L_{tm}$  (Delta  $L_{tm}$ ), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.
- c) The arithmetic average margin above audibility shall be calculated for each wind speed bin where data is available, each bin being 1 metre per second wide and centred on integer wind speeds. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- d) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.





- **NOTE 4**

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind farm switched off in order to determine the background noise,  $L_3$ , at the assessed wind speed. The wind farm noise at this wind speed,  $L_1$ , is then calculated as follows, where  $L_2$  is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

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

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

**Table 1 – Night Time Noise Conditions (Between 23:00 and 07:00 hours)**

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H1	Aitnoch Farmhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H2	Little Aitnoch	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H3	Kerrow Farmhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H4	Braemoray Lodge	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H5	The White House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H6	1 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H7	3 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H8	2 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H9	Glenferness Mains	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H10	Achanabechan Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H11	Culfearn	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H12	Tombain	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H13	Factors Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H14	Tomnarroch	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H15	Tomdow	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H16	Tomdow Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H17	Leonach Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H18	6 Glenferness	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H19	Birch Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H20	Sturrock	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H21	Smiddy House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H22	Rose Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H23	The Old Post Office House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H24	Bungalow	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H25	New Inn	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H26	Glebe Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H27	Roundwood House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H28	Muckle Lyne	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H29	Little Lyne	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H30	Head Foresters House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H32	1 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H33	2 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H34	3 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H35	4 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H36	5-6 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H37	The Mount	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H38	Score Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H39	Airdrie Mill	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H40	Logie Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H41	Logie Farm Riding Centre	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H42	Airdrie Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H46	Property A	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H47	The Lodge	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H48	The Old Schoolhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H50	Wester Tillieglens	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H51	Wester Glenfernie	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H52	Refouble	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H53	Milltown	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H54	Ballindore	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H55	Kennels	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0

**Table 2 – Day Time Noise Limits for Conditions**

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H1	Aitnoch Farmhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H2	Little Aitnoch	35.0	35.0	35.0	35.0	35.0	35.2	38.0	39.0	39.0	39.0	39.0	39.0
H3	Kerrow Farmhouse	36.5	36.5	36.7	37.5	38.7	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H4	Braemoray Lodge	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H5	The White House	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H6	1 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H7	3 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H8	2 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H9	Glenferness Mains	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H10	Achanabechan Farm	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H11	Culfearn	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H12	Tombain	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H13	Factors Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H14	Tomnarroch	35.0	35.0	35.0	35.0	36.5	38.9	39.0	39.0	39.0	39.0	39.0	39.0
H15	Tomdow	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H16	Tomdow Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H17	Leonach Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H18	6 Glenferness	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H19	Birch Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H20	Sturrock	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H21	Smiddy House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H22	Rose Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H23	The Old Post Office House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H24	Bungalow	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H25	New Inn	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H26	Glebe Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H27	Roundwood House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H28	Muckle Lyne	35.0	35.0	35.0	35.0	35.0	36.3	38.1	39.0	39.0	39.0	39.0	39.0
H29	Little Lyne	35.0	35.0	35.0	35.0	35.0	36.3	38.1	39.0	39.0	39.0	39.0	39.0
H30	Head Foresters House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H32	1 Forestry	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
	Houses												
H33	2 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H34	3 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H35	4 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H36	5-6 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H37	The Mount	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H38	Score Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H39	Airdrie Mill	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H40	Logie Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H41	Logie Farm Riding Centre	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H42	Airdrie Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H46	Property A	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H47	The Lodge	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H48	The Old Schoolhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H50	Wester Tillieglens	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H51	Wester Glenfernie	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H52	Refouble	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H53	Milltown	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H54	Ballindore	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H55	Kennels	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

Note to Tables 1 & 2: 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.

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

**Table 3 – Coordinates of Properties Listed in Tables 1 & 2**

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H1	Aitnoch Farmhouse	298159	839664
H2	Little Aitnoch	296891	840817
H3	Kerrow Farmhouse	299625	841891

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H4	Braemoray Lodge	299789	842834
H5	The White House	300059	843252
H6	1 Drumore Cottages	295442	843576
H7	3 Drumore Cottages	295443	843615
H8	2 Drumore Cottages	295448	843632
H9	Glenferness Mains	294960	843656
H10	Achanabechan Farm	295788	843732
H11	Culfearn	300008	843810
H12	Tombain	300613	844376
H13	Factors Cottage	295764	844470
H14	Tomnarroch	296158	844552
H15	Tomdow	300493	844646
H16	Tomdow Cottage	300526	844681
H17	Leonach Cottage	296232	844817
H18	6 Glenferness	296240	844835
H19	Birch Cottage	296250	844855
H20	Sturrock	296261	844881
H21	Smiddy House	296260	844907
H22	Rose Cottage	296272	844916
H23	The Old Post Office House	296281	844939
H24	Bungalow	296312	844990
H25	New Inn	296376	845076
H26	Glebe Cottage	295583	845277
H27	Roundwood House	295583	845277
H28	Muckle Lyne	297924	845289
H29	Little Lyne	297390	845305
H30	Head Foresters House	296355	845369
H32	1 Forestry Houses	296449	845627
H33	2 Forestry Houses	296459	845638
H34	3 Forestry Houses	296468	845648
H35	4 Forestry Houses	296474	845657
H36	5-6 Forestry Houses	296488	845662
H37	The Mount	297902	845725

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H38	Score Farm	297275	845877
H39	Airdrie Mill	297564	845882
H40	Logie Farm	296931	846534
H41	Logie Farm Riding Centre	296947	846555
H42	Airdrie Farm	297990	846929
H46	Property A	295665	843879
H47	The Lodge	295166	843037
H48	The Old Schoolhouse	296296	844955
H50	Wester Tilliglens	300433	846102
H51	Wester Glenernie	300860	845679
H52	Refouble	295199	839996
H53	Milltown	294502	841260
H54	Ballindore	294642	841998
H55	Kennels	294145	842516

Note to Tables 1 & 2: 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.

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

## Definitions:

“**The Application**” means the application submitted by the Company on 4 November 2013;

“**Bank Holiday**” means:

- New Year’s Day, if it is not a Sunday or, if it is a Sunday, 3<sup>rd</sup> January;
- 2<sup>nd</sup> January, if it is not a Sunday or, if it is a Sunday, 3<sup>rd</sup> January;
- Good Friday;
- The first Monday in May;
- The first Monday in August;
- 30<sup>th</sup> November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day;
- Christmas Day, if it is not a Sunday or if it is a Sunday, 27<sup>th</sup> December; and
- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27<sup>th</sup> December.

“**Commencement of Development**” means the date on which Development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997;

“**the Company**” means RES UK and Ireland Limited incorporated under the Companies Acts (Company number 04913493) and having its registered office at Beaufort Court Egg Farm Lane, Off Station Road, Kings Langley, Hertfordshire, WD4 8LR or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.

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

“**dwelling**” means a building within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent and deemed planning permission;

“**Final Commissioning**” means the earlier of (a) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the development erected in accordance with this consent; or (b) the date 18 months after the date of First Commissioning, unless a longer period is agreed in writing in advance by the Planning Authority;

“**First Commissioning**” means the date on which electricity is first exported to the grid on a commercial basis from any of the wind turbines forming part of the development; and

“**Public Holiday**” means Easter Monday and the third Monday in September.

“**radar mitigation scheme**” means a scheme designed to mitigate the impact of the wind farm upon the operation of the primary surveillance radar at Inverness Airport and the air traffic control operations of the airport which are reliant upon that radar.



# CAIRN DUHIE WIND FARM

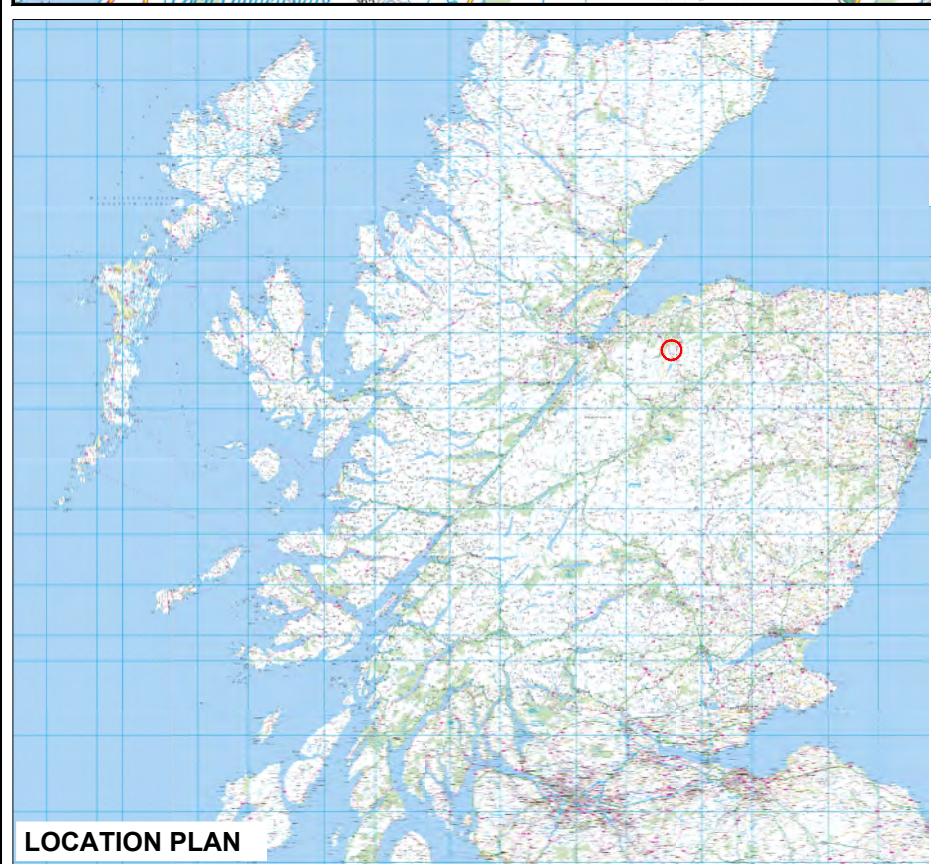
## FIGURE 1.1

### S36c VARIATION 2021

## SITE LOCATION

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2021 LICENCE NUMBER 0100031673.

**KEY**  
SITE BOUNDARY



LAYOUT DWG	N/A	T-LAYOUT NO.	N/A
DRAWING NUMBER	<b>02914D2202-06</b>		
SCALE	1:200,000 @ A3		
<b>EIA REPORT ADDENDUM 2021</b>			
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# CAIRN DUHIE WIND FARM














## FIGURE 1.2

### S36c VARIATION 2021

### SITE LAYOUT

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#### KEY

-  WIND TURBINE LOCATION
-  UNFENCED SITE BOUNDARY (TAKEN FROM RES DRAWING 02914D2501-07)
-  NEW SITE TRACKS AND TURNING HEADS
-  CONTROL BUILDING & SUBSTATION COMPOUND
-  CRANE HARD STANDING AREA
  -  PERMANENT
  -  TEMPORARY
-  TEMPORARY CONSTRUCTION COMPOUND
-  TEMPORARY STORAGE AREA
-  SITE ENTRANCE LOCATION
-  METEOROLOGICAL MAST LOCATION (PERMANENT LATTICE TYPE, NOT TO SCALE) (TAKEN FROM RES DRAWING 02914D0101-01)
-  10m TELECOMS MAST (NOT TO SCALE)
-  TEMPORARY MASTS (TAKEN FROM RES DRAWING 02914D0102-03)



LAYOUT DWG N/A T-LAYOUT NO. PSC0cnd045

DRAWING NUMBER  
**02914-RES-LAY-DR-PT-001**

SCALE - 1:20,000 @ A3

EIA REPORT  
ADDENDUM 2021

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