



T: 0131 244 1197
E: ruth.findlay2@gov.scot

Corriegarth 2 Wind Farm Limited
BayWa r.e.
Suite 3/1
58 Waterloo Street
Glasgow
G2 7DA

F.A.O Jillian Adams

20 December 2023

Dear Ms Adams

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF CORRIEGARTH 2 WIND FARM WITHIN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL

Application

I refer to the application made on 8 January 2021 (“the Application”) under section 36 of the Electricity Act 1989 (the “Electricity Act”) by BayWa r.e. UK Limited on behalf of Corriegarth 2 Wind Farm Limited, a company incorporated under the Companies Acts with company number 12207006 (“the Company”) and having its registered office at 22 Chancery Lane, London, England, WC2A 1LS for the construction and operation of Corriegarth 2 Wind Farm electricity generating station.

The Application proposes 14 wind turbines with a blade to tip height of 149.9 metres and with a generating capacity in excess of 50 megawatts (“MW”) to be located 15 kilometres (“km”) north-east of Fort Augustus and 10 km south-east of Foyers, in The Highland Council planning authority area.

This letter contains the Scottish Ministers’ decision to grant section 36 consent for the proposed Development as described at Annex 1.

Planning Permission

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 the 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' direction that planning permission is deemed to be granted.

Background

The Site of the proposed Development covers an area of 1,694 hectares and includes the operational Corriegarth Wind Farm. The Site lies wholly within the administrative boundary of The Highland Council. In addition to the operational Corriegarth Wind Farm, the Site and immediate vicinity consists of rural upland farmland used for grazing and grouse shooting. The Site itself varies in elevation ranging from approximately 550m - 810m Above Ordnance Datum ("AOD") with elevations reducing to approximately 200m AOD along the access track as it slopes down towards the B862. The Site contains one public road (the U1221), which forms part of the Site access from the B862. The proposed Development is sited in the Rolling Uplands – Inverness Landscape Character Site (LCT 221) and Farmed Strath – Inverness Landscape Character Site (LCT 227). The operational Corriegarth Wind Farm lies within the central part of the Site, which in turn is situated within a bowl surrounded by higher hilltops.

Additional Information

The Application originally proposed 16 wind turbines at 149.9 metres to blade tip height and ancillary infrastructure. Following the consultation of the Application, the Company amended their design. On 21 April 2022, the Company submitted additional information in the form of Supplementary Environmental Information ("SEI") and the changes made to the application can be summarised as follows:

- Removal of T10 & T12;
- Relocation of turbines (T1, T2, T5, T8, T9, T11, T13, T14, T15) and adjustments to turbine crane hardstandings and access tracks; and
- Relocation ancillary infrastructure, including borrow pits & substation compound.

The proposed Development is anticipated to have an installed capacity of approximately 67.2 megawatts with the Company requesting an operating period of 30 years.

The SEI also included addendums to the following assessments within the EIA report: landscape and visual impact, the ecology and ornithology assessment, noise, traffic

and transportation, socio-economics, recreation and tourism, climate change and carbon balance assessments, hydrology and hydrogeology and geology and peat. Updates were also provided to the peat slide risk assessment and outline habitat management plan.

Legislation

Under paragraph 2(1) of Schedule 8 to the Electricity Act, and the Electricity (Applications for Consent) Regulations 1990 (“the Consents Regulations”) made under the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent application.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the EIA Regulations”) and the Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 the Company submitted an Environmental Impact Assessment report (“the EIA report”) in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

In accordance with requirements of both the Consents Regulations, the Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and the EIA Regulations, a notice of the proposed Development was published on the Company’s website and advertised in local and national press. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so. In addition, to comply with the EIA Regulations, Scottish Ministers are required to consult the relevant planning authority, as well as NatureScot, the Scottish Environment Protection Agency (“SEPA”) and Historic Environment Scotland (“HES”) as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities. Notifications were sent to The Highland Council (“the Planning Authority”) as well as to NatureScot, SEPA and HES.

The Company submitted SEI dated April 2021, to support the EIA report relating to updated, environmental information in light of revisions made to the proposed Development, with the removal of two turbines, relocation of eight others and adjustments and relocation of ancillary infrastructure. In accordance with the EIA Regulations the SEI was advertised and opportunity was given to those wishing to make a representation. The SEI was also made available for comment to those consulted by the Scottish Ministers.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations, EIA Regulations and the Electricity Works (Miscellaneous Temporary Modifications)(Coronavirus)(Scotland) Regulations 2020 and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development.

Public Inquiry

In terms of paragraph 2(2) of Schedule 8 to the Electricity Act, if the relevant planning authority makes an objection to the application and that objection is not withdrawn, the Scottish Ministers must cause a public inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection.

As set out below, the Planning Authority objected to the Application and did not withdraw that objection. The Scottish Ministers did not consider it possible to overcome the objection, by way of applying conditions to give effect to the Planning Authority's objection and caused a public inquiry to be held.

On the 8 November 2022 the Application was accordingly referred to the Planning and Environmental Appeals Division ("DPEA") for a public inquiry to be held.

Report of Inquiry

The Reporters held pre examination meetings on 24 January 2023 and 16 February 2023 with the Company, the Planning Authority and Mountaineering Scotland. Subsequently the Planning Authority revised its position in light of National Planning Framework 4 ("NPF4"), withdrawing its objection on visual impact grounds, noting that significant visual impacts would be contained and localised and confirming it did not wish to participate in any further oral procedures. Other consultees and representees were given a further opportunity to opt in, but none chose to do so. The scheduled inquiry and hearing sessions were therefore cancelled.

A further pre examination meeting was held on 16 February 2023 and further written submissions in February 2023. Additional information was requested by the Reporters ("AI") and submitted by the Company in February 2023. The AI comprised an update to the cumulative landscape and visual impact assessment and confirmation of the enhanced outline Habitat Management Plan and peat restoration proposals to address matters raised in NatureScot's consultation response dated 31 May 2022.

The Reporters conducted unaccompanied site inspections on the 27 and 28 March 2023. A report of inquiry and recommendation was submitted to the Scottish Ministers on 21 August 2023 (the "PI Report").

The PI Report is set out under the following headings and provides the following:

- Recommendation
- Background
- Landscape and visual impacts
- Renewable Energy and other benefits
- Other matters for Ministers consideration
- Proposed conditions
- Conclusions

- Recommendation
- Appendix 1: Recommended conditions
- Appendix 2: Core documents and webcast
- Appendix 3: Applicant's Summary of Case

The Reporters' recommendation is that the Scottish Ministers grant consent under section 36 of the Electricity Act and direct that planning permission is deemed to be granted; both subject to conditions and the completion of an appropriate assessment by the Scottish Ministers.

Conservation of Habitats and Species Regulations

The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") require Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations, and if the development is directly connected with or necessary to the management of the European site.

Ness Woods Special Area of Conservation ("SAC")

The proposed Development lies approximately 3.4km west of the access track and 9.3km north-west of the closest proposed wind turbine location of Ness Woods SAC.

Consequently, Scottish Ministers are required to consider the effect of the proposed Development on the SAC by carrying out a Habitats Regulations Appraisal ("HRA") for the site. NatureScot advise that the proposed Development is likely to have a significant effect on the otter qualifying interest of the SAC.

The Scottish Ministers' appropriate assessment of the HRA (Annex 4) concluded, following advice from NatureScot and in view of the conservation objectives of the SAC being met, that the proposed Development alone and in combination with other projects or proposals that could have impacts on the SAC, will not affect the integrity of the SAC provided that mitigation measures as set out in the EIA report and further recommended by NatureScot are implemented. The mitigation measures include pre-construction otter survey which will inform a Species Protection Plan for otter.

River Spey – Insh Marshes Special Protection Area ("SPA")

The River Spey – Insh Marches SPA is located 19km south east from the proposed Development and is protected for its range of both breeding and non-breeding raptors, wildfowl, waterfowl and waders.

NatureScot advise that due to the separation distance then there is no connectivity between any SPA species and the proposed Development. The Scottish Ministers therefore agree with the assessment within the EIA report that the proposal is unlikely to have a significant effect on any qualifying interests either directly or indirectly. Scottish Ministers therefore conclude that an appropriate assessment is not required.

Consultees Responses

A summary of all consultation responses is provided below. The full consultation responses are available on the Energy Consents Unit website www.energyconsents.gov.scot

Statutory Consultees

The Planning Authority do not object. The Planning Authority's objection was withdrawn on 15 February 2023, after the adoption of National Planning Framework 4 and note that the significant visual effects would be contained and localised.

The Scottish Ministers have imposed conditions which take account of the Planning Authority's recommendations.

SEPA do not object to the proposed Development subject to a range of conditions being applied to any consent granted relating to peat and wetlands.

The Scottish Ministers have imposed appropriately worded conditions relating to a Construction Method Statement including a Construction Environmental Management Plan covering matters such as Groundwater Dependent Terrestrial Ecosystems, waste water drainage, groundwater abstractions (private water supplies), operation and restoration of borrow pits, peat management and decommissioning.

NatureScot do not object to the proposed Development subject to conditions. NatureScot's response provided advice on protected areas, landscape and visual effects, peatland habitat, ornithology, protected species and decommissioning.

The Scottish Ministers have imposed appropriately worded conditions in respect of protecting the natural heritage interests of the SAC and to minimise potential effects on peatlands, habitats and protected species.

HES do not object and advise that there will be no significant impacts for heritage assets within their remit as a result of the proposed Development.

Internal Scottish Government Advisors

Ironside Farrar were engaged by the Scottish Ministers to assess the Peat Landslide Hazard Risk Assessment ("PLHRA"). Following assessment of the PLHRA, it is concluded to be satisfactory.

Scottish Forestry note that the Company proposes to re-use the existing access track. Any tree felling required to accommodate the upgrading of the access requires to be considered against the Scottish Government's Policy on Control of Woodland Removal.

Transport Scotland advise that the impacts of the proposed Development are acceptable subject to conditions securing the traffic management and the transportation of abnormal loads to the proposed Development along the trunk road network.

The Scottish Ministers have imposed appropriately worded conditions which address the requirements of Transport Scotland.

Non-statutory consultees

Mountaineering Scotland object to wind turbines 8, 9 and 10 of the proposed Development and to the height of turbines 7 and 11 on grounds of unacceptable visual impact, with consequential impact on mountaineering recreation. Mountaineering Scotland would have no objection to the proposed Development if turbines 8-10 were deleted and turbines 7 and 11 reduced in height to 120m. They state that they do not object to the principle of the proposed Development, however they do object to the these particular wind turbines.

Stratherrick and Foyers Community Council object relating to visual and tourism impact, impact on local roads and having no knowledge of a community liaison group being established in relation to traffic impacts. The Community Council proposes mitigation measures should be imposed if consent is granted.

BT, Cairngorms National Park Authority, Crown Estate, Defence Infrastructure Organisation, Ness & Beaully Fisheries trust, Ness District Salmon Fishery Board, Fisheries Management Scotland, Highland and Islands Airport, Joint Radio Company, NATS Safeguarding, Scottish Rights of Way and Access Society and Scottish Water do not object to the proposed Development (including, where appropriate, conditions have been attached.)

John Muir Trust, Scottish Wildlife Trust, Scottish Wild Land Group, Visit Scotland did not respond the consultation request from the Scottish Ministers.

Representations

All the public representations submitted to the Scottish Ministers in respect of the proposed Development are available to view in full on the Energy Consents Unit website www.energyconsents.scot

The Scottish Ministers received a total of four public representations, three being objections to the proposed Development and one in support of it.

Issues raised in the representations objecting to the proposed Development included:

- number and scale of existing and proposed wind farms;
- industrialisation of the landscape;
- noise and light disturbance to communities;
- impact on birds and bats; and

- light pollutions of dark skies.

The representation in support of the proposed Development states:

- they have not encountered any tourists who say they will not return to Highland because of wind farms;
- many find the structures pleasing and tranquil;
- they generate eco-friendly power; and
- the proposed Development will contribute to the local economy by using the local supply chain.

The Scottish Ministers are satisfied that the matters raised in the representations and consultation responses have been appropriately assessed and taken into account in the determination of the proposed Development.

The Scottish Ministers Considerations

Legislation and Environmental Matters

The Scottish Ministers are satisfied that the EIA report, SEI and AI have been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation requirements, laid down in the EIA Regulations, have been followed.

The Scottish Ministers have considered fully and carefully the Application, including the EIA report, SEI, AI, consultation responses, representations, the findings, conclusions and recommendation of the PI Report and all other relevant information, and are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

The Scottish Ministers have given consideration to the extent to which the Company has demonstrated in the Application that they have done what they reasonably can to 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.

In accordance with section 36(5A) of the Electricity Act, before granting any section 36 consent Scottish Ministers are also required to:

- obtain SEPA advice on matters relating to protection of the water environment; and
- have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

SEPA's advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development subject to conditions. In their response to Scottish Ministers, they direct the Company to the

Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

Scottish Ministers consider that there is sufficient information to allow Ministers to be satisfied that the Company has 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 Company 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. The Scottish Ministers are also satisfied that the Company has avoided so far as possible, causing injury to fisheries or to stock of fish in any waters.

In accordance with paragraph 3(2) of Schedule 9 to the Electricity Act the Scottish Ministers have also had 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. The Scottish Ministers have also had regard to the extent to which the Company has done what it reasonably can to mitigate any effect the proposed Development would have on those matters.

Main Determining Issues

Having considered the Application, the EIA report, SEI, AI, responses from consultees, representations, the PI Report as well as Scottish Government policies, the Scottish Ministers consider that the main determining issues in respect to the proposed Development are:

- landscape and visual impacts, in particular the visual effects;
- the estimated economic and renewable energy benefits which the proposed Development is likely to bring: and
- the extent to which the proposed Development accords with and is supported by Scottish Government policies.

Assessment of the Determining Issues

The Landscape and Visual Impact Assessment (“LVIA”) is contained within the EIA report and its appendices and SEI at chapter 6. Appendix A6.3 provides an assessment on special landscape qualities and appendix A6.4 an assessment on wild land. The AI provides an updated cumulative LVIA. The Reporters consider landscape and visual impacts of the proposed Development at paragraphs 24 to 59 of the PI Report.

The existing operational Corriegarth Wind Farm and the proposed Development are located within an area of Rolling Upland LCT and its access track is in an area of

Farmed Strath LCT. The LVIA finds that moderate and significant landscape effects would occur directly within the Site itself during the construction and operational phases, and indirectly on localised parts of the host rolling upland landscape area during the operational phase. The overall effect on that landscape unit is assessed in the LVIA as minor and not significant. Indirect effects on other landscapes were assessed as not being significant.

In the LVIA the visual effects of the proposed Development were assessed concluding that during the operational phase, moderate (adverse) and significant visual effects would be experienced from four of the 19 viewpoints located within approximately 11km of the proposed Development. The four viewpoints are B862 west of Corriegarth Lodge (viewpoint 3), South Loch Ness Trail, north of Whitebridge (viewpoint 4), Errogie (viewpoint 5), and General Wade's Military Road (viewpoint 7).

The Reporters considered the landscape and visual effects including cumulative and on residential visual amenity. The overall conclusions are set out at paragraph 59 of the PI Report. The Scottish Ministers have considered the Reporters' conclusion that the proposed Development would not give rise to significant cumulative landscape or visual effects and would sit comfortably within the established pattern of wind farms in the wider landscape surrounding the site. The Reporters' conclusions also accept the landscape and visual impact assessment of moderate and significant visual effects for viewpoints 3, 4, 5 and 7, concluding that the proposed turbines would not appear incongruous in the context of existing turbines and landforms and that the effects would be very localised and transient. The Scottish Ministers agree with the Reporters' overall conclusions on the landscape and visual effects of the proposed Development at paragraph 59 of the PI Report. Taking into account the above, the Scottish Ministers consider that the landscape and visual impacts and cumulative effects are acceptable.

The benefits of the proposed Development

Economic benefits

The socio-economics, recreation and tourism effects of the proposed Development are assessed in chapter 14 of the EIA report. The EIA report anticipates that 60 individuals working on the proposed Development during the 18 month construction period represents 90 job years. For the operational phase of the proposed Development, the EIA report anticipates it will generate employment opportunities equivalent to approximately 2-3 full-time equivalent workers. The EIA report sets out estimations that, during the construction phase, the proposed Development will be worth approximately £47 million to the UK economy. Of that approximately £36 million is expected to be spent within Scotland and £12 million is expected to be spent within the Highland region.

The Scottish Ministers note that there are positive economic effects from the construction and decommissioning phases of the proposed Development with positive benefits through the increase in employment and capital expenditure.

The EIA report assesses the effects of the proposed Development on tourism and recreation. The identified receptors are South Loch Ness Trail; Trail of the Seven Lochs; NCN Route 78; Monadhliath Mountain Range; Cairngorms National Park; Loch Ness; Castle Urquhart; accommodation; and offsite recreation and recreational routes. The Scottish Ministers note that the EIA report concludes that overall the proposed Development does not have a noticeable effect on tourism and no cumulative effects from the proposed Development are anticipated.

The Scottish Ministers note the Reporters conclude at paragraph 136 that they are satisfied that “once mitigation measures have been taken into consideration, there would be no residual significant environmental effects in relation to the matters considered in the environmental impact assessment” which includes recreation and tourism.

The Scottish Ministers have taken account of appropriate sections of the EIA report, consultation responses, public representations alongside the Reporters’ considerations and subsequent conclusions and, whilst it is always difficult to precisely quantify overall net economic benefits, are satisfied that through employment during the construction, operational and decommissioning phases and supply chain opportunities, the proposed Development has the potential to bring net positive economic benefits. The Scottish Ministers are also satisfied that there would not be significant adverse impacts on tourism as a consequence of the proposed Development.

Contribution to renewable energy policy objectives

The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (“the 2019 Act”), introduced a target of net zero greenhouse gas emissions by 2045 at the latest. Additionally the 2019 Act sets out Scotland will also have to reduce emissions by at least 75% by 2030 and 90% by 2040. Scotland’s Climate Change Plan 2018-2032 sets out the road map for achieving those targets and has set the goal of 50% of Scotland’s energy need to be met by renewable energy by 2030. The Climate Change Plan Update (“CPPu”) was published in December 2020 and sets out the Scottish Government’s approach to deliver a green recovery and pathway to deliver world leading climate change targets.

Scottish Energy Strategy (“SES”) was published in 2017 and Onshore Wind Policy Statement (“OWPS”) published in December 2022. SES sets out a vision for the future energy system in Scotland through to 2050 and sets out the priorities for an integrated system-wide approach that considers the use and supply of energy for heat, power and transport. SES provides a long-term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland’s long-term energy and climate change targets.

The OWPS reaffirms the vital role for onshore wind in meeting Scotland's energy targets within the context of the Scottish Government's 2045 net zero emissions commitment. The OWPS sets out the Scottish Government's position for the ongoing need for more onshore wind development and capacity in locations across Scotland where it can be accommodated in appropriate locations.

The Scottish Ministers consider that this proposed Development makes a contribution towards meeting greenhouse gas emission reduction and renewable electricity targets while using existing infrastructure. With a generating capacity of approximately 67MW the carbon saving is approximately 53,283 tonnes of CO₂ per annum. The proposed Development, if built, would be expected to have a carbon payback period of 1.1 years if it replaces a fossil fuel mix and 2 years if it replaces a grid mix of electricity generation.

It is noted by the Scottish Ministers that the proposed Development will make a valuable contribution to Scotland's renewable energy, electricity and emissions reductions targets.

The Scottish Ministers agree with the overall findings of the Reporters who considered the potential benefits of the proposed Development at paragraphs 60-65 of the PI Report, and are satisfied that the deployment of this amount of renewable energy is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045, and that significant weight should be placed on such contributions.

Accordance with Scottish Government Planning Policies and Local Planning Policy

The Reporters set out at paragraphs 96–129 of the PI Report the legislative and policy context against which the proposed Development should be considered and those paragraphs of the PI Report (where relevant) set out the Reporters' considerations and assessment of the proposed Development in the context of relevant national climate change and energy policy, national planning policy and other relevant local planning policy and guidance.

National Planning Framework 4

NPF4 was adopted by Scottish Ministers on 13 February 2023. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of: sustainable places, liveable places, and productive places. The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must contribute to making Scotland a more sustainable place. The strategic renewable electricity generation and transmission infrastructure is a national development within NPF4 and supports renewable electricity generation, repowering, and expansion of the electricity grid.

NPF4's Energy policy (policy 11) sets out its intent to support all forms of renewable technologies, including energy generation and storage. Matters that are to be addressed in the design and mitigation of a development include impacts (including cumulative) on communities and individual dwellings; significant landscape and visual impacts; historic environment; biodiversity; trees and woodlands; public access; aviation and defence interests; telecommunications and broadcasting; road traffic; water environment; decommissioning of developments and site restoration. The policy requires that in considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. The policies within NPF4 require to be considered and balanced when reaching a decision on applications for wind energy development.

NPF4 Energy Policy 11 (e) - part ii. - recognises that significant landscape and visual impacts are to be expected for some forms of renewable energy but that where impacts are localised and/or appropriate design mitigation has been applied they will generally be acceptable. The policies within NPF4 require to be read as a whole and considered and balanced when reaching a decision on applications for wind energy development.

The Scottish Ministers are satisfied that the matters pertaining to NPF4 have been assessed in the Application, EIA report, SEI, AI and the PI Report, and considered in responses from the Planning Authority, HES, SEPA, NatureScot and other relevant bodies.

As stated above, NPF4 supports the planning and delivery of sustainable places, liveable places and productive places, and that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. Decisions should be guided by policy principles including, among others, giving due weight to net economic benefit; supporting the delivery of renewable energy infrastructure; reducing greenhouse gas emissions and responding to the nature crisis.

Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development. NPF4, the Energy Strategy, and the OWPS make it clear that renewable energy deployment remains a priority of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

Local Development Plan

The Planning Authority assessed the proposed Development against policies of the Highland Wide Local Development Plan (2012) ("HWLDP") that it considers relevant to this Application, as well as relevant supplementary and non-statutory guidance. The Reporters find Policy 67 (Renewable Energy) to be the most directly relevant HWLDP policy in respect of the proposed Development.

At paragraph 117 of the PI Report the Reporters found that the proposed Development would have some significant landscape and visual impacts, but that these would largely be localised.

The Reporters at paragraph 136 are satisfied that, once mitigation measures have been taken into consideration, there would be no residual significant environmental effects in relation to other matters considered in the environmental impact assessment. These include ornithology, archaeology and cultural heritage, noise, traffic and transport, hydrology and hydrogeology, geology and peat, socio-economic matters, recreation and tourism, climate change and carbon balance, human health and safety, shadow flicker, waste, telecommunications, televisions reception and utilities and aviation. Furthermore, the Reporters are confident that any significant adverse effects identified in relation to these matters can be addressed through the application of the conditions attached in Annex 2.

The Reporters conclude that that the proposed Development is supported by Policy 67 of the HWLDP and are satisfied that the proposed Development would accord overall with the provisions of the HWLDP.

The Scottish Ministers' Conclusions

Reasoned Conclusions on the Environment

The Scottish Ministers are satisfied that the EIA report SEI and AI have been produced in accordance with the EIA Regulations and that the procedures regarding publicity and consultation laid down in the those Regulations have been followed.

The Scottish Ministers have considered fully and carefully the Application, including the EIA report, SEI, AI, consultation responses, representations, the findings, conclusions and recommendation of the PI Report, and are satisfied that the environmental impacts of the proposed Development have been sufficiently assessed. The Scottish Ministers have taken the environmental information into account when reaching their decision.

Taking into account the above assessment the Scottish Ministers consider there would be significant landscape and visual impacts which cannot be mitigated.

The Scottish Ministers are satisfied having regard to current knowledge and methods of assessment, that this reasoned conclusion addresses the likely significant effects of the proposed Development on the environment. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

Acceptability of the proposed Development

As set out above, the seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. Scotland's renewable energy and climate change targets, energy policies and planning policies

are all relevant considerations when weighing up the proposed Development. NPF4, Scotland's Energy Strategy and the Onshore Wind Policy Statement make it clear that renewable energy deployment remains a priority of the Scottish Government. These are all matters which should be afforded significant weight in favour of the proposed Development.

The Scottish Ministers consider that the proposed Development, if deployed, would create net economic benefits and deliver significant renewable energy benefits that would support climate change mitigation and are wholly in accordance with Scottish Government's climate change ambitions. The proposed Development in these respects would contribute to sustainable development and this has been taken into account when reaching a decision. These benefits however must be considered carefully in the context of the negative impacts on the natural environment, most notably the visual effects of the proposed Development on the surrounding area.

The Scottish Ministers acknowledge, in accordance with both NPF4 and the OWPS, that meeting our climate ambitions will require a rapid transformation across all sectors of our economy and society, however this does not negate the continuing requirement to ensure that the right development happens in the right place.

The proposed Development, if built, would align with the strategic outcomes of NPF4 by supporting the transition to a low carbon economy for Scotland and to take advantage of our natural resources to grow low carbon industries. The Scottish Government has confirmed its long-term commitment to the decarbonisation of electricity generation and the proposed Development would help advance this policy objective. Benefits to the Scottish economy are anticipated alongside short and longer-term benefits to the Planning Authority area of The Highland Council.

The Scottish Ministers consider that the landscape and visual effects, including cumulative effects, of the proposed Development will result in some environmental impacts. The benefits of the proposed Development must therefore be considered carefully in the context of the impacts on the natural environment that would result and whether or not, on balance, they are acceptable. Having considered this balance, the Scottish Ministers are satisfied that the negative impacts are acceptable in accordance with NPF4 and in the context of the net economic benefits and significant renewable energy benefits that the proposed Development would bring. The combined benefits of the proposed Development would outweigh the effects upon the interests listed in schedule 9 of the Electricity Act, subject to mitigation measures secured by appropriately worded conditions.

The Scottish Ministers, having considered the Application, the EIA report, SEI, AI, consultation responses and public representations alongside the Reporters' considerations and subsequent conclusions, agree with the Reporters' findings, reasoning and conclusion of the proposed Development set out in the PI Report. The Scottish Ministers consider that these are significant considerations which strongly support the decision to grant consent under section 36 of the Electricity Act and deemed planning permission.

The Scottish Ministers' Determination

The Scottish Ministers have considered fully the Reporters' findings and reasoned conclusions and adopt them for the purposes of their own decision.

For the reasons set out in this letter, the Scottish Ministers agree with the Reporters' recommendation that section 36 consent should be granted for the construction and operation of the Corriegarth 2 Wind Farm and that a direction for deeming planning permission should also be granted .

Subject to the conditions set out in **Part 1 of Annex 2**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act for construction and operation of the Corriegarth 2 Wind Farm electricity generating station in The Highland Council area (**as described in Annex 1**).

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

Section 36 consent and expiry of Planning Permission

The consent hereby granted will last for a period of 30 years from the earlier of:

- i) The date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or
- ii) The date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Section 58(1)(a) of the Town and Country Planning (Scotland) Act 1997 requires where planning permission is deemed to be granted, that it must be granted subject to a condition that the permission will expire if has not begun within a period of 3 years.

Section 58(1)(b) of that Act enables the Scottish Ministers to specify that a longer period is allowed before planning permission will lapse. The Scottish Ministers consider that due to the constraints, scale and complexity of constructing such developments, a 5-year time scale for the commencement of development is appropriate.

The Scottish Ministers consider that 3 years is not to apply with regard to the planning permission granted above, and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction, unless the development to which the permission relates is begun before the expiry of that period.

A condition has been imposed stating that development must be begun within 5 years beginning with the date on which the permission is deemed to be granted and if development has not begun at the expiration of that period, the planning permission

will lapse in terms of section 58(3) of the Town and Country Planning (Scotland) Act 1997.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

Copies of this letter have been sent to the public bodies consulted on the application including the Planning Authority. 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:

<https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12>

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

Yours faithfully

PP Nikki Anderson

For Ruth Findlay

A member of the staff of the Scottish Ministers

Annex 1 – Description of Development

Annex 2 – Section 36 conditions and Deemed Planning Conditions

Annex 3 – Site Layout Plan

Annex 4 – Appropriate Assessment

Annex 1 - Description of Development

The Development comprises an electricity generating station known as Corriegarth 2 Wind Farm located approximately 15km north-east of Fort Augustus and 10km south-east of Foyers in the administrative area of The Highland Council, as depicted in Figure 4.1 Revised Development Site Layout Plan within Supplementary Environmental Information dated April 2022 (attached at Annex 3), with a generating capacity exceeding 50MW.

The principal components of the Development comprise:-

- 14 wind turbines with blade to tip height of up to 149.9 metres with associated foundations;
- External transformer enclosures located adjacent to each turbine;
- Crane hardstandings;
- New and upgraded access tracks;
- Substation and compound (including a control building);
- Underground cabling;
- Temporary construction compound;
- One borrow pit; and
- Temporary laydown areas.

All as more particularly shown on plan reference Figure 4.1 of the SEI forming Annex 3.

Annex 2 - Part 1

Conditions Attached to section 36 Consent

1. Notification of Date of First Commissioning and Final Commissioning

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

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

2. Commencement of Development

- (1) The Commencement of the Development shall be no later than five years from the date of this consent, or in substitution such other period as the Scottish ministers may hereafter direct in writing.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers as soon as practicable after deciding on such a date and in any event no later than one calendar month prior to the Commencement of Development.

Reason: *To ensure that the consent is implemented within a reasonable period. And to allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

3. Assignment

- (1) This consent shall not be assigned, alienated or transferred without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment (with or without conditions) or refuse the assignment.
- (2) In the event that the assignment is authorised, the Company shall notify the Planning Authority and Scottish Ministers in writing of principal named contact at the assignee and contact details within fourteen days of the consent being assigned.
- (3) The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with this condition.

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

4. Serious Incident Reporting

- (1) In the event of any breach of health and safety or environmental obligations relating to the Development causing harm to the environment (including harm to humans) 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.*

Annex 2 - Part 2

Conditions attached to Deemed Planning Permission

5. Aviation Lighting

- (1) Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) the Company must submit an aviation lighting scheme for the approval of the Planning Authority in conjunction with the Ministry of Defence, defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

- (a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
 - (b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with MOD accredited omni directional infrared beacons identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.
- (2) Thereafter, the Company must exhibit such lights as detailed in the approved aviation lighting scheme, unless otherwise agreed in advance and in writing by the planning authority. The lighting installed will remain operational for the lifetime of the development.

Reason: To maintain aviation safety.

6. Aviation Charting and Safety Management

- (1) The Company must notify the Ministry of Defence, at least 14 days prior to the Commencement of the Development, in writing, of the following information and provide evidence in writing to the Planning Authority:
 - (a) the date of the commencement of the erection of wind turbine generators.
 - (b) the maximum height of any construction equipment to be used in the erection of the wind turbines.
 - (c) the date any wind turbine generators are brought into use.

- (d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).
- (2) The Company must notify the Ministry of Defence of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: *To maintain aviation safety.*

7. Aviation Radar

- (1) No wind turbine forming part of the Development shall operate, other than for testing and evaluation as agreed with the operator or Inverness Airport, unless and until a Radar Mitigation Scheme has been submitted to and approved in writing by the Planning Authority, after consultation with the operator of Inverness Airport and the Civil Aviation Authority.
- (2) No wind turbines(s) forming part of the Development shall be operational until and unless all measures required by the approved Radar Mitigation Scheme have been fully implemented.
- (3) The Development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme.

In this condition, “Radar Mitigation Scheme” means a scheme setting out measures to be taken to address and mitigate the impact of the wind turbines forming part of the Development upon the operation and performance of the Primary Surveillance Radar at Inverness Airport. The scheme will include the appropriate measures to be implemented and that are to be in place for the operational life of the development provided the Radar remains in operation. It will also include provision for future and alternate agreement of the mitigation solution with the operator of Inverness Airport.

- (4) Development shall be implemented and thereafter operated strictly in accordance with the details set out in the approved Radar Mitigation Scheme.

Reason: *To secure mitigation of impacts and ensure the Development does not affect the safe operation of Inverness Airport through interference with the Primary Surveillance Radar.*

8. Instrument Flight Procedures (“IFP”)

- (1) No part of any turbine forming a part of the Development is to exceed 677.8m AOD, unless and until such time as the Planning Authority receive confirmation from the Airport Operator that:
 - (a) an IFP Scheme has been approved by the Airport Operator; and

the Civil Aviation Authority has evidenced its approval to the Airport Operator of the IFP Scheme (if such approval is required); and

(b) the IFP Scheme has been submitted to NATS AIS for promulgation, via the AIRAC cycle (or any successor publication) (where applicable); and

(c) The effective date for the AIRAC cycle, containing the introduction of the IFP scheme, has passed and the IFP Scheme is available for use by aircraft.

“**AIRAC**” means Aeronautical Information Regulation Control.

“**Airport Operator**” means Highlands and Islands Airports Limited, or any successor as holder of a licence under the Commission Regulation (EU) No. 139/2014 (or any successor regulation) from the Civil Aviation Authority to operate Inverness Airport.

“**IFP Scheme**” means a scheme to address the potential impact of the turbines on the instrument flight procedures of Inverness Airport.

“**NATS AIS**” means the NATS Aeronautical Information Service.

***Reason:** To ensure that Instrument Flight Procedures at Inverness Airport are not compromised, in the interests of aviation safety.*

9. Design of Wind Turbines

- (1) There shall be no Commencement of Development unless and until full details of the external colour and finish of the proposed wind turbines, any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority.
- (2) The wind turbines, any anemometry masts and all associated apparatus shall be constructed and operated in accordance with the approved details.
- (3) The height of the wind turbines shall not exceed 149.9m to blade tip.
- (4) All wind turbine blades shall rotate in the same direction as one another and in the same direction as the existing operational turbines at Corriegarth Wind Farm.

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

10. Design of Substation and Ancillary Development

- (1) There shall be no Commencement of Development in respect of the control building, substation and ancillary infrastructure until final details of the external appearance, dimensions and surface materials of the control building, substation

building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

- (2) The control building, 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 substation and ancillary development forming part of the Development conform to the impacts assessed in the EIA Report and the SEI, and in the interests of the visual amenity of the area.*

11. Micrositing

- (1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on Revised Development Site Layout Plan Figure 4.1. The locations of wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the approved redline boundary shown on Revised Development Site Layout Plan Figure 4.1. However, any such micrositing is subject to the following restrictions unless otherwise approved in advance in writing by the Planning Authority in consultation with SEPA and NatureScot:
 - (a) No wind turbine foundation shall be positioned higher than 5 metres, when measured in metres Above Ordnance Datum (AOD) than the position shown on Revised Development Layout Plan Figure 4.1.
 - (b) No wind turbine, building, mast or hardstanding shall be moved more than 50 metres from the position shown on Revised Development Site Layout Plan Figure 4.1.
 - (c) No access track shall be moved more than 50 metres from the position shown on Revised Development Site Layout Plan Figure 4.1.
 - (d) No micrositing shall take place within areas of peat of greater depth than the original position shown on Interpolated Peat Depths Figure 13.5.
 - (e) No micrositing permissible under this condition shall take place within areas hosting ground water dependent terrestrial ecosystems.
- (2) All micrositing permissible under this condition shall be approved in advance in writing by the Environmental Clerk of Works (“ECoW”).
- (3) No later than one month after Date of Final Commissioning, an updated site layout 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 or Planning Authority's approval as applicable.

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

12. Signage

- (1) No wind turbine, anemometer mast, power performance mast, switching station, transformer building, enclosure, ancillary building or above ground fixed plant 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.*

13. Planning Monitoring Officer

- (1) There shall be no Commencement of Development 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; and
 - (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 construction works and post construction site reinstatement works.

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

14. Environmental Clerk of Works

- (1) There shall be no Commencement of Development unless and until the terms of appointment of an independent Environmental Clerk of Works ("ECoW") by the Company 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 ecological and hydrological commitments provided in the EIA Report; any micro-siting under condition 11; the Construction and Environmental Management Plan approved under condition 16; the Habitat Management Plan approved under condition 24, including the monitoring and reporting of blanket bog habitat, the pre-construction otter survey and otter protection plan required under condition 26; and the Water Quality and Fish Monitoring Plan approved under condition 27. Together these works comprise “the ECoW Works”.
 - (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 the 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 construction works and post-construction site re-instatement works.
 - (3) No later than 18 months prior to the decommissioning of the Development or the expiry of this consent (whichever is 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 written approval. 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 construction, decommissioning, restoration and aftercare phases.*

15. Borrow Pit – Scheme of Works

- (1) No borrow pit shall be excavated until a site-specific scheme for the working and restoration of the borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include:
 - (a) a detailed working method statement based on site survey information and ground investigations; and
 - (b) details of the handling of any overburden (including peat, soil and rock); and

- (c) drainage, including measures to prevent surrounding areas of peatland and Ground Water Dependant Terrestrial Ecosystems (“GWDTE”) from drying out; and
 - (d) a programme of implementation of the works described in the scheme; and
 - (e) provision for the reinstatement, restoration and aftercare of the borrow pit at the end of the construction period, to include provision for topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profile.
- (2) The approved scheme shall thereafter be implemented in full unless otherwise approved in writing by the Planning Authority.

Reason: *To ensure that excavation of materials from the borrow pit is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit at the end of the construction period.*

16. Construction and Environmental Management Plan

- (1) No construction works shall commence until a Construction and Environmental Management Plan (“CEMP”) has been submitted to and approved in writing by the Planning Authority.
- (2) The CEMP shall include (but is not 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; and
 - (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; and
 - (c) a dust management plan; and
 - (d) site specific details for management and operation of any concrete batching plant (including disposal of pH rich wastewater and substances); and
 - (e) 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; and

- (f) a pollution prevention and control method statement; and
- (g) arrangements for on-site storage and management of oil, fuel and other chemicals; and
- (h) details of soil storage and management; and
- (i) a drainage management strategy, demonstrating how all surface and wastewater arising during and after development is to be managed and prevented from polluting any watercourses or sources; and
- (j) a Water Quality Management Plan comprising 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; and
- (k) details of foul drainage arrangements; and
- (l) details of temporary site illumination; and
- (m) details of any water course engineering works including any water course crossings. These should be designed to accommodate a 1 in 200-year peak flow and enable fish passage and providing that water course crossings shall be oversized bottomless arched culverts or traditional style bridges; and
- (n) post-construction restoration and reinstatement of the working areas; and
- (o) a Construction Method Statement for (i) crane pads; (ii) turbine foundations; and (iii) working cable trenches; and
- (p) details of methods for the erection of the wind turbines and meteorological masts; and
- (q) details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development; and
- (r) the times and duration of any borrow pit blasting, and a Borrow Pit Blasting Protocol setting out a procedure for notifying the occupants of Corriegarth Lodge, Garthbeg Bungalow, Garthbeg Cottage and Keepers Cottage of the times and duration of blasting activity; and
- (s) a Tree Management Plan (including details of any felling which may be required to accommodate the proposed upgrading of the existing access track, along with proposed compensatory planting).

- (3) The approved CEMP shall be implemented throughout the construction, post-construction site reinstatement and operational phases in full unless otherwise approved in advance in writing by the Planning Authority.

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 EIA Report accompanying the application, or as otherwise agreed, are fully implemented.*

17. Redundant Turbines

- (1) In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis for a continuous period of 18 months, unless otherwise approved in writing by the Planning Authority, the Company shall submit a scheme for the removal of the wind turbine(s) and ancillary equipment within 1 month of the expiration of the 18-month period.
- (2) The scheme shall be implemented as approved in writing.
- (3) The site shall be reinstated in accordance with the decommissioning, restoration and aftercare strategy approved under condition 32 and the decommissioning, restoration and aftercare plan approved under condition 33.

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

18. Construction Hours

- (1) The hours of operation of the construction phase of the development hereby permitted other than in respect of the construction of the substation shall be limited to 0700 hours to 1900 hours on Monday to Friday and 0700 – 1600 on Saturday. No work shall take place on Sundays or public holidays unless previously approved in writing by the planning authority. Out with these hours, development at the site shall be limited to turbine delivery and erection, commissioning, maintenance and pouring of concrete foundations (provided that the developer notifies the planning authority of any such works within 24 hours if prior notification is not possible). In addition, access for security reasons, emergency responses or to undertake any necessary environmental controls is permitted out with these hours.
- (2) HGV movements to access and leave the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays with no HGV movements to or from site taking place on a Sunday or Public Holiday unless otherwise agreed in writing by the Planning Authority prior to the HGV movement.

Reason: *In the interests of local amenity.*

19. Construction Traffic Management Plan

- (1) There shall be no Commencement of Development unless and until a Construction Traffic Management Plan (“CTMP”) has been submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The CTMP shall include (but is not limited to):
 - (a) the routing of all traffic associated with the Development on the local road network; and
 - (b) measures to ensure that the specified routes are adhered to, including monitoring procedures; and
 - (c) details of all signage and lining arrangements to be put in place; and
 - (d) provisions for emergency vehicle access; and
 - (e) identification of a nominated person to whom any road safety issues can be referred.
- (2) The CTMP shall include provision requiring that, during the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed shall be undertaken by a recognised QA traffic management consultant, to be approved by the Planning Authority, in consultation with Transport Scotland, before delivery commences.
- (3) The approved CTMP shall be implemented in full, unless and until otherwise agreed in advance in writing by the Planning Authority.

Reason: *to ensure road safety and that transportation will not have any detrimental effect on the road and structures along the route and to minimise interference with the safety and free flow of the traffic on the local and trunk roads and to minimise adverse impacts on residents and local businesses in the area.*

20. Abnormal Loads Route Assessment

At least three months prior to the first delivery of an abnormal load, the Company shall undertake an Abnormal Load Route Assessment (ALRA), including trial runs, and submit a report describing the outcome of the ALRA for the written approval of the Planning Authority in consultation with Transport Scotland. The report shall include:

- (i) the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic associated with the Development; and

- (ii) details of a public relations strategy to inform the relevant communities of the programme of abnormal load deliveries; and
- (iii) details of any accommodation measures required for the local road network, including the removal of street furniture, junction widening and traffic management; and
- (iv) details of the route for abnormal loads on the local and trunk road networks and any recommendations for delivery of abnormal loads; and
- (v) an assessment of the capacity of any bridge crossings on the route to cater for abnormal loads, and details of proposed upgrades and mitigation measures required for any bridge crossings; and
- (vi) a written statement relating to the undertaking of road condition surveys and remedial works to respond to any damage or deterioration caused by construction traffic.
- (vii) No delivery of an abnormal load shall take place until a programme for abnormal load deliveries shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. This shall include details of escorts and any accommodation measures required, including the removal of street furniture, junction widening, traffic management and the scheduling and timing of abnormal loads movements.
- (viii) The details in the approved ALRA shall thereafter be implemented in full in line with the approved programme for abnormal load deliveries.

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

21. Road Wear and Tear Agreement

- (1) There shall be no Commencement of Development until the Company has entered into a legal agreement under Section 96 of the Roads (Scotland) Act 1984 for the provision of a Road Bond or similar security, under which the developer is responsible for the repair of any damage to the public road network that can reasonably be attributed to construction related traffic. The agreement shall take account of any neighbouring significant developments that might progress concurrent with the works proposed and will provide, if necessary, a mechanism for apportionment of costs between respective developers. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the developer, to the satisfaction of the roads authority. The scope of said road condition surveys, both pre-start and post-construction, should be agreed with the roads authority prior to any works being undertaken.

Reason: *To ensure the protection of the road network, and to secure the cost of repairing any damage to the road network.*

22. Community Liaison Group

- (1) There shall be no Commencement of Development unless and until a Community Liaison Plan has been approved in writing by the Planning Authority after consultation with the relevant local community councils. This 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.
- (2) The terms and conditions of these arrangement must include that the Community Liaison Group will have timely dialogue in advance of 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 date of Final Commissioning when the wind farm has been completed and is fully operational.
- (3) 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.*

23. Public Access

- (1) There shall be no Commencement of Development unless and until an Access Management Plan has been submitted to, and approved in writing by, the Planning Authority. The plan will make provision for existing levels of public access to be maintained after construction other than as may be necessary to carry out repair or maintenance works. The plan shall include details of signage to be included on the site, including signage to be erected at appropriate locations for the Core Path IN25.02 and the Trail of the Seven Lochs, to warn users of the paths of any hazards. A plan showing the proposed locations and content of the signs will be submitted to the Planning Authority for approval prior to construction.
- (2) The Access Management Plan as approved shall be implemented in full, unless otherwise approved in writing by the Planning Authority.

Reason: *In the interests of ensuring public access rights throughout the construction and operation of the wind farm.*

24. Habitat Management Plan

- (1) There shall be no Commencement of Development unless and until a Habitat Management Plan (“HMP”), following the principles set out in the Enhanced

Outline Habitat Management Plan submitted as Additional Information Appendix 2 (February 2023) has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA.

- (2) The HMP shall set out proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat on site.
- (3) The HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the HMP objectives.
- (4) Unless otherwise approved in advance in writing by the Planning Authority, the approved HMP shall be implemented in full.

Reason: *In the interests of the protection of the habitats identified in the EIA Report.*

25. Peat Management Plan

- (1) There shall be no Commencement of Development until a Peat Management Plan (“PMP”) is submitted to and approved in writing by the Planning Authority in consultation with SEPA and NatureScot. Unless otherwise approved in writing in advance by the Planning Authority, the approved PMP shall be implemented in full.
- (2) The PMP shall:
 - (a) follow the principles set out within the Outline PMP (Supplementary Environmental Impact Report, Technical Appendix 13.2); and
 - (b) ensure that all tracks on peat depths greater than 1 metre are floated (as outlined in Section 3.3 of the Outline PMP, Supplementary Environmental Impact Report, Technical Appendix 13.2); and
 - (c) demonstrate how micro-siting and other measures such as floating tracks will be used to further minimise disturbance of peat and good quality peat habitat, with specific attention being paid to micrositing turbines situated on peat depths over 1 metre; and
 - (d) provide a method statement for cable trenching, prioritising use of pre-disturbed land such as track shoulders and setting out a method for ensuring excavation of cables in virgin ground only takes place once the electrical contractors have cables on site ready for installation.

Reason: *To minimise negative impacts on peat and carbon loss.*

26. Species Protection Plan

- (1) There shall be no Commencement of Development unless and until protected species (including otter) surveys have been carried out by a suitably qualified person. The surveys shall inform the mitigation measures required for the protection of such species, which shall be incorporated into a Species Protection Plan, including a specific Otter Protection Plan, as outlined in Section 7.7.2.2 of the Environmental Impact Assessment Report.
- (2) The Species Protection Plan shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot prior to the Commencement of Development.
- (3) The approved Species Protection Plan shall be implemented in full.

Reason: *In the interests of nature conservation and the protection of the Ness Woods Special Area of Conservation.*

27. Water Quality and Fish Monitoring Plan

- (1) There shall be no Commencement of Development unless and until an integrated Water Quality and Fish Monitoring Plan (“WQFMP”) has been submitted to and approved in writing by the Planning Authority.
- (2) The WQFMP must take account of Marine Scotland Science’s guidance and shall include:
 - (a) Provision that water quality sampling should be carried out for at least 12 months prior to construction commencing, during construction and for at least 12 months after construction is complete; and
 - (b) key hydrochemical parameters (including turbidity and flow data), the identification of sampling locations (including control sites), frequency of sampling, sampling methodology, data analysis and reporting; and
 - (c) a construction and post-construction fish fauna and aquatic invertebrates monitoring plan (utilising baseline sampling sites plus one control site). Unless otherwise agreed in advance and in writing with the Planning Authority in consultation with Marine Scotland Science, the monitoring schedule for this shall include the survey work specified in recommendation 5.3 (construction and post-construction monitoring of aquatic ecology) of the Corriegarth Wind Farm Extension Fisheries Habitat Survey, Technical Appendix 07.04 of Volume 3 of the EIA Report, and as summarised in paragraph 7.7.2.3 of that report. The survey work comprises:

- Baseline fish fauna – in areas of Moderate to High Fish Utilisation Potential (FUP) or Fish Habitat Quality (FHQ) – watercourses CG2, CG3, CG4, CG5, CG6, CG7, CG8, CG9, CG11, CG12, GG13, CG14, CG15, CG16, CH17 and CG18. Also watercourse CG1;
 - Fish fauna – annually during construction (summer) and post-construction Year 1 (summer) and Year 2 (summer); and
 - Aquatic invertebrates – annual during construction (spring/autumn) and post-construction (spring/autumn) and Year 2 (summer).
- (3) Thereafter, the WQFMP shall be implemented in full within the timescales set out within the WQFMP.

Reason: *To ensure no deterioration of water quality and to protect fish populations within and downstream of the development area.*

28. Private Water Supplies

- (1) There shall be no Commencement of Development unless and until a private water supplies method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development.
- (2) The method statement shall include water quality sampling methods and shall specify abstraction points.
- (3) The approved method statement shall thereafter be implemented in full.

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

29. Construction Noise

- (1) There shall be no Commencement of Development until full details of the temporary noise control barriers to be installed at the boundary of surrounding properties, and all other mitigation measures, have been submitted to and approved in writing by the Planning Authority, and until the approved barriers and measures have been installed/implemented.

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.*

30. Operational Noise

- (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) when determined in accordance with the Guidance Notes, shall not exceed 35dB LA90 at any noise sensitive property at the time of consent and:
 - (a) Prior to the date of First Commissioning, the Company shall submit to the Planning Authority, for written approval, a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. There shall be no First Commissioning until the list has been approved. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
 - (b) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the Company shall at its expense, employ an independent consultant approved by the Planning Authority to assess the level of noise imissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Planning Authority) in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Planning Authority made under this paragraph (b), the wind farm operator shall provide the information relevant to the complaint to the Planning Authority in the format set out in Guidance Note 1(e).
 - (c) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the Company shall submit to the Planning Authority, for written approval, the proposed measurement location (identified in accordance with the Guidance Notes) where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the operator's submission shall include a method to calculate the noise level from the wind turbines at the complainant's property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits of this condition shall be undertaken at the measurement location approved by the Planning Authority.
 - (d) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:

- i. the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise imissions; and
- ii. a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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

- (e) The wind farm operator shall provide, to the Planning Authority, the independent consultant's assessment of the rating level of noise imissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (b) of this condition unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise emissions.
- (f) Where a further assessment of the rating level of noise imissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (e) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.
- (g) The Company shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine 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) of the attached Guidance Notes) to the Planning Authority within 14 days of receipt in writing of such a request.
- (h) Where it is proposed to operate any turbine in a reduced running mode in order to meet the limits, no turbine shall be erected until a curtailment plan for the turbines has been submitted and approved in writing by the Planning Authority.

The curtailment plan shall demonstrate how the limits will be complied with and shall include the following:

- i. definition of each noise reduced running mode including sound power data; and
- ii. the wind conditions (speed and direction) at which any noise reduced running mode will be implemented; and
- iii. details of the manner in which the running modes will be defined in the SCADA data or how the implementation of the curtailment plan can be otherwise monitored and evidenced.

The Curtailment Plan shall be implemented in accordance with the approved details.

- (i) Prior to the date of First Commissioning, the Company shall submit to the Planning Authority for written approval, a scheme of mitigation to be implemented in the event that the rating level, after adjustment for background noise contribution and any tonal penalty, is found to exceed the conditioned limits. The scheme shall define any reduced noise running modes to be used in the mitigation together with sound power levels in these modes and the manner in which the running modes will be defined in the SCADA data.
- (j) The scheme referred to in paragraph (i) above should include a framework of immediate and long-term mitigation measures. The immediate mitigation measures must ensure the rating level will comply with the conditioned limits and must be implemented within seven days of the further assessment described in paragraph (f) being received by the Planning Authority. These measures must remain in place, except during field trials to optimise mitigation, until a long-term mitigation strategy is ready to be implemented.

The guidance notes references in this condition can be found at the end of this Annex 2.

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.*

31. Turbine Operation

The wind turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

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

32. Decommissioning, restoration and aftercare strategy

- (1) There shall be no Commencement of Development unless and until a decommissioning, restoration and aftercare strategy has been submitted to,

and approved in writing by, the Planning Authority. The decommissioning, restoration and aftercare strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site and 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.

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.*

33. Site Decommissioning, Restoration and Aftercare

- (1) The Development shall cease to generate electricity to the grid network by no later than the date falling 30 years from the Date of Final Commissioning.
- (2) No later than one year prior to the Date of Final Generation or the expiry of the section 36 consent (whichever is earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):
 - (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases and, including details of measures to be taken to minimise waste associated with the Development and promote the recycling of materials and infrastructure components); and
 - (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; and
 - (c) a dust management plan; and
 - (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network; and
 - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site; and
 - (f) details of measures for soil storage and management; and

- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water; and
 - (h) details of measures for sewage disposal and treatment; and
 - (i) temporary site illumination; and
 - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays; and
 - (k) details of watercourse crossings; and
 - (l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (3) The Development shall be decommissioned, the site restored and aftercare undertaken prior to the date falling three years after the Date of Final Generation and in accordance with the approved detailed decommissioning, restoration and aftercare plan.

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.*

34. Financial Guarantee

- (1) There shall be no Commencement of Development 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 33, is submitted to the Planning Authority.
- (2) The value of the financial guarantee shall be 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, restoration and aftercare obligations referred to in condition 33.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority, with the landholder able to call on it in the event that the Planning Authority does not complete the decommissioning works or does not carry out the decommissioning works appropriately, until the completion of all decommissioning, restoration and aftercare obligations referred to in condition 33.

- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the detailed decommissioning, restoration and aftercare plan approved under condition 33. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in condition 33 and best practice prevailing at the time of each review.

Reason: *To ensure 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.*

35. Breeding Bird Protection Plan

- (1) There shall be no Commencement of Development until a Breeding Bird Protection Plan (“BBPP”) has been submitted to and approved in writing by the Planning Authority. The BBPP shall outline measures for avoiding disruption to nesting birds and any disturbance to Schedule 1 breeding birds during the construction of the Development.
- (2) The BBPP shall include the following:
 - (a) Timing and methodology of pre-construction breeding bird surveys to be carried out by a suitably qualified ornithologist in order to determine whether any breeding activity is taking place
 - (b) Disturbance risk assessment methodology to be followed in the event of a breeding activity occurring within a potential disturbance zone.
- (3) Unless otherwise agreed in advance in writing by the Planning Authority, the approved BBPP shall be implemented in full.

Reason: *To avoid disruption to breeding birds.*

36. Raptor Protection Plan

- (1) There shall be no Commencement of Development until details of a Raptor Protection Plan (“RPP”) has been submitted to and approved in writing by the Planning Authority in consultation with RSPB. The RPP shall include:
 - (a) details of a protocol for reporting any confirmed or suspected bird collisions within the site;
 - (b) details of a protocol for the removal of deer and sheep carcasses and grallochs within 200m of each wind turbine; and

- (c) details of an annual contribution to the NHZ10 Regional Eagle Management Plan.
- (2) Unless otherwise agreed in advance in writing by the Planning Authority, the approved RPP shall be implemented in full.

Reason: *To reduce the attractiveness of areas near the wind turbines and reduce collision risk for raptors.*

37. Commencement of Development

- (1) The Commencement of Development shall be no later than five years from the date of this planning permission.
- (2) Written confirmation of the intended Date of Commencement of Development shall be provided to the Planning Authority no later than one calendar month prior to the Commencement of Development.

Reason: To comply with section 58 of the Town and Country Planning (Scotland) Act 1997.

Definitions

In this consent and deemed planning permission:-

“Application” means the application submitted by the Company on 8 January 2021 and its supporting documents.

“Commencement of Development” means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

“the Company” means Corriegarth 2 Wind Farm Limited having its registered office at 22 Chancery Lane, London, WC2A 1LS Company No. 12207006, or such other person who from time to time may lawfully have the benefit of this consent.

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

“Date of Final Commissioning” means the earlier of (i) the date on which the Development first exports electricity to the national grid on a commercial basis; or (ii) the date falling 18 months from the date of Commencement of Development.

“the Development” means the development as described in Annex 1 authorised by this section 36 consent and deemed planning permission.

“EIA report” means the Environmental Impact Assessment Report in respect of the Development dated January 2021 and Supplementary Environmental Information (SEI) dated April 2022 and Additional Information dated February 2023.

“HES” means Historic Environment Scotland

“Permitted Preliminary Works” means (i) any site investigation or other preparatory works or surveys which do not involve breaking ground and/or which are required for the purpose of satisfying or discharging any pre-commencement obligations under the planning conditions, and (ii) the provision of any temporary contractors' facilities within the Site which are necessary for (i) above.

“Planning Authority” means The Highland Council.

“SEPA” means the Scottish Environment Protection Agency.

“Site” means the area of land outlined in red on Figure 4.1 Revised Development Site Layout Plan of the SEI dated April 2022.

“NatureScot” means Scottish Natural Heritage now operating as NatureScot.

Guidance Notes for Operational Noise Condition (Condition 30)

These notes are to be read with and form part of the Operational Noise condition (Condition 30). They further explain the condition and specify the methods to be employed in the assessment of complaints about noise imissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) The LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Company shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is

previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10-metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10- minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b).

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10-minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions, the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

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

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

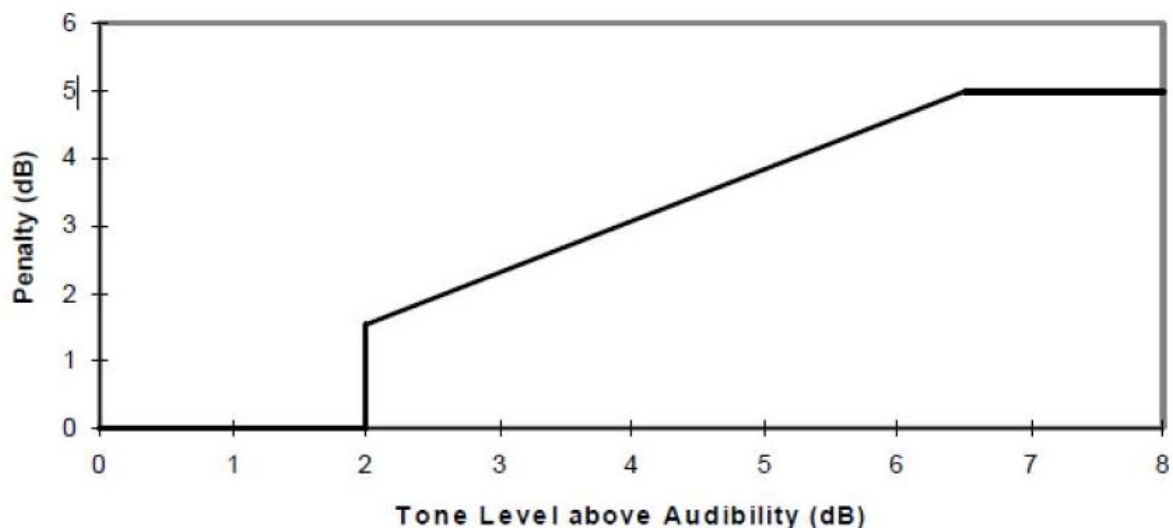
(b) For each 10-minute interval for which LA90, 10-minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2-minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

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



Note 4 a. If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Planning Authority in its

written protocol under paragraph (d) of the noise condition. b. If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Operational Noise Condition (Condition 30) or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The Company shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- (i) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.
- (ii) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- (iii) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

(iv) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Table attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the Development fails to comply with the conditions.

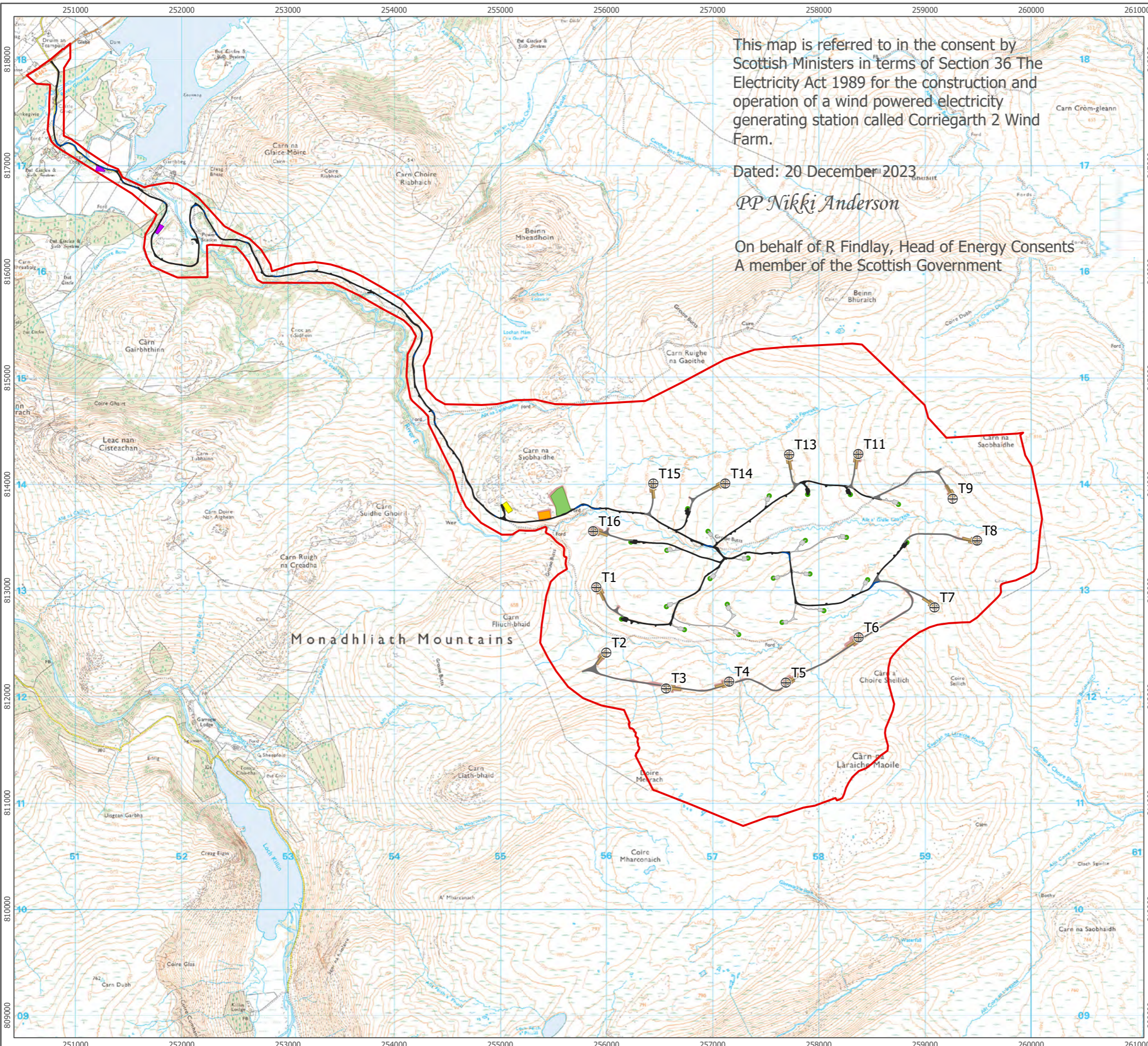


This map is referred to in the consent by Scottish Ministers in terms of Section 36 The Electricity Act 1989 for the construction and operation of a wind powered electricity generating station called Corriegarth 2 Wind Farm.

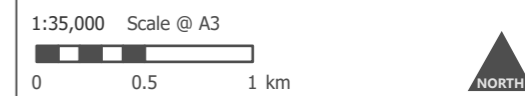
Dated: 20 December 2023

PP Nikki Anderson

On behalf of R Findlay, Head of Energy Consents
A member of the Scottish Government



- Site Boundary
- Proposed Turbine Location
- SEI Report Site Layout**
- Crane Hardstanding
- Access Tracks
- Existing Tracks to be Utilised
- Laydown Area
- Track Widening Area
- Construction Compound
- Existing Wind Farm Tracks
- Earthworks
- Borrow Pit
- Substation Compound
- Operational Corriegarth Wind Turbine



| | |
|-----------------|-------------------|
| Produced By: HW | Ref: 4643-REP-049 |
| Checked By: SC | Date: 07/04/2022 |

**Revised Development
Site Layout Plan
Figure 4.1**

**Corriegarth 2 Wind Farm
SEI Report**

Reproduced from Ordnance Survey digital map data © Crown copyright 2022. All rights reserved. License number 100048606

Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed **Corriegarth 2 Wind Farm** development for the **Ness Woods Special Area of Conservation (SAC)** in view of the conservation objectives of the SAC.

December 2023

The following assessment has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

| | Description | |
|---|--|---|
| 1 | Brief description of the project | <p>On 8 January 2021, BayWa r.e. UK Limited on behalf of Corriegarth 2 Wind Farm Limited made an application (“the Application”) under section 36 of the Electricity Act 1989 for consent to construct and operate Corriegarth 2 Wind Farm, an electricity generating station, located approximately 15 kilometres north-east from Fort Augustus and 10 km south-east of Foyers in the planning authority area of The Highland Council.(“proposed Development”)</p> <p>The principal components and related ancillary developments of the proposed Development, as amended, would comprise:</p> <ul style="list-style-type: none"> • 14 wind turbines at a maximum blade to tip height no greater than 149.9 metres • Associated foundations and crane hardstandings at each wind turbine location. • Access tracks, comprising a combination of 6km of new tracks and 13km of upgrades to existing tracks. • Temporary construction compound. • Two temporary laydown areas. • One borrows pit for aggregate extraction. • Network of underground cabling. • Substation compound. • Control building; and • Associated works/infrastructure. |
| 2 | Name of European site potentially affected | Ness Woods Special Area of Conservation Special Area of Conservation (SAC) |
| 3 | European site qualifying interest(s) | <p>Annex I habitats that are a primary reason for selection of this site :</p> <p>Mixed woodland on base-rich soils associated with rocky slopes (Tilio-Acerion forests of slopes, screes and ravines)* Priority feature:</p> <p>This complex of sites includes one of the best and most extensive examples of a ravine woodland in Scotland at Glen Tarff; further examples occur along the north-facing shores of Loch Ness. The canopy is a mixture of alder <i>Alnus glutinosa</i>, ash <i>Fraxinus excelsior</i> and wych elm <i>Ulmus glabra</i> with a locally abundant</p> |

| | | |
|---|--|---|
| | | <p>hazel <i>Corylus avellana</i> shrub layer. The ground flora is rich in ferns, mosses and herbaceous plants, and the woods have a luxuriant epiphytic flora of lichens, liverworts and mosses with Atlantic affinities.</p> <p><u>Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:</u></p> <p>Western Acidic Oak woodland (Old sessile oak woods with Ilex and Blechnum in the British Isles)</p> <p><u>Annex II species that are a primary reason for selection of this site:</u></p> <p>Not Applicable</p> <p><u>Annex II species present as a qualifying feature, but not a primary reason for site selection:</u></p> <p><u>Otter</u> <i>Lutra lutra</i></p> |
| 4 | Conservation objectives for Ness Woods SAC | <p>Overarching Conservation Objectives for all habitat features</p> <p><u>ANNEX I HABITATS</u></p> <p>1. To ensure that the qualifying features of Ness Woods SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status</p> <p>2. To ensure that the integrity of Ness Woods SAC is restored by meeting objectives 2a, 2b and 2c for each qualifying feature</p> <p>Conservation objectives for Mixed woodland on base-rich soils associated with rocky slopes*</p> <ul style="list-style-type: none"> a) Restore the extent and distribution of the habitats within the site b) Restore the structure, function and supporting process of the habitat c) Restore the distribution and viability of typical species of the habitat <p>Conservation objectives for Western Acidic Oak woodland</p> <ul style="list-style-type: none"> a) Maintain the extent and distribution of the habitat within the site b) Restore the structure, function and supporting process of the habitat c) Restore the distribution and viability of typical species of the habitat <p>*Indicates priority habitat</p> |

| | | |
|---|--|---|
| | | <p><u>ANNEX II SPECIES –</u></p> <p>Qualifying Species: Otter</p> <p>1. To ensure that the qualifying features of Ness Woods SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status</p> <p>2. To ensure that the integrity of Ness Woods SAC is restored by meeting objectives 2a, 2b and 2c for the qualifying feature</p> <p style="padding-left: 40px;">a) maintain the population of the species as a viable component of the site</p> <p style="padding-left: 40px;">b) Maintain the distribution of the species throughout the site.</p> <p style="padding-left: 40px;">c) Maintain the habitats supporting the species within the site and availability of food.</p> |
| 5 | Is the proposal directly connected with, or necessary to, conservation management of the European site? | The proposal is not directly connected with, or necessary to, conservation management of the Ness Woods SAC and therefore further consideration is needed. |
| 6 | Is the plan or project (either alone or in combination with other plans or projects) likely to have a significant effect on site? | <p>Ness Woods SAC is located 3.4km west of the access track for the proposed Development and 3.9km north-west of the closest turbine location.</p> <p>In their response to Scottish Ministers, NatureScot confirm:</p> <ul style="list-style-type: none"> • The size of an otter territory of up to 32km therefore there is connectivity with the proposal and the SAC qualifying species (otter) and • The presence of otters within the survey area as identified by the otter surveys. <p>As there is therefore connectivity between SAC qualifying species and the development site, it is concluded that the proposed Development would have a <i>likely significant effect</i> on the SAC.</p> <p>For the qualifying habitat features, these are not present within the vicinity of the proposed works and therefore will have NO likely significant effects (LSE).</p> |
| 7 | Undertake an appropriate assessment of the implications for | <p>Noted in their response to Scottish Ministers, NatureScot's appraisal considered the following factors:</p> <p>Suitable habitat for otters was identified within the survey area along with the identification of spraints and two potential resting sites.</p> |

| | | |
|---|--|---|
| | <p>the site in view of its conservation objectives</p> | <p>Otter were also recorded on two tributaries of the River E, Allt a' Ghille Charaich and Allt Bd Fionnaich which flow through the existing and proposed turbine envelope.</p> <p>As otter activity has been recorded within the survey area and considering the SAC is within 9.3km of the closed proposed turbine then we agree with the EIAR which states there is potential for otters within the site to be connected with the SAC.</p> <p>During the construction phase there is potential for disturbance to both resting and foraging otters within the Proposed Development boundary. These can be mitigated through a pre-construction survey and suitable otter protection plan.</p> <p>During the operational phase there may be minor displacement effects however we consider these will not be significant due to the extent of suitable otter habitat outwith the site boundary.</p> <p>NatureScot concluded the conservation objectives will be met subject to condition.</p> |
| 8 | | <p>Scottish Ministers agree with NatureScot's conclusion that if the proposal is undertaken strictly in accordance with the following mitigation, which will be secured by condition of any consent then the conservation objective in respect of otter would be met therefore will not adversely affect the integrity of the site:</p> <ul style="list-style-type: none"> • A pre-construction otter survey • Following the pre- construction otter survey and otter protection plan will be agreed with NatureScot <p>Condition - Species Protection Plan</p> <p>(1) There shall be no Commencement of Development unless and until protected species (including otter) surveys have been carried out by a suitably qualified person. The surveys shall inform the mitigation measures required for the protection of such species, which shall be incorporated into a Species Protection Plan, including a specific Otter Protection Plan, as outlined in Section 7.7.2.2 of the Environmental Impact Assessment Report.</p> <p>(2) The Species Protection Plan shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot prior to the Commencement of Development.</p> <p>(3) Unless otherwise agreed in advance in writing by the Planning Authority, the approved Species Protection Plan shall be implemented in full.</p> <p><i>Reason: In the interests of nature conservation.</i></p> |

| | Conclusion | |
|---|---|--|
| 9 | Can it be ascertained that the proposal will not adversely affect the integrity of the site ? | Scottish Ministers conclude that it can be ascertained that the Development will not adversely affect the integrity of the Ness Woods SAC, and that this conclusion is beyond reasonable scientific doubt. |