

**TCP/11/16(513) – Review of Refusal to Discharge Condition
5 of Consent 12/01423/FLL to permit the alternative
installation of 7 No. Senvion MM92 turbines**

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be
through this representative: ☐

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed
development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision
notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- | | |
|--|-------------------------------------|
| 1. Application for planning permission (including householder application) | <input type="checkbox"/> |
| 2. Application for planning permission in principle | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions | <input checked="" type="checkbox"/> |

Reasons for seeking review

- | | |
|---|-------------------------------------|
| 1. Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- | | |
|---|-------------------------------------|
| 1. Further written submissions | <input type="checkbox"/> |
| 2. One or more hearing sessions | <input checked="" type="checkbox"/> |
| 3. Site inspection | <input type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | <input type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

The officer's view that the change in turbines is material raises a number of legal points on which the applicant would wish to be able to make submissions to the LRB.

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

The site is an active construction site. Accordingly for health and safety reasons prior arrangement of any visit is necessary.

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see attached review statement

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1. Review Statement
2. Planning Permission 12/01423/FLL
3. Planning Permission 15/01561/FLL
4. Report of handling for application 15/01561/FLL
5. Letter requesting approval of turbine details dated 17 October 2017
6. Email refusing discharge of turbine details dated 19 October 2017
7. 2012 Environmental statement extracts
8. 2015 Written statement extracts
9. Wirelines
10. DPEA decision PPA-170-2098

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/~~agent~~ [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

9/1/18

Notice of Review – Index of accompanying documents

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- 2 Planning permission 12/01423/FLL
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Document 1 – Review Statement

1 INTRODUCTION

- 1.1 The Tullymurdoch Wind Farm (the “Site”) currently has two, live, implemented planning permissions for windfarm development. These are the Original Permission granted in 2014 and a Modified Permission granted in 2015. These two permissions both provide for the same windfarm composed of the same number of turbines and layout but each considered slightly different turbine design specifications. Neither permission imposes any turbine dimension limits within its’ conditions and only specifies a maximum blade tip height of 120m. This appeal relates to a refusal to approve turbine details under the Original Permission; the Modified Permission is referenced only as it specifically considered in detail the precise dimensions of the turbines at issue in this notice of review.
- 1.2 As part of the conditions of the Original Permission, the details of the turbines to be installed must be approved by the planning authority before the turbines are erected. Tullymurdoch Limited, the owners of the windfarm Site, wish to install Senvion MM92 turbines on the Site. The maximum blade tip height of these turbines would be 5.25 metres lower than the maximum height specified in the permission. Tullymurdoch accordingly applied for approval of these turbines under the Original Permission; the Council have refused to approve the MM92 turbines. This review is of that refusal to approve the turbine details.

2 PLANNING HISTORY

- 2.1 Planning permission 12/01423/FLL for the formation of 7 turbine wind farm with associated access track and ancillary works at Tullymurdoch Wind Farm Alyth was granted on appeal under ref PPA-340-2073 on 03 September 2014 (the “**Original Permission**”), (**Document 2**). The application for the Original Permission states installed capacity would be 14 to 17.5 MW depending on final turbine selection. The indicative dimensions used in the ES for the Original Permission used a maximum height to blade tip of 120m with this being expressed as including a typical turbine design with a 80m hub height and a rotor diameter of 80m.
- 2.2 It is noted that condition 1 of Original Permission requires works to start within 3 years (therefore by 02 September 2017). Notice of initiation of development of the Original Permission was given setting out a start date for works of 09 March 2017. This notice provides that all of the pre-commencement conditions had been discharged and that this was confirmed on 08 March 2017.
- 2.3 The Original Permission Condition 5 requires approval by the planning authority of the final specification of the wind turbines. The conditions set limits on the details to be approved by providing that all the wind turbines must be supplied by the same manufacturer, and be of the same, design, colour and finish. No other limits are specified in the conditions and, in particular, no blade length limits or ratio limits are included. This condition was discharged on 06 March 2017.
- 2.4 Previous to this, the then developer of the site approached the Council in June 2015 seeking approval of turbines different to the indicative dimensions in the application under Condition 5. The Council refused to consider this as they considered the change in turbine dimension from the indicative turbines to be material and advised that a variation would be required.
- 2.5 Application 15/01561/FLL for modification of permission 12/01423/FLL to accommodate turbines with a lower maximum tip height of 114.75m but an increased rotor diameter of 92m was approved in November 2015 (the “**Modified Permission**”) (**Document 3**). Other than the change to the turbine dimensions the application remained as set out in the Original Permission. The environmental information provided with the application for

the Modified Permission allowed the Council to consult upon and fully consider whether the change in turbine dimensions resulted in any new, adverse impacts. The changes were considered in detail and were generally found to have no difference in impacts and no new significant impacts¹.

- 2.6 Condition 4 of the Modified Permission provides that the details of the turbines must be approved prior to commencement but again does not impose any limits on the size of any element. Notice of initiation of development of the Modified Permission was given setting out a start date of 04 August 2017.

3 APPEAL PROCEDURE

- 3.1 Arcus planning consultants applied for discharge of Condition 5 of the Original Permission with the MM92 turbines by letter dated 17 October 2017 (**Document 5**). This was refused by email from John Russell, Development Management Planning Officer, dated 19 October 2017 (**Document 6**).
- 3.2 Electricity generating stations under 20MW are Local decisions within the hierarchy. Despite the current development falling within that category, the original permission was granted on appeal by the DPEA. This route of appeal was available in that case as, despite the classification as a local development, the planning authority had formally advised that they would not be considering the application under delegated powers and that the right of appeal would therefore be to the Scottish Ministers.
- 3.3 Despite the Original Permission having been granted by the Scottish Ministers, having regard to the detail of this particular development and the application for approval having been determined under delegated powers, appeal against the refusal to discharge Condition 5 for the MM92 turbines does not lie to DPEA on behalf of the Scottish Ministers but to the Council's Local Review Body.
- 3.4 The decision to refuse the application for discharge of the turbine details was taken as a delegated decision on a development falling within the Local level of the hierarchy; section 43 of the Town and Country Planning (Scotland) Act therefore applies. A refusal to discharge conditions is a planning decision which can be appealed under s43A of the Act as it falls within s43A(8). This section creates an ability to appeal against refusal of the appointed person of any "consent, agreement or approval". This notice of review is therefore made to the LRB as the competent body.

4 LEGAL CONSIDERATIONS

Implementation of both the Original and Modified Permissions

- 4.1 Both the Original and Modified Permissions have been implemented. While many of the works for each are the same, at some stage one will have to be selected and progressed to completion. The timing at which the permissions diverge will be at the installation of the "end can" of the turbine tower itself into the foundations of the turbine base, as it is this part of the turbine tower which must be correctly sized for the model which is to be erected.
- 4.2 *Pilkington v Secretary of State for the Environment*² provides that where there are multiple planning permissions for a site which are capable of being relied upon, the status of those permissions depends ultimately on what is physically possible. The two permissions should be read side-by-side. Where it remains physically possible to carry out a development authorised by a first permission despite having already implemented (or partially implemented) a development under a second permission, then that first

¹ Report of Handling by Development Quality Manager for reference 15/01561/FLL, Perth and Kinross Council, Development Management Committee, 18 November 2015

² [1973] 1 W.L.R. 1527

permission remains valid. The other planning permission is valid until the point it becomes incapable of implementation.

- 4.3 Until the foundations for the turbines are installed, either permission can be built out and it is only at the stage of installing turbine site components that one permission or other becomes incapable of implementation due to the physical nature of the works. At this time, and at the point the application was made by Arcus on 17 October, all of the works could allow either permission to be built out. The existence and implementation of the two permissions for the Site is accordingly not an impediment to seeking or approving the discharge of conditions under the Original Permission notwithstanding the existence and implementation of the Modified Permission.

Ability to seek approval of different details post-commencement

- 4.4 Condition 5 is a pre-commencement condition; it must be satisfied before the development can be lawfully begun under the permission. Condition 5 was discharged in March 2017 and the permission was implemented. It is commonplace that authorities approve further details of pre-commencement conditions at a later stage. To do otherwise would reduce flexibility of consents to an impractical degree and conflict with the objective of allowing details to be amended as the development progresses and the understanding of the site improves and construction practices, technology and best practice evolve.
- 4.5 The reason given for the imposition of Condition 5 is to protect visual amenity and so that the planning authority have an accurate record of what is to be constructed on site. If approval of details of pre-commencement conditions could not be revisited post-commencement this would reduce flexibility in the system while providing no additional control or protection; this cannot be considered expedient, or to deliver the objective of condition 5 as set out in the reason.

5 BASIS OF APPEAL

- 5.1 The change proposed to the turbine specification is not material to the planning permission and can therefore be dealt with under the condition. The windfarm remains the same in substance and character, the environmental impacts are not significantly different or worse and the overall tip height of the turbines would reduce by 5.25 metres thereby reducing the visibility envelope of the windfarm.
- 5.2 There is Scottish appeal authority directly on the point that changes to indicative turbine dimensions and hub to blade length ratio does not change the substance and character of the consent and is therefore not material. In the Aires windfarm decision³ (**Document 10**) the acceptability of a change in the indicative turbine type resulting in an increase in the overall height of the turbines of 10.5m was considered. The developer in that case had applied for a variation as the tip height was expressly limited by condition. The Council considered this change to be to be material and refused to consider the application to approve the new turbines. On appeal, the Reporter found that the windfarm remained the same in substance and character despite the (in that case) increase in tip height and that the change did not require a fresh permission.
- 5.3 In the present instance, there is no condition limiting the blade length of the turbines and consequently, no need or ability to seek a variation of condition. The proposed MM92 turbines would not change the substance or character of the windfarm which remains a 7 turbine windfarm, with the turbines in the same locations and layout as approved. These turbines would comply with the limit on the overall blade tip height specified in the permission. The increase in blade length and reduction in overall tip height, the impact of which was fully assessed as part of the consideration of the Modified Permission, is within the parameters set out in the planning permission.

³ DPEA reference PPA-170-2098, Aires Wind Farm, appeal against refusal of s42 application, Reporter's Notice of Intention dated 09 June 2015

Rochdale Envelope

- 5.4 The 'Rochdale Envelope'⁴ approach allows planning applications to be considered and assessed where the details of the design are not yet known and thereby allows for flexibility in finalising the design within a consented set of parameters set by the permission (the envelope). This approach was used in the application for the Original Permission where it was made clear in the application that the turbine dimensions given were "indicative"⁵ and that the "final choice of wind turbine will depend on the turbine technology at the time of construction and project economics" (**Document 7**)
- 5.5 As the turbines used in the ES for the Original Permission were only ever indicative, to tie the applicant to them would negate the Rochdale Envelope approach and inappropriately constrain development by unreasonably limiting flexibility. It is only the maximum tip height which is set out as a control parameter by specific reference in Environmental Statement for the Original Permission; and it is only the maximum tip height which was controlled by condition. The tip height of the MM92 turbines would be lower than that maximum and is therefore within the parameter set by the permission.
- 5.6 The Rochdale Envelope is not unalterable once consent is granted. It can be amended where further environmental information is provided showing that no new or significantly worse impacts would be caused by the change. Accordingly, even if the proposed MM92 turbines were not in the envelope of the Original Permission, that envelope can be changed where it is shown that there are no new or significantly worse environmental impacts. The report of handling for the application for the Modified Permission (**Document 4**) demonstrates that there is no significant change in impacts due to the change of turbine model. The environmental information produced for the application for the Modified Permission demonstrates that the impact of the lower turbines is acceptable (**Document 8**). The Council has therefore received environmental information for the MM92 turbines upon which it has publically consulted and has found the impacts acceptable; hence grant of the Modified Permission. In those circumstances, where the Council has already determined that there are no new or significantly worse impacts from the MM92 turbines in comparison to the indicative turbines considered in granting the Original Permission, there is no reasonable ground to consider that these are materially different as they have no materially different effects.

New or different significant environmental effects

- 5.7 The proposal to discharge Condition 5 for the use of the MM92 turbines would allow a development which is in full conformity with the development plan, and which would not give rise to any new or different significant environmental impacts not already arising as a result of the consented wind farm.
- 5.8 The Written Statement provided as part of the environmental information for the application for the Modified Permission (**Document 8**), re-evaluates the potential effects of the Development as a result of modification to the turbine dimensions. This Written Statement confirms that the modifications to the turbine dimensions are not considered likely to result in any change in the predicted effects of the windfarm in isolation nor the cumulative effects with other wind farms in the wider area. There is no material change in respect of residual effects on landscape character or designations.
- 5.9 The Written Statement concludes that there are no material changes to the findings of the ES as a result of the modification to the turbine dimensions and no increased cumulative effects. The Written Statement confirms that there will be no new or

⁴ Named for the two cases from which it arises, R. v Rochdale MBC ex parte Milne (No. 1) and R. v Rochdale MBC ex parte Tew

[1999] and R. v Rochdale MBC ex parte Milne (No. 2) [2000]

⁵ ES table 3.1 – Indicative turbine specifications

additional significant environmental impacts as a result of the increase in the rotor diameter. The landscape is capable of absorbing the increase in rotor diameter without any significant harm and the proposed increase in size will therefore not result in an increase in scale that would alter the landscape effect materially. The planning officer in considering that application agreed that the change in the turbines would not result in additional landscape and visual impacts⁶, would not adversely affect ornithology⁷, would not have a significant effect on bats⁸, the turbines can be operated within the noise limits set by the original permission⁹ and that any effect on cultural heritage is negligible¹⁰.

- 5.10 The Local Review Body is asked to consider the wirelines provided as **Document 9**. These show the comparison between the indicative turbines in red and those which the applicant now wishes to install in blue. The MM92 turbines (in blue) have a lower overall height which reduces visibility of the turbines from viewpoints 2,6 and 18 thereby reducing the impact of the windfarm.
- 5.11 In considering the impacts SNH considered there to be a small improvement from the proposed change to the MM92 turbines in the cumulative visual effect with Saddle Hill wind farm¹¹. The Drumderg turbines are shown in green on the wirelines provided (**Document 9**). The change in turbine dimensions was also considered by SNH to improve the relationship with Drumderg windfarm due to the reduction in overall tip height¹².
- 5.12 Accordingly the Council, having taken into account the views of stakeholders and statutory consultees agreed with the conclusions of the Written Statement and found that the effects of the change in turbine dimensions had no new or significantly different environmental effects. Rather, some positive landscape and visual effects accruing to the lowering of the tip height and the change in dimensions have been identified.
- 5.13 The installation of MM92 turbines would not alter the windfarm's substance and character and the impacts remain acceptable as specifically considered by the planning authority. The planning authority should not seek to tie a developer to parameters specifically given as indicative. To refuse the final turbine type where the overall impacts have not changed and that has been demonstrated is unduly restrictive.
- 5.14 The planning authority undertook a planning policy assessment of the proposed MM92 turbines for the modified permission and found them to be acceptable. Having already determined that the turbines comply with the development plan it is not necessary for a planning policy assessment to be undertaken again. There is no requirement to revisit the acceptability of a development in considering an application for approval under a condition as the planning policy considerations have been considered and weighed when the consent was granted.

6 CONCLUSION

- 6.1 The Original Permission is implemented and can be relied upon. The planning authority's practice (as is widespread) has been to allow post commencement variation of approved details where the work to which they relate has not yet been carried out.
- 6.2 There is no maximum blade length or turbine dimension ratio specified in the conditions of the Original Permission. The dimensions given in the environmental information

⁶ Report of Handling by Development Quality Manager for reference 15/01561/FLL, Perth and Kinross Council, Development Management Committee, 18 November 2015, paragraph 76, (**Document 4**)

⁷ Ibid, paragraph 80

⁸ Ibid, paragraph 82

⁹ Ibid, paragraphs 86 - 89

¹⁰ Ibid, paragraph 90

¹¹ Ibid, paragraph 75

¹² Ibid, paragraph 73

accompanying that decision only provided indicative turbine dimensions. The usual controlling parameter on windfarm permission is the blade tip height as this directly affects the visual envelope. The turbines for which approval is now sought have a lower blade tip height than that set out in the environmental information and are within the consented envelope.

- 6.3 The Council has considered and publically consulted upon further environmental information which demonstrates that there is no significant change arising from the turbine changes and that there would be some positive visual impact.
- 6.4 Consideration of the planning merits has already been undertaken by the planning authority and a decision reached that the proposed turbines are acceptable.
- 6.5 There are no reasons to refuse the application seeking approval of the MM92 turbines under condition 5 of the Original Permission.
- 6.6 Accordingly the Local Review Body is respectfully requested to approve the details submitted under condition 5 of permission 12/01423/FLL for the MM92 turbines as sought in the application of 17 October 2017.

Document 2 – Planning permission 12/01423/FLL

Appeal Decision Notice

T: 01324 696 400
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Decision by Karen Heywood, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-340-2073
- Site address: Tullymurdoch Farm, Alyth
- Appeal by Douglas Hendry, RDS Element Power against the failure of Perth and Kinross Council to make a decision within the statutory period
- Application for planning permission 12/01423/FLL dated 13 August 2012
- The development proposed: erection of a 7 turbine wind farm and associated infrastructure
- Date of inquiry and hearing sessions: 11-12 February and 5 March 2014
- Date of accompanied site inspection by Reporter: 29 April 2014
- Dates of unaccompanied site inspections by Reporter: 4 June 2013, 10 February, 28 and 29 April 2014

Date of appeal decision: 3 September 2014

Decision

I allow the appeal and grant planning permission subject to the 27 conditions at the end of the notice.

Attention is also drawn to the 2 advisory notes.

Preliminary matter

I held a hearing session into the cumulative landscape and visual impacts of the proposed Tullymurdoch and Bamff wind farms. My decision to dismiss the appeal and refuse planning permission for the Bamff wind farm has also been issued today (appeal reference PPA-340-2077).

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan, the main issues in this appeal are whether the proposed development would have an acceptable landscape and visual impact (including cumulatively) and whether the noise generated would have a detrimental impact on residential amenity.

Landscape impacts

2. The proposed wind farm straddles the boundary between two different landscape character types (LCT), as defined in the Scottish Natural Heritage Tayside Landscape Character Assessment 1999. These are the Highland Summits and Plateaux LCT and the Highland Foothills LCT. The former LCT covers extensive areas of upland to the north of the Highland Boundary Fault, extending to the Cairngorms. The latter comprises less extensive areas of foothills along the line of the Highland Boundary Fault. The wind farm site is also very close to the Mid Highland Glen LCT of Glen Isla.
3. Scottish Natural Heritage (SNH) does not object to the proposed development. It commissioned the same consultants to review both appellants' landscape and visual assessments of the proposed Tullymurdoch and Bamff wind farms. Commenting on the Tullymurdoch assessment, those consultants consider that the Highland Summits and Plateaux LCT is generally of high sensitivity to change due to its relative wildness and remoteness. However, they point out that within this LCT the areas closest to the development are predominantly forestry and where Drumderg wind farm has an influence on landscape character. This means that the area of the site has a less wild and remote character than some more distant parts of the LCT. Tullymurdoch would be seen in the context of Drumderg and the settled Strathmore Valley Lowland LCT. The consultants consider that, in this context, the proposed wind farm would not substantially affect the perception of the character of the wider Highland Summits and Plateaux LCT. They agree with the appellant's assessment that the effect would be locally significant but that the overall effect on the LCT as a whole would be unlikely to be significant.
4. SNH's consultants agree with the appellant's assessment that the effect of the development on the Alyth Foothills landscape sub unit of the Highland Foothills LCT would be more significant because this is a relatively small landscape unit and the development would be extensively visible across it. In relation to the Mid Highland Glen LCT of Glen Isla, the appellant and SNH's consultants consider that, while the development would have locally significant effects, it would not be likely to have a significant effect on the integrity of this landscape character unit or the LCT, given its limited visibility.
5. I have spent some considerable time looking at the site of the wind farm from the viewpoints in the environmental statement and driving and walking in and around the general area. I agree with the assessment of landscape impact of Tullymurdoch alone made by Scottish Natural Heritage's consultants and that of the appellant, as summarised above.
6. The council considers that Tullymurdoch would reduce the distinction between the Highland Summits and Plateaux and the Highland Foothills LCTs. Tullymurdoch would bring wind farms closer to the lowland landscape, increasing the prominence of wind farm development on the Highland Boundary Fault. The appellant accepts that the fault is an important feature in creating a clear divide between the highlands and the lowlands in a national context, but on a regional and local scale this divide can become less clear. Where the Highland Summits and Plateaux LCT abuts the Lowland Hills LCT this is an abrupt visible change in landscape types. Where the Highland Foothills LCT intervenes

between the two, as at the appeal site, this indicates a more transitional landscape. Individual or cumulative effects would therefore have to extend further than Tullymurdoch would into both highlands and lowlands to be considered of greater than local significance.

7. I agree with the appellant that the Highland Boundary Fault in the vicinity of the appeal site is not as obvious as it is further east around Kirriemuir. In addition, it is apparent from the viewpoint visualisations that Tullymurdoch would not be particularly prominent, limiting its impact in any event.

Visual impacts

8. The environmental statement assesses the visual impact of the proposed wind farm from 22 viewpoints in the surrounding area. Significant visual effects are predicted for 2 of these: viewpoints 1 (Craighead, to the west, 750 metres from the nearest turbine) and 5 (Loanhead of Kilry, to the north east, approximately 2.5 kilometres away). SNH's consultants point out that the undulating topography of the landscape around the development site would limit the visibility of the turbines from the other viewpoints. They indicate that views of the wind farm would generally be limited to hilltops and upper slopes of the foothills, with more widespread views from the Strathmore lowlands to the south of the River Isla. The rolling topography of the hills to the north and west create visibility shadows, which would help to screen the development from the more scenic Highland Glen areas.

9. The environmental statement acknowledges that there are sections of the Cateran Trail where there would be significant visual effects but says that overall the effect would be minor given that most of the trail would have no visibility of the development. SNH's consultants agree with this assessment, as they point out the development is unlikely to be a prominent feature in views from the trail. Having looked at the wind farm site from the Cateran Trail with the aid of the visualisations in the environmental statement, I agree with SNH's consultants.

10. SNH's consultants explain that the majority of views at between 10-20 kilometres would be from the east and south east across the broad Strathmore valley and the north facing slopes of the Sidlaw Hills beyond. From these areas the proposed wind farm would be visible on the skyline, particularly from a long section of the A94 to the east of Coupar Angus. However, they point out that the position of the site in a dip on the skyline would help to limit the prominence of the turbines. Similarly, SNH's consultants consider that visual effects on settlements would generally be limited, as the majority are located on lower ground and in valleys, where views to the elevated ground of the appeal site are restricted by rising topography. I agree.

11. The appellant carried out a residential visual assessment for properties within a 5 kilometre radius of the proposed turbines (68 properties) as requested by the council. The proposed turbines, or parts of them, would be theoretically visible from 53 of these. The assessment indicates that there would be a significant effect on 19 properties. The appellant concludes that there are mitigating factors: separation from landform; partial screening from landform and vegetation; and orientation relative to the main outlook and

areas of activity of the properties. Consequently the appellant considers that there would be no properties where the turbines would appear overbearing or over-dominant such to render the property an unpleasant place to live.

12. In relation to Tullymudoch wind farm alone, I agree with that conclusion for those properties which are around 2.5 kilometres or more from the nearest Tullymudoch turbine, which amounts to 14 of the 19 properties where the appellant considers there would be a significant effect. For the remaining 5 properties which are around 1 kilometre or less from the nearest turbine, even though the turbines would be nearer, they would not occupy the main view from the house. They would be either not visible from inside the house (Nether Drumhead Farm, 1.06 kilometres away); only obliquely visible from inside (Nether Drumhead Cottage, 1.27 kilometres; Over Drumhead, 1.37 kilometres; Whinloans, 2.09 kilometres); or not all 7 turbines would be visible (Craighead, 0.77 kilometres, 3 hubs and 2 tips visible). For some of these properties, views of the turbines from external areas would also be filtered through vegetation (Over Drumhead, Whinloans). In these circumstances I agree with the appellant's assessment of the effect of Tullymudoch alone on residential visual amenity. I deal with cumulative impacts on residential properties below.

Cumulative landscape and visual impacts

13. In my view, although the single turbine developments in this area will have some impact, the key interactions in cumulative terms are between the existing Drumderg wind farm, the consented Welton of Creuchies turbines and the proposed Tullymudoch and Bamff developments. I have assessed the cumulative impacts of Tullymudoch against the baseline, which is the existing Drumderg wind farm and the consented Welton of Creuchies development.

14. The appellant points out that the visibility of Tullymudoch would be less extensive than that of Drumderg and there are limited areas where Tullymudoch would be visible in locations where Drumderg is not already visible. The contrast with Welton of Creuchies is greater, the area where Tullymudoch would be visible without the former is located primarily to the east of Tullymudoch, where Balduff Hill screens views to Welton of Creuchies. Here Drumderg is generally already visible. There are also substantial areas where Welton of Creuchies will be visible but not Tullymudoch, primarily to the south of Welton of Creuchies. The appellant believes that Tullymudoch would have large areas of combined visibility with existing or consented developments and considers the proposed wind farm would make a negligible addition to the existing baseline position.

15. SNH agrees with this assessment and points out that Tullymudoch would be seen close to and in the same context as Drumderg and relatively separate from Welton of Creuchies. SNH considers that Tullymudoch is a compact scheme which has a similar landscape context to Drumderg and a similar density of turbines. Although the turbines at Tullymudoch would be 13 metres higher than those of Drumderg, SNH considers the lower elevation at Tullymudoch would be likely to absorb this difference, which would not be appreciable. SNH considers that Tullymudoch has a better landscape fit than Bamff. This results primarily from the former's less prominent location and more compact layout. Overall, Tullymudoch is considered by SNH to have less significant landscape and visual

effects than Bamff. Scottish Natural Heritage, although not objecting, advises that there would be likely to be significant detrimental cumulative landscape and visual impacts resulting from the addition of Bamff and Tullymurdoch to Drumderg and Welton of Creuchies. It considers that the four schemes would be clearly separate and different developments in a relatively small radius of 3.5 kilometres and that this would give rise to visual confusion and a poor image of wind farm development.

16. SNH guidance says that where there are cumulative impacts a similarity of design and wind farm image in an area would limit visual confusion. It seems to me that the appearance of Tullymurdoch would fairly closely match that of Drumderg from most viewpoints. I do not consider that Tullymurdoch would match Welton of Creuchies very well, but as the latter development is not similar to the much larger Drumderg wind farm and only comprises 4 turbines, I do not consider this to be a particularly significant issue. I agree with SNH's assessment that Tullymurdoch would have a reasonable landscape fit and that the similarity of design to Drumderg would minimise visual confusion. As I have decided to refuse planning permission for Bamff, I do not need to consider the addition of Tullymurdoch to the baseline plus Bamff.

17. In relation to cumulative impacts on residential property, for most of the properties close to and to the south of Tullymurdoch which may have views of Welton of Creuchies to one side of them and potentially to Tullymurdoch on the other, there would be no views or negligible views of the Tullymurdoch turbines (properties 34-42, 44, 46-56). Properties 43 and 45 would have views of Tullymurdoch but would be over 3.5 kilometres from the turbines. One property, Craighead, has views towards Drumderg on one side and would see Tullymurdoch on the opposite side but not all 7 turbines at Tullymurdoch would be visible (3 hubs and 2 tips would be seen at a distance of 0.77 kilometres). For properties to the north east of Tullymurdoch where there are views to the Drumderg turbines not screened by forestry, Tullymurdoch would have a significant cumulative impact because it would be much closer to these properties than Drumderg. However, many of these properties would still be around 2.5 kilometres from the Tullymurdoch turbines.

Noise

18. The dispute between the appellant and the council about noise impacts relates to three issues, as outlined below:

- whether the background noise readings are reliable;
- what value the absolute lower limits at night time and during the daytime should be if permission is to be granted; and
- whether an 'other amplitude modulation' condition should be included if permission is to be granted.

I have also considered cumulative noise impacts.

Background noise readings

19. The Scottish Government Online Renewables Planning Advice refers to the Institute of Acoustics document 'A Good Practice Guide for the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise'. The advice says that the guide, which it accepts represents current industry good practice, should be used by those undertaking assessments. I note that the good practice guide states, in relation to background noise within a study area, that in many cases there will be significant variation in general background noise levels within the study area because of topography and the varying influence of existing noise sources. I do not consider it is surprising, therefore, that there are differences in the background noise levels undertaken by the appellants for the Tullymurdoch and Bamff wind farms.

20. In addition, it is apparent that there is broad agreement between the two sets of background measurements undertaken at different times for the Tullymurdoch proposal. I do not consider that this means that they must both be incorrect, as the council's consultant alleges. Both sets of measurements were undertaken by respected professionally qualified experts. In my view, the coincidence in results is more likely to be an indication that they are correct than otherwise.

21. As for the noise measuring equipment, the good practice guide specifies that this should meet Class1/Type 1 precision standards. The appellant confirmed that the equipment utilised did so and the council agreed. The dispute centres on the type of windshield used.

22. The Institute of Acoustics Consultation Draft Supplementary Guidance Note 1: Data Collection prepared in November 2013 states that, until more specified design advice becomes available, the recommendations in a 1996 ETSU report should be followed. These are that the most practicable approach is to use a large secondary windscreen outside a typical manufacturer's standard screen. The diameter of the preferred windscreen in the 1996 ETSU report is between 200 and 300 mm. In the Additional Operational Noise Assessment the appellant used a windscreen of 150 mm diameter, which appears not to comply with the recommendations in the 1996 ETSU report.

23. However, I note that the draft supplementary guidance note goes on to recommend that the type of microphone used should be stated in noise reports and that evidence should be available to demonstrate that the acoustic insertion loss of any windscreen does not exceed the value stated in the good practice guide. The appellant's assessment complies in both respects. In addition, I note that the windscreen which the council's consultant would prefer to have been used does not itself appear to comply with the good practice guide, which seems to me to undermine his concerns on this issue.

Absolute lower limits

24. The Scottish Government online renewables planning advice says that the ETSU-R-97 document on The Assessment and Rating of Noise from Wind Farms should be used by all parties concerned with wind farm noise. This gives indicative noise levels

thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable burdens on wind farm developers, and suggests appropriate noise conditions.

25. ETSU says that separate noise limits should apply for day-time and for night-time, as during the night the protection of external amenity becomes less important and the emphasis should be on preventing sleep disturbance. During the night-time ETSU recommends the appropriate fixed limit is 43dB(A), which is based upon sleep disturbance criteria. I do not, therefore, consider it is necessary to impose a night-time lower limit of 38dB(A) for Tullymurdoch, as preferred by the council, as it is not necessary to protect external amenity at night. I also consider this would be an unreasonable restriction on the wind farm and the production of renewable energy, which, as ETSU points out, has other environmental benefits.

26. ETSU recommends that the absolute lower limits during the day-time should lie within the range of 35-40dB(A). The actual value chosen within the range depends on three tests:

- the number of dwellings in the vicinity of the wind farm;
- the effect of noise limits on the number of kWh generated; and
- duration and level of exposure.

27. There are only 6 occupied properties within the vicinity of Tullymurdoch: Tullymurdoch (a stakeholder property), Craighead, Nether Drumhead Farm, Nether Drumhead Cottage, Over Drumhead and Cottertown. There is also Derryhill, which has not been occupied for a number of years. The appellant describes this property variously as semi-derelict or derelict. However, I saw at my site inspection that the property, although clearly uninhabited for a considerable time, appeared to be wind and water-tight, with its roof, walls and windows in reasonable condition. It does not seem to me that it would take very much for the property to be restored to a condition suitable for occupation. I agree with the council that Derryhill should be considered to be a residential property for the purposes of assessing the potential impact of the proposed wind farm on residential amenity. However, in relation to the first ETSU test, I do not consider 7 properties to be a large number and this would suggest a lower absolute limit in the day-time towards the upper end of the 35-40dB(A) range.

28. Referring to the second test in ETSU, the appellant has explained that the predicted noise levels indicate that a level towards 40dB(A) is needed to avoid curtailment, particularly at Derryhill. Although the appellant appears to have explored a number of curtailment options, no information has been provided on these. The appellant merely states that meeting a 35dB limit would inevitably result in power loss, which is obvious.

29. In relation to the third ETSU test, the council points out that, if the background noise measurements for Tullymurdoch are correct, the levels are low but not very low. The appellant's approach in relation to this test is to refer to the proportion of time when various properties would be upwind and downwind of the Tullymurdoch turbines, depending on wind direction, which does not appear to me to be addressing the issue. In any event, the

noise assessment provides no information on the proportion of time background noise levels are low. In these circumstances I do not consider it is possible to make an assessment against the third ETSU test.

30. On the basis of my assessment against the first test alone, because of the small number of properties that would be affected, I consider a lower absolute limit in the day-time of 38dB(A) for all properties except Craighead, as proposed by the appellant, would not be unreasonable. As for Craighead, I agree with the appellant's assessment that, as the Drumderg limit is 40dB(A) at this property, it makes sense for the Tullymurdoch limit to be the same. In reaching these conclusions, I note that, as I mention above, ETSU considers limits within the range 35-40dB(A) offer a reasonable degree of protection to wind farm neighbours without placing unreasonable restrictions on wind farm development.

Other amplitude modulation condition

31. The council cites recent research produced by RenewableUK on other amplitude modulation in support of its contention that a condition is necessary to deal with this issue if permission is to be granted. As noted above, the Scottish Government Online Renewables Planning Advice says that the Institute of Acoustics good practice guide should be used by those undertaking assessments. In relation to amplitude modulation, the guide states that the evidence on this issue is still developing and current practice is not to assign a planning condition to deal with it.

Cumulative noise impacts

32. I have decided that planning permission should not be granted for the proposed Bamff wind farm because of its landscape and visual impacts. Consequently, it is not necessary for me to consider the cumulative noise impacts of Tullymurdoch with the Bamff proposal.

33. It is apparent that the property at Craighead would potentially be the most affected by cumulative noise from the existing Drumderg wind farm and Tullymurdoch. Drumderg is located to the north west of Craighead and Tullymurdoch would be located to the east. The noise limits for Drumderg operating alone are 40dB(A) at Craighead and I have already concluded that the limit for Tullymurdoch should be the same at this property. The council considers that, because Tullymurdoch is on the opposite side from Drumderg, the residents at Craighead would have no respite from wind farm noise. However, as the resident confirmed herself, Drumderg is heard only infrequently at Craighead. Furthermore, the prevailing wind is from the south west/west, which would mean that Tullymurdoch would be likely to have an impact on Craighead on comparatively few occasions.

34. I consider that the limit proposed at Craighead in the noise condition suggested by the appellant would offer a reasonable degree of protection to the residents at this property. As for the other residential properties potentially affected, the lower absolute limits during the daytime would be 38 dB(A), lower than at Craighead. As the appellant explained, the suggested condition has been written so that testing whether the limits are being met would be within the control of the Tullymurdoch operators; it would not be necessary for Drumderg

turbines to be switched off in order to determine whether the Tullymurdoch turbines were responsible for an exceedence of the noise limits.

Other issues

35. In addition to the issues I have discussed above, the environmental statement covers the following matters: ornithology, ecology, cultural heritage, hydrology, flood risk, water quality, water resources, hydrogeology and geology, access transport and traffic, land use, socii-economics, recreation and tourism. No statutory consultees have raised any objection to the proposed development. I agree with the conclusions reached in the assessment of these issues and consider that appropriate conditions could be attached to ensure various potential impacts could be mitigated.

The development plan

36. TAYplan (approved June 2012) and the Perth and Kinross Local Development Plan (LDP) (adopted Feruary 2014) now comprise the development plan. In relation to decisions on development proposals for energy infrastructure, TAYplan policy 6: Energy and Waste/Resource Management Infrastructure requires justification on the basis of a number of considerations. LDP policy ER1: Renewable and Low Carbon Energy Generation supports proposals for the development of renewable energy subject to a number of factors being taken into account. LDP policy ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes is also relevant.

37. In the light of my conclusions on the landscape and visual impacts of the proposed development (including cumulative impacts) above, I consider that there is some issue with the cumulative impacts criterion of TAYplan policy 6 and LDP policy ER1 criterion (a) because of the proposal's cumulative effects on residential amenity. There is no issue with the other criteria in these policies. I have found that the proposed wind farm would not have a significant landscape impact, including cumulatively with Drumderg and Welton of Creuchies. This means that there is no conflict with LDP policy ER6. On balance, I consider the proposed development complies with the development plan.

National Planning Framework 3 (NPF3)

38. NPF3 describes an ambition to achieve at least an 80% reduction in greenhouse gas emissions by 2050. Onshore wind energy development will continue to make a significant contribution to diversification of energy supplies. However, NPF3 expects the pace of onshore wind energy development to be overtaken by a growing focus on marine energy opportunities.

Scottish Planning Policy (SPP)

39. SPP is supportive of renewable energy generation, which is an important factor in favour of the proposed development. However, the policy also describes the considerations that should be taken into account in development management decisions. These include cumulative impacts, visual impact on individual dwellings, residential amenity

and noise, landscape and visual impacts and impacts on recreation, all of which are relevant here. SPP's support for renewable energy generation is, therefore, qualified by the need to assess the impacts proposed development against the list in the policy. I consider that that has been undertaken in this case.

Overall conclusions

40. Drawing all of these issues together, I have concluded that:

- Tullymurdoch would have little significant landscape impact, including cumulatively;
- there would be limited visual impact, including on the CATERAN Trail;
- there are few properties in close proximity to the turbines and there would be a limited impact on residential amenity for Tullymurdoch alone, although cumulatively there would be some impact on residential amenity;
- from most viewpoints the appearance of Tullymurdoch would be similar to Drumderg, minimising visual confusion in line with SNH guidance;
- background noise readings are reliable;
- the absolute lower noise limits for daytime and night-time suggested by the appellant comply with ETSU-R-97;
- there is no need for an amplitude modulation condition;
- there is no issue with cumulative noise; and
- although there is some conflict with TAYplan policy 6 and LDP policy ER1, there is overall compliance with the development plan.

41. Potential impacts in relation to a number of other issues can be mitigated by appropriate conditions. The proposed development would also make a meaningful contribution towards achieving the UK and Scottish Governments' renewable energy generation targets. I conclude in this case that, on balance, the benefits of the proposed development are sufficient to outweigh the limited detrimental impacts. I have taken into account all other matters raised but find none that would lead me to a different conclusion.

Karen Heywood

Assistant Chief Reporter

Schedule of plans

09016-PL-01 Rev A – Site Context
 09016-PL-02 Rev A – Site Location
 09016-PL-03 Rev A – Site Layout
 09016-PL-04 Rev A – Typical Turbine
 09016-PL-05A Rev A – Control Building and Substation
 09016-PL-05B – Control Building and Substation
 09016-PL-06 Rev A – Met Mast

09016-PL-07 Rev A – Construction Compound
 09016-PL-08 Rev A – Palisade Fencing
 09016-PL-09 Rev A - Turbine Foundation
 09016-PL-10 Rev A – Crane Hard-standing
 09016-PL-11 Rev A – Culvert
 09016-PL-12 Rev A – Cable Trench
 09016-PL-13 Rev A – Passing Places
 09016-PL-14 Rev A – Main Access Junctions – Indicative Arrangements
 09016-PL-15 Rev A – Routes to Site from Trunk Roads
 09016-PL-16 Rev A – Existing Trees
 09016-PL-17 Rev A – Proposed Borrow Pit

Conditions

Duration of permission

1. The development shall be begun no later than 3 years from the date of this permission.

Reason: to ensure that the development is begun within a reasonable time period to reduce uncertainty for local residents.

2. Permission for operation of the development is limited to a period of twenty-five years from the commissioning of the development. Decommissioning shall be completed no later than whichever is the earlier of the following dates:

- a) two years from the end of the twenty-five year period mentioned in this condition; or
- b) two years from the date on which the development ceases to supply electricity on a commercial basis to the National Grid.

Reason: to clarify the extent of the permission for the avoidance of doubt and to ensure the satisfactory restoration of the site in the interests of amenity.

Commissioning of the development

3. Within one month of the commissioning of the development written confirmation of the date of the commissioning shall be submitted to the planning authority and within one month of the final commissioning of the development written confirmation of the date of the final commissioning of the development shall be submitted to the planning authority.

Reason: to clarify the extent of the permission for the avoidance of doubt and these details relate to the timing of various requirements in other planning conditions forming part of this permission.

Note i: the ‘commissioning of the development’ means the date on which the first wind turbine generator forming part of the development first supplies electricity on a commercial basis.

Note ii: the ‘final commissioning of the development’ means the date on which the last wind turbine generator forming part of the development first supplies electricity on a commercial basis.

Details of the development

4. The turbines and associated crane pads shall be erected in the positions indicated in drawing number 09016-PL-03 Rev A – Site Layout, save for the ability to vary the indicated position of any turbine and associated crane pads by up to 25 metres, with any variation in Above Ordnance Datum from the approved position of the turbine being limited to + or – 5 metres, under the supervision of the Ecological Clerk of Works appointed under condition 18 below. Variation in the position of any turbines and associated crane pads between 25 metres and 50 metres shall only be permitted with the prior written approval of the planning authority. For the avoidance of doubt, this condition does not allow for any movement of the position of the turbines greater than 50 metres.

Reason: to allow limited flexibility in siting turbines and associated crane pad in the interests of nature conservation/ecology and to minimise landscape impacts.

5. Before the commencement of the development, the final specification of the wind turbine generators and the colours and finish of the wind turbine generators and of the above-ground elements, including the anemometry mast, shall be submitted to and approved in writing by the planning authority. All wind turbine generators shall be of a three bladed design and shall rotate in the same direction. Each turbine shall be supplied by the same manufacturer, have the same design of tower and nacelle, and be of the same colour and finish. The use of logos on turbine blades, towers or nacelles is prohibited, unless otherwise agreed in writing by the planning authority.

Reason: in the interests of visual amenity and so that the planning authority have an accurate record of what is to be constructed on the site.

Ministry of Defence requirements

6. a) Prior to the commencement of the development the developer shall notify the Ministry of Defence of the following details:

- i. the date of the commencement of the development and the date by which the developer expects all the turbines to have been erected;
- ii. the latitude and longitude of each turbine; and
- iii. the maximum height of construction equipment.

- b) On completion of the construction phase of the development, the developer shall notify the Ministry of Defence of the following details:
- i. the final latitude and longitude of each turbine; and
 - ii. details of the installed aviation lighting (see condition 7 below).
- c) The development shall be implemented in accordance with the approved details unless otherwise agreed in writing with the planning authority and the Ministry of Defence.
- d) When the notifications required as per a) and b) above are sent to the Ministry of Defence copies shall be sent at the same time to the planning authority.

Reason: in the interests of aviation safety.

7. a) Prior to the commencement of the development the developer shall submit details of aviation lighting for the turbines to the planning authority for approval, in consultation with the Ministry of Defence.
- b) The submitted details shall be either 25 candella omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration and shall be fitted to the turbines at the highest practicable point, unless otherwise agreed in writing by the planning authority, in consultation with the Ministry of Defence.
- c) The approved lighting shall be maintained to ensure it remains operational on the turbines for the lifetime of the development, unless otherwise agreed in writing with the planning authority, in consultation with the Ministry of Defence

Reason: in the interests of aviation safety.

Telecommunications and shadow flicker

8. a) Prior to the commissioning of the development a television and radio reception mitigation plan shall be submitted to and approved by the planning authority. The plan shall include the results of a baseline television and radio reception survey recording the current standard of television and radio reception in the area and shall assess the impairment (if any) of such television and radio reception that is likely to arise from construction or operation of the turbines.
- b) On being notified of a claim that the development is causing television picture loss or other interference with television or radio reception at a house, office, shop or other building existing at the date of the grant of the planning permission the wind farm operator shall immediately commission an investigation by and report from an independent qualified engineer. Within one month of being notified of a claim in terms of this part of this condition the wind farm operator shall submit to the planning authority a copy of the ensuing engineer's report.

c) Should any impairment of the television or radio reception be attributable to and caused solely by the wind farm the wind farm operator shall, within two months of being notified of a claim in terms of part (b) of this condition, remedy such impairment so that the standard of reception at the house, office, shop or other building existing at the date of the grant of the planning permission is restored to the standard identified in the baseline television and radio reception survey.

d) This condition applies only to claims made within 12 months of the commissioning of the development.

9. No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development on residential properties existing at the date of the grant of planning permission, including remedial measures, has been submitted to and approved in writing by the planning authority. Operation of the turbines shall take place in accordance with the approved protocol.

Reason for conditions 8 and 9: to protect residential amenity.

Archaeology

10. No development shall take place within the development site as outlined in red on the approved plan(s) until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, agreed by Perth & Kinross Heritage Trust, and approved by the planning authority.

Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the reasonable satisfaction of the planning authority in agreement with Perth & Kinross Heritage Trust.

Reason: to safeguard any archaeological interest of the site.

Decommissioning, restoration and aftercare

11. a) No part of the development hereby authorised shall be commenced until a decommissioning, restoration and aftercare scheme (the scheme) for the site has been submitted by the developer and approved by the planning authority.

b) The scheme must include the following, at least in principle:

- i. provision for removal of all above-ground elements of the development, including wind turbines, foundation and crane pads, to 1 metre below ground level, and all buildings and ancillary development, apart from the access tracks;

- ii. particulars of subsoil, topsoil and peat replacement and re-seeding, as appropriate, with details of depths of replaced materials and finished ground levels to return the site to as near as reasonably possible to its original condition;
 - iii. such other measures as are necessary to return the site as nearly as reasonably possible to its original condition, including any necessary aftercare to ensure the restoration works are established;
 - iv. a programme showing the dates each part of the scheme is intended to be implemented; and
 - v. details of all seed mixes proposed to be used for re-instatement of surface vegetation. The seed mixes shall be sourced locally.
- c) If restoration does not commence within 10 years of the agreement of this scheme then the planning authority may request the preparation of a revised scheme for approval by the planning authority prior to restoration commencing.
- d) Two years before the site is due to be restored, the full details of the scheme, which shall accord with the principles earlier approved unless otherwise agreed, shall be submitted for the approval of the planning authority in consultation with such other parties as the planning authority deems appropriate.
- e) Thereafter the site shall be restored in accordance with the approved scheme.
- f) Within one month of completion of the approved scheme the planning authority shall be notified in writing that decommissioning and restoration are complete.

Reason: in the interests of visual amenity and nature conservation and in case restoration has to be carried out prior to the expiry of the 25 year consent period.

12. a) The development shall not begin until the following details have been submitted to and approved by the planning authority and documentary evidence has been provided that the bond or other financial instrument is in place:

- i. details of a bond or other financial instrument which will ensure that funds sufficient to meet the cost of implementing the decommissioning and restoration scheme that is to be approved in terms of condition 2 are available to the developer or the council as planning authority at all times prior to completion of decommissioning and site restoration; and
- ii. confirmation by an independent chartered surveyor (whose appointment for this task has been approved by the planning authority) that the amount of the bond or financial instrument is sufficient to meet the cost of all decommissioning and site restoration.

b) The approved bond or financial instrument shall be maintained throughout the duration of this permission. At the end of fifteen years from the commencement of the development and each five years thereafter from the commencement of the development an independent review of the approved bond or financial instrument shall be carried out and submitted to the planning authority. The planning authority may direct that the approved bond or financial instrument be amended in accordance with conclusions of the independent review, if this is necessary to ensure that funds remain sufficient for decommissioning and site restoration.

Reason: to ensure that at all times there are sufficient funds available to ensure decommissioning and site restoration.

13. a) In the event of the wind farm not exporting electricity on a commercial basis to the public electricity grid network for a continuous period of twelve months from 50% or more of the turbines installed and commissioned at that time, the planning authority may direct that the wind farm operator submit to it within a period of three months for its approval an interim decommissioning and restoration scheme for the for non-supplying part of the development. The scheme shall include a programme for its implementation.

b) Before giving any direction in terms of this condition the planning authority shall consult the wind farm operator and shall have due regard to the circumstances surrounding the failure to supply electricity.

c) The interim decommissioning and restoration scheme approved in terms of this condition shall be carried out in accordance with its programme for implementation.

d) This condition shall take effect following the final commissioning of the development (see Note ii attached to condition 3 above).

Reason: to ensure the turbines are removed from the site at the end of their operational life to protect the character of the countryside, the visual amenity of the area and nature conservation interests.

Construction details

14. All temporary contractors' site compounds shall be removed and the land reinstated to its former profile and condition no later than 3 months following the final commissioning of the development or by the end of the first available seeding/planting season after the final commissioning of the development, whichever is the later.

Reason: in the interests of visual amenity.

15. No electricity or control cable shall be installed above ground within the site. Cables shall be laid underground alongside the approved tracks unless otherwise agreed in writing by the planning authority.

Reason: to minimise visual impacts and disruption to habitats.

16. a) Prior to the commencement of the development, precise details of the location, extent, depth, means of working, means of draining and method and timing of restoration of any proposed borrow pits and associated areas for rock crushing shall be submitted to, and approved in writing by, the planning authority.

b) Any borrow pit approved under this condition shall be exploited to serve the development only.

c) Unless otherwise approved by the planning authority, rock crushing activities shall be confined to the approved borrow pits and immediately adjacent areas.

Reason: in the interest of proper site management and visual and residential amenity.

17. Prior to the commencement of development a Construction and Environmental Management Plan will be submitted to and be approved in writing by the planning authority, in consultation with SEPA and SNH, at least one month prior to the commencement of development.

The Construction and Environmental Management Plan will identify from the environmental statement appropriate mitigation strategies and consolidate these, clearly outlining what shall be implemented, when and by whom. It will incorporate:

- a construction method statement;
- a site waste management plan;
- a pollution prevention plan;
- ecology protection measures, if any; and
- a water management plan.

And include:

- a) track construction details;
- b) a peat and soil stripping management plan including the mineral and slope stability of the site and outlining the storage and proposed use and replacement of peat, topsoil and subsoil. The scheme shall have regard to the drainage implications of soil movement and storage;
- c) details of the height and location of all stockpiles of road stone;
- d) oil spill contingencies and foul drainage arrangements;
- e) details of all concrete batching and handling facilities;
- f) a dust and mud management plan which incorporates wheel washing facilities shall be provided at the exits from the site, with all soiled vehicles leaving the site being required to use these facilities before using public roads;

- g) details of any water abstraction;
- h) a detailed survey which identifies any spring, borehole or other private water supply potentially affected by the development. The private water action plan must include details regarding all water monitoring and reporting, pollution incident reporting and mitigation measures to address a temporary or permanent material change in either the quality or quantity of an existing private water supply;
- i) a surface and groundwater management plan which must include specific details regarding the monitoring of any watercourses, springs or boreholes affected by the development prior to and during the construction phase, details of drainage from all access tracks, construction areas, laydown areas, turbine pads, crane pads and borrow pits at all stages of their formation and use including means of protecting groundwater, diverting surface water runoff and allowing for recharging of peat areas, details of pollution prevention and control measures and foul drainage arrangements, details of any necessary mitigation measures and maintenance of the quantity and quality of water supplied from any spring or borehole which serves residential property or farm in the area around the development site;
- j) details of bird surveys to be carried out before the commencement of development;
- k) the procedures for access for wind farm staff for turbine, track and other infrastructure maintenance and operational requirements, during the bird breeding season and in proximity to potential nesting sites for breeding birds. The operational protocol must also address interpretation and visitor management to encourage responsible public access during the bird breeding season. The approved protocol must be implemented in full to the satisfaction of the as planning authority;
- l) measures for the protection of or beneficial to European and other protected species, formation of any required protected species protection plans and implementation measures for any such plans;
- m) restoration of habitat and the provision of foraging areas;
- n) construction of artificial otter holts and methods of construction to prevent harm to otters;
- o) monitoring of habitats and a programme for implementation; and
- p) landscaping details in relation to borrow pits, road verges, turbine bases and temporary site compounds.

All work shall be carried out in accordance with the approved Construction Environmental Management Plan and all mitigation measures proposed within the environmental statement shall be undertaken within the approved timescales, unless as otherwise agreed in writing with the planning authority.

Reason: In the interest of protecting environmental quality and of bio-diversity.

18. a) Unless otherwise agreed in writing by the Local Planning Authority, within a minimum of two months prior to the commencement of the development, an independent and suitably qualified ecologist shall be appointed as the Ecological Clerk of Works (ECoW) for the site, by the wind farm operator and at the operator's expense. This appointment shall be subject to the prior written approval of the planning authority.

b) The ECoW shall oversee, on behalf of the planning authority, in consultation with SNH, the implementation of all ecology related planning conditions throughout the construction of the wind farm. The ECoW shall undertake a watching brief throughout the construction of all roads, cable tracks compounds, turbine bases and hard standings.

c) The scope of works for the ECoW shall include the following:

i. Monitoring compliance with the mitigation works related to the development.

ii. Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.

iii. Advising on the acceptability of micro-siting any turbines and development infrastructure tracks.

d) If any protected species are found on site, the ECoW will ensure that work is suspended at that location and that a protected species protection plan is implemented. The ECoW shall inform the planning authority of the precise details of the suspension, reasons and measures to mitigate.

Reason: In the interest of protecting environmental quality and of bio-diversity.

19. a) Prior to the commencing of any blasting on site, precise details of the methods to minimise air overpressure and ground vibration as a result of blasting operations shall be submitted to the planning authority. No blasting shall be carried out within the site until such time as the details have been approved in writing by the planning authority. The approved details shall be implemented in full, to the satisfaction of the planning authority.

b) The frequency of blasting shall be limited to a maximum of two blasting periods per week. No blasting shall be carried out on the site outwith the blasting periods of 10:00 am to noon and 2:00 pm to 4:00 pm on Mondays to Fridays and 10:00 am to noon on Saturdays. There shall be no blasting or drilling operations on Sundays, Bank Holidays or national holidays (the dates of which shall be agreed with the planning authority before the start of development on site). The aforementioned shall not apply in cases of emergency if it is considered necessary to carry out blasting operations in the interests of safety. The planning authority shall be notified in writing immediately of any such event.

Reason: to protect residential amenity and the amenity of this area generally.

20. Any lighting rigs associated with the development shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.

Reason: to protect the residential amenity of the occupiers of neighbouring properties and the amenity of this area generally.

Roads issues

21. Prior to the commencement of construction the developer shall agree with Perth & Kinross Council the following details:

- a) the access routes to be used by construction traffic. These routes shall be improved by means of passing places/strip widening and junction improvements at locations to be agreed with the council prior to the commencement of works on site and thereafter where deemed necessary over the duration of the contract.
- b) a traffic management scheme for abnormal loads in accordance with the Roads Traffic Act 1982, the Road Vehicles (Authorisations of Special Types) (General) Order 2003 and the Council's procedure for Abnormal Loads Routing.

All works shall be carried out to the standard and specification required by the council and the traffic management scheme shall be implemented as approved during the construction period.

Reason: in the interests of road safety and to ensure free traffic flow.

22. Prior to the commencement of construction the applicant shall enter into a maintenance agreement in respect of the agreed haul routes. The required maintenance shall be carried out in accordance with the agreement at the end of the construction period.

Reason: in the interests of road safety and to ensure free traffic flow.

23. Prior to the commencement of development, the applicant shall submit for the written approval of the planning authority a construction traffic management scheme which shall include the following details:

- a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
- c) a code of conduct for HGV drivers to allow for queuing traffic to pass;

- d) arrangements for liaison with the council regarding winter maintenance;
- e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- i) details of information signs to inform other road users of construction traffic;
- j) arrangements to ensure that access for emergency service vehicles is not impeded;
- k) co-ordination with other major commercial users known to use roads affected by construction traffic;
- l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- n) monitoring, reporting and implementation arrangements; and
- o) arrangements for dealing with non-compliance.

The approved construction traffic management scheme must be implemented in full during the course of the construction phase of the development and also the removal and restoration periods. At the reasonable request of the planning authority, the developer shall amend the approved construction traffic management scheme to ensure its continued effectiveness.

Reason: in the interests of road safety.

24. The clearance of snow from access tracks within the site shall be by mechanical means only. For the avoidance of doubt, the use of salt or any other chemical is strictly prohibited.

Reason: in order to ensure the environmental interests of the site are not compromised.

25. The access tracks shall be constructed in the positions indicated in drawing number 09016-PL-03 Rev A – Site Layout, save for the ability to vary the indicated position by up to 10 metres of the approved track under the supervision of the ECOW appointed under condition 18 above. Variation of between 10 metres and 50 metres in the position of any track shall only be permitted with the prior written approval of the planning authority.

Reason: to allow limited flexibility in siting access tracks in the interests of nature conservation/ecology and to minimise landscape impacts.

26. Construction works within the site which is audible from the boundary of any noise sensitive dwelling shall only take place between 7:00 am and 7:00 pm on Mondays to Fridays inclusive, and between 7:00 am and 1:00 pm on Saturdays. There shall be no such activity at any time on Sundays or on local or national public holidays (the dates of which shall be agreed with the planning authority before the start of development on site). Outwith the hours specified, development within the site shall be limited to turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment; and construction work that is not audible from the boundary of any noise sensitive dwelling. Receipt by track of any materials or equipment to the site for the construction of the development shall not take place outwith the hours specified, unless otherwise approved by the planning authority having been given a minimum of two working days notice of the occurrence of the proposed event.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and the amenity of this area generally.

27. The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out for those properties identified in the Tables 1 & 2 attached to these conditions.

At Craighead only, the rating level of noise immissions from the combined effects of the wind turbines hereby permitted, operating in conjunction with the consented and operational turbines of the Drumderg Wind Farm (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out in Tables 3 and 4 attached to these conditions. Following complaint, in the event that the level of noise immissions (including the application of any tonal penalty) exceeds the values in Tables 3 and 4, the operator of Tullymurdoch Wind Farm shall undertake appropriate mitigation to reduce turbine noise immissions such that the limits in Tables 3 and 4 are met, or such that noise from the turbines hereby permitted (including the application of any tonal penalty) meets the levels set out in Tables 5 and 6.

Prior to the first export date, the wind farm operator 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. amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

(A) 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 wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the planning authority made under this paragraph (A), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (G) to the planning authority in the format set out in Guidance Note 1(e).

(B) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.

(C) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning authority pursuant to paragraph (B) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

(D) Prior to the commencement of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (E) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:

- (i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.

- (ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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

(E) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (A) 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 immissions.

(F) Where a further assessment of the rating level of noise immissions 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 wind farm operator shall continuously log wind speed, wind direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Planning Authority on its request within 14 days of receipt in writing of such a request.

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

Reason: to protect the amenity of local residents.

Table 1 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co-ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Nether Drumhead Cottage (321864, 755021)	38	38	38	38	38	38	38	40	43	46	48	50
Nether Drumhead Farm (321688, 755012)	38	38	38	38	38	38	38	40	43	46	48	50
Over Drumhead (321812, 755302)	38	38	38	38	38	38	38	40	43	46	48	50
Tullymurdoch (319857, 752520)	45	45	45	45	45	45	45	45	45	45	45	45
Derryhill (321727, 754168)	38	38	38	38	38	38	38	41	46	50	54	58
Cottertown (322761, 754401)	38	38	38	38	38	38	38	39	42	46	48	50

Table 2 - Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co-ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L _{A90} Decibel Levels											
Nether Drumhead Cottage (321864, 755021)	43	43	43	43	43	43	43	43	43	44	46	49
Nether Drumhead Farm (321688, 755012)	43	43	43	43	43	43	43	43	43	44	46	49
Over Drumhead (321812, 755302)	43	43	43	43	43	43	43	43	43	44	46	49
Tullymurdoch (319857, 752520)	45	45	45	45	45	45	45	45	45	45	45	45
Derryhill (321727, 754168)	42	42	42	42	42	42	42	42	44	49	53	57
Cottertown (322761, 754401)	42	42	42	42	42	42	42	42	42	43	46	49

Note iv (to Tables 1 and 2): the limits set in condition 27 for the property known as Derryhill shall only apply for the purposes of this condition in the event that the property is lawfully occupied as a dwelling and at all other times there shall be no noise limits applying to this property, which shall not be regarded as a noise sensitive property.

Table 3 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA₉₀ Decibel Levels											
Craighead (319660, 754070)	40	40	40	40	40	40	40	43	43	43	43	43

Table 4 - Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA₉₀ Decibel Levels											
Craighead (319660, 754070)	43	43	43	43	43	43	43	43	43	43	43	43

Table 5 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA₉₀ Decibel Levels											
Craighead (319660, 754070)	30	30	30	30	30	30	30	33	33	33	33	33

Table 6- Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Craighead (319660, 754070)	33	33	33	33	33	33	33	33	33	33	33	33

Guidance Notes for Noise Condition 27

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in 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).

Note 1

(a) Values of the LA_{90,10-minute} noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), 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 before and after each set of measurements, using a calibrator meeting IEC 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The sound level meter shall be located in a free field location outside the complainants dwelling, in accordance with recommendations in the Institute of Acoustics Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Farm Noise (IOA May 2013). In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall

submit for the written approval of the planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The $LA_{90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s), arithmetic mean wind direction in metres from north and rainfall data in each successive 10-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. The mean hub height wind speed shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the planning authority in accordance with paragraphs (E) (F) and (G) of the noise condition shall be provided in electronic format as comma separated values, or in the case of audio recordings as 16bit WAV files.

(f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level 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).

Note 2

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

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the planning authority under paragraph (D) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the $LA_{90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and 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) shall be fitted to the data points to define the wind farm noise level at each integer speed.

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 shall be calculated and applied using the following rating procedure.

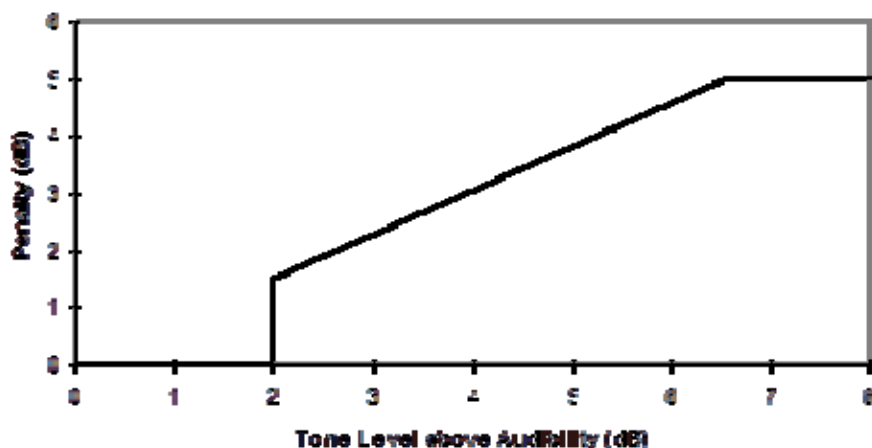
(b) For each 10-minute interval for which $LA_{90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided 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 shall be reported.

(c) For each of the 2-minute samples the tone level above 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 substituted.

(e) A least squares “best fit” linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

(a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment 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 Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (B) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (D) of this condition.
- ii. The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

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

Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)

Document 3 – Planning permission 15/01561/FLL

PERTH AND KINROSS COUNCIL

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Date 18 November 2015

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS

Application Number **15/01561/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to grant your application registered on 15th September 2015 for planning permission for **Modification of permission 12/01423/FLL (formation of wind farm with associated access track and ancillary works) change of turbines** at Tullymurdoch Wind Farm Alyth subject to the undernoted conditions.

Development Quality Manager

Conditions referred to above

- 1 Permission for operation of the development is limited to a period of twenty-five years from the commissioning of the development. Decommissioning shall be completed no later than whichever is the earlier of the following dates:
 - a) two years from the end of the twenty-five year period mentioned in this condition; or
 - b) two years from the date on which the development ceases to supply electricity on a commercial basis to the National Grid.

Reason: to clarify the extent of the permission for the avoidance of doubt and to ensure the satisfactory restoration of the site in the interests of amenity.

- 2 Within one month of the commissioning of the development written confirmation of the date of the commissioning shall be submitted to the planning authority and within one month of the final commissioning of the development written confirmation of the date of the final commissioning of the development shall be submitted to the planning authority.

Reason: to clarify the extent of the permission for the avoidance of doubt and these details relate to the timing of various requirements in other planning conditions forming part of this permission.

Note i) the 'commissioning of the development' means the date on which the first wind turbine generator forming part of the development first supplies electricity on a commercial basis.

Note ii) the 'final commissioning of the development' means the date on which the last wind turbine generator forming part of the development first supplies electricity on a commercial basis.

- 3 The turbines and associated crane pads shall be erected in the positions indicated in drawing number 15/01561/2, save for the ability to vary the indicated position of any turbine and associated crane pads by up to 25 metres, with any variation in Above Ordnance Datum from the approved position of the turbine being limited to + or - 5 metres, under the supervision of the Ecological Clerk of Works appointed under condition 18 below. Variation in the position of any turbines and associated crane pads between 25 metres and 50 metres shall only be permitted with the prior written approval of the planning authority. For the avoidance of doubt, this condition does not allow for any movement of the position of the turbines greater than 50 metres.

Reason: to allow limited flexibility in siting turbines and associated crane pad in the interests of nature conservation/ecology and to minimise landscape impacts.

- 4 Before the commencement of the development, the colours and finish of the wind turbine generators and the above-ground elements, including the anemometry mast, shall be submitted to and approved in writing by the planning authority. All wind turbine generators shall be of a three bladed design and shall rotate in the same direction. Each turbine shall be supplied by the same manufacturer, have the same design of tower and nacelle, and be of the same colour and finish. The use of logos on turbine blades, towers or nacelles is prohibited, unless otherwise agreed in writing by the planning authority.

Reason: in the interests of visual amenity and so that the planning authority have an accurate record of what is to be constructed on the site

- 5 a) Prior to the commencement of the development the developer shall notify the Ministry of Defence of the following details:
- i. The date of the commencement of the development and the date by which the developer expects all the turbines to have been erected;
 - ii. The latitude and longitude of each turbine; and
 - iii. The maximum height of construction equipment.
- b) On completion of the construction phase of the development, the developer shall notify the Ministry of Defence of the following details:
- i. The final latitude and longitude of each turbine; and
 - ii. Details of the installed aviation lighting (see condition 7 below).
- c) The development shall be implemented in accordance with the approved details unless otherwise agreed in writing with the planning authority and the Ministry of Defence.
- d) When the notifications required as per a) and b) above are sent to the Ministry of Defence copies shall be sent at the same time to the planning authority.

Reason: in the interests of aviation safety.

- 6 a) Prior to the commencement of the development the developer shall submit details of aviation lighting for the turbines to the planning authority for approval, in consultation with the Ministry of Defence.
- b) The submitted details shall be either 25 candella omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration and shall be fitted to the turbines at the highest practicable point, unless otherwise agreed in writing by the planning authority, in consultation with the Ministry of Defence.
- c) The approved lighting shall be maintained to ensure it remains operational on the turbines for the lifetime of the development, unless otherwise agreed in writing with the planning authority, in consultation with the Ministry of Defence

Reason: in the interests of aviation safety.

- 7 a) Prior to the commissioning of the development a television and radio reception mitigation plan shall be submitted to and approved by the planning authority. The plan shall include the results of a baseline television and radio reception survey recording the current standard of television and radio reception in the area and shall assess the impairment (if any) of such television and radio reception that is likely to arise from construction or operation of the turbines.
- b) On being notified of a claim that the development is causing television picture loss or other interference with television or radio reception at a house, office, shop or other building existing at the date of the grant of the planning permission the wind farm operator shall immediately commission an investigation by and report from an independent qualified engineer. Within one month of being notified of a claim in terms of this part of this condition the wind farm operator shall submit to the planning authority a copy of the ensuing engineer's report.
- c) Should any impairment of the television or radio reception be attributable to and caused solely by the wind farm the wind farm operator shall, within two months of being notified of a claim in terms of part (b) of this condition, remedy such impairment so that the standard of reception at the house, office, shop or other building existing at the date of the grant of the planning permission is restored to the standard identified in the baseline television and radio reception survey.
- d) This condition applies only to claims made within 12 months of the commissioning of the development.

Reason: to protect residential amenity.

- 8 No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development on residential properties existing at the date of the grant of planning permission, including remedial measures, has been submitted to and approved in writing by the planning authority. Operation of the turbines shall take place in accordance with the approved protocol.

Reason: to protect residential amenity.

- 9 No development shall take place within the development site as outlined in red on the approved plan(s) until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, agreed by Perth & Kinross Heritage Trust, and approved by the planning

authority. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the reasonable satisfaction of the planning authority in agreement with Perth & Kinross Heritage Trust.

Reason: to safeguard any archaeological interest of the site

- 10 a) No part of the development hereby authorised shall be commenced until a decommissioning, restoration and aftercare scheme (the scheme) for the site has been submitted by the developer and approved by the planning authority.
- b) The scheme must include the following, at least in principle:
- i. Provision for removal of all above-ground elements of the development, including wind turbines, foundation and crane pads, to 1 metre below ground level, and all buildings and ancillary development, apart from the access tracks;
 - ii. Particulars of subsoil, topsoil and peat replacement and re-seeding, as appropriate, with details of depths of replaced materials and finished ground levels to return the site to as near as reasonably possible to its original condition;
 - iii. Such other measures as are necessary to return the site as nearly as reasonably possible to its original condition, including any necessary aftercare to ensure the restoration works are established;
 - iv. A programme showing the dates each part of the scheme is intended to be implemented; and
 - iv. Details of all seed mixes proposed to be used for re-instatement of surface vegetation. The seed mixes shall be sourced locally.
- c) If restoration does not commence within 10 years of the agreement of this scheme then the planning authority may request the preparation of a revised scheme for approval by the planning authority prior to restoration commencing.
- d) Two years before the site is due to be restored, the full details of the scheme, which shall accord with the principles earlier approved unless otherwise agreed, shall be submitted for the approval of the planning authority in consultation with such other parties as the planning authority deems appropriate.
- e) Thereafter the site shall be restored in accordance with the approved scheme.

- f) Within one month of completion of the approved scheme the planning authority shall be notified in writing that decommissioning and restoration are complete.

Reason: in the interests of visual amenity and nature conservation and in case restoration has to be carried out prior to the expiry of the 25 year consent period

- 11 a) The development shall not begin until the following details have been submitted to and approved by the planning authority and documentary evidence has been provided that the bond or other financial instrument is in place:
 - i: details of a bond or other financial instrument which will ensure that funds sufficient to meet the cost of implementing the decommissioning and restoration scheme that is to be approved in terms of condition 2 are available to the developer or the council as planning authority at all times prior to completion of decommissioning and site restoration; and
 - ii: confirmation by an independent chartered surveyor (whose appointment for this task has been approved by the planning authority) that the amount of the bond or financial instrument is sufficient to meet the cost of all decommissioning and site restoration.
- b) The approved bond or financial instrument shall be maintained throughout the duration of this permission. At the end of fifteen years from the commencement of the development and each five years thereafter from the commencement of the development an independent review of the approved bond or financial instrument shall be carried out and submitted to the planning authority. The planning authority may direct that the approved bond or financial instrument be amended in accordance with conclusions of the independent review, if this is necessary to ensure that funds remain sufficient for decommissioning and site restoration.

Reason: to ensure that at all times there are sufficient funds available to ensure decommissioning and site restoration.

- 12 a) In the event of the wind farm not exporting electricity on a commercial basis to the public electricity grid network for a continuous period of twelve months from 50% or more of the turbines installed and commissioned at that time, the planning authority may direct that the wind farm operator submit to it within a period of three months for its approval an interim decommissioning and restoration scheme for the for non-supplying part of the development. The scheme shall include a programme for its implementation.

- b) Before giving any direction in terms of this condition the planning authority shall consult the wind farm operator and shall have due regard to the circumstances surrounding the failure to supply electricity.
- c) The interim decommissioning and restoration scheme approved in terms of this condition shall be carried out in accordance with its programme for implementation.
- d) This condition shall take effect following the final commissioning of the development (see Note ii attached to condition 3 above).

Reason: to ensure the turbines are removed from the site at the end of their operational life to protect the character of the countryside, the visual amenity of the area and nature conservation interests.

- 13 All temporary contractors' site compounds shall be removed and the land reinstated to its former profile and condition no later than 3 months following the final commissioning of the development or by the end of the first available seeding/planting season after the final commissioning of the development, whichever is the later.

Reason: in the interests of visual amenity

- 14 No electricity or control cable shall be installed above ground within the site. Cables shall be laid underground alongside the approved tracks unless otherwise agreed in writing by the planning authority.

Reason: to minimise visual impacts and disruption to habitats.

- 15 a) Prior to the commencement of the development, precise details of the location, extent, depth, means of working, means of draining and method and timing of restoration of any proposed borrow pits and associated areas for rock crushing shall be submitted to, and approved in writing by, the planning authority.
- b) Any borrow pit approved under this condition shall be exploited to serve the development only.
 - c) Unless otherwise approved by the planning authority, rock crushing activities shall be confined to the approved borrow pits and immediately adjacent areas.

Reason: in the interest of proper site management and visual and residential amenity.

- 16 Prior to the commencement of development a Construction and Environmental Management Plan will be submitted to and be approved in

writing by the planning authority, in consultation with SEPA and SNH, at least one month prior to the commencement of development. The Construction and Environmental Management Plan will identify from the environmental statement appropriate mitigation strategies and consolidate these, clearly outlining what shall be implemented, when and by whom. It will incorporate:

- a construction method statement;
- a site waste management plan;
- a pollution prevention plan;
- ecology protection measures, if any; and
- a water management plan

And include:

- a) Track construction details;
- b) A peat and soil stripping management plan including the mineral and slope stability of the site and outlining the storage and proposed use and replacement of peat, topsoil and subsoil. The scheme shall have regard to the drainage implications of soil movement and storage;
- c) Details of the height and location of all stockpiles of road stone;
- d) Oil spill contingencies and foul drainage arrangements;
- e) Details of all concrete batching and handling facilities;
- f) A dust and mud management plan which incorporates wheel washing facilities shall be provided at the exits from the site, with all soiled vehicles leaving the site being required to use these facilities before using public roads;
- g) Details of any water abstraction;
- h) A detailed survey which identifies any spring, borehole or other private water supply potentially affected by the development. The private water action plan must include details regarding all water monitoring and reporting, pollution incident reporting and mitigation measures to address a temporary or permanent material change in either the quality or quantity of an existing private water supply;
- i) A surface and groundwater management plan which must include specific details regarding the monitoring of any watercourses, springs or boreholes affected by the development prior to and during the construction phase, details of drainage from all access tracks, construction areas, laydown areas, turbine pads, crane pads and borrow pits at all stages of their formation and use including means of protecting groundwater, diverting surface water runoff and allowing for recharging of peat areas, details of pollution prevention and control measures and foul drainage arrangements, details of any necessary

mitigation measures and maintenance of the quantity and quality of water supplied from any spring or borehole which serves residential property or farm in the area around the development site;

- j) Details of bird surveys to be carried out before the commencement of development;
- k) The procedures for access for wind farm staff for turbine, track and other infrastructure maintenance and operational requirements, during the bird breeding season and in proximity to potential nesting sites for breeding birds. The operational protocol must also address interpretation and visitor management to encourage responsible public access during the bird breeding season. The approved protocol must be implemented in full to the satisfaction of the as planning authority;
- l) measures for the protection of or beneficial to European and other protected species, formation of any required protected species protection plans and implementation measures for any such plans;
- m) Restoration of habitat and the provision of foraging areas;
- n) Construction of artificial otter holts and methods of construction to prevent harm to otters;
- o) Monitoring of habitats and a programme for implementation; and
- p) Landscaping details in relation to borrow pits, road verges, turbine bases and temporary site compounds.

All work shall be carried out in accordance with the approved Construction Environmental Management Plan and all mitigation measures proposed within the environmental statement shall be undertaken within the approved timescales, unless as otherwise agreed in writing with the planning authority.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 17 a) Unless otherwise agreed in writing by the Local Planning Authority, within a minimum of two months prior to the commencement of the development, an independent and suitably qualified ecologist shall be appointed as the Ecological Clerk of Works (ECoW) for the site, by the wind farm operator and at the operator's expense. This appointment shall be subject to the prior written approval of the planning authority.
- b) The ECoW shall oversee, on behalf of the planning authority, in consultation with SNH, the implementation of all ecology related planning conditions

throughout the construction of the wind farm. The ECoW shall undertake a watching brief throughout the construction of all roads, cable tracks compounds, turbine bases and hard standings.

- c) The scope of works for the ECoW shall include the following:
 - i. Monitoring compliance with the mitigation works related to the development.
 - ii. Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.
 - iii. Advising on the acceptability of micro-siting any turbines and development infrastructure tracks.
- d) If any protected species are found on site, the ECoW will ensure that work is suspended at that location and that a protected species protection plan is implemented. The ECoW shall inform the planning authority of the precise details of the suspension, reasons and measures to mitigate.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 18 a) Prior to the commencing of any blasting on site, precise details of the methods to minimise air overpressure and ground vibration as a result of blasting operations shall be submitted to the planning authority. No blasting shall be carried out within the site until such time as the details have been approved in writing by the planning authority. The approved details shall be implemented in full, to the satisfaction of the planning authority.

- b) The frequency of blasting shall be limited to a maximum of two blasting periods per week. No blasting shall be carried out on the site outwith the blasting periods of 10:00 am to noon and 2:00 pm to 4:00 pm on Mondays to Fridays and 10:00 am to noon on Saturdays. There shall be no blasting or drilling operations on Sundays, Bank Holidays or national holidays (the dates of which shall be agreed with the planning authority before the start of development on site). The aforementioned shall not apply in cases of emergency if it is considered necessary to carry out blasting operations in the interests of safety. The planning authority shall be notified in writing immediately of any such event.

Reason: to protect residential amenity and the amenity of this area generally.

- 19 Any lighting rigs associated with the development shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.

Reason: to protect the residential amenity of the occupiers of neighbouring properties and the amenity of this area generally.

- 20 Prior to the commencement of construction the developer shall agree with Perth & Kinross Council the following details:

- a) the access routes to be used by construction traffic. These routes shall be improved by means of passing places/strip widening and junction improvements at locations to be agreed with the council prior to the commencement of works on site and thereafter where deemed necessary over the duration of the contract.
- b) a traffic management scheme for abnormal loads in accordance with the Roads Traffic Act 1982, the Road Vehicles (Authorisations of Special Types) (General) Order 2003 and the Council's procedure for Abnormal Loads Routing.

All works shall be carried out to the standard and specification required by the council and the traffic management scheme shall be implemented as approved during the construction period.

Reason: in the interests of road safety and to ensure free traffic flow.

- 21 Prior to the commencement of construction the applicant shall enter into a maintenance agreement in respect of the agreed haul routes. The required maintenance shall be carried out in accordance with the agreement at the end of the construction period.

Reason: in the interests of road safety and to ensure free traffic flow.

- 22 Prior to the commencement of development, the applicant shall submit for the written approval of the planning authority a construction traffic management scheme which shall include the following details:

- a) Restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- b) Timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;

- c) A code of conduct for HGV drivers to allow for queuing traffic to pass;
- d) Arrangements for liaison with the council regarding winter maintenance;
- e) Emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- f) Arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- g) Arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- h) Arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- i) Details of information signs to inform other road users of construction traffic;
- j) Arrangements to ensure that access for emergency service vehicles is not impeded;
- k) Co-ordination with other major commercial users known to use roads affected by construction traffic;
- l) Traffic arrangements in the immediate vicinity of temporary construction compounds;
- m) The provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- n) Monitoring, reporting and implementation arrangements; and
- o) Arrangements for dealing with non-compliance.

The approved construction traffic management scheme must be implemented in full during the course of the construction phase of the development and also the removal and restoration periods. At the reasonable request of the planning authority, the developer shall amend the approved construction traffic management scheme to ensure its continued effectiveness.

Reason: in the interests of road safety.

- 23 The clearance of snow from access tracks within the site shall be by mechanical means only. For the avoidance of doubt, the use of salt or any other chemical is strictly prohibited.

Reason: in order to ensure the environmental interests of the site are not compromised.

- 24 The access tracks shall be constructed in the positions indicated in drawing number 09016-PL-03 Rev A - Site Layout, save for the ability to vary the indicated position by up to 10 metres of the approved track under the supervision of the ECOW appointed under condition 18 above. Variation of between 10 metres and 50 metres in the position of any track shall only be permitted with the prior written approval of the planning authority.

Reason: to allow limited flexibility in siting access tracks in the interests of nature conservation/ecology and to minimise landscape impacts.

- 25 Construction works within the site which is audible from the boundary of any noise sensitive dwelling shall only take place between 7:00 am and 7:00 pm on Mondays to Fridays inclusive, and between 7:00 am and 1:00 pm on Saturdays. There shall be no such activity at any time on Sundays or on local or national public holidays (the dates of which shall be agreed with the planning authority before the start of development on site). Outwith the hours specified, development within the site shall be limited to turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment; and construction work that is not audible from the boundary of any noise sensitive dwelling. Receipt by track of any materials or equipment to the site for the construction of the development shall not take place outwith the hours specified, unless otherwise approved by the planning authority having been given a minimum of two working days notice of the occurrence of the proposed event.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and the amenity of this area generally.

- 26 The rating level of noise emissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out for those properties identified in the Tables 1 & 2 attached to these conditions.

At Craighead only, the rating level of noise immissions from the combined effects of the wind turbines hereby permitted, operating in conjunction with the consented and operational turbines of the Drumderg Wind Farm (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out in Tables 3 and 4 attached to these conditions.

Following complaint, in the event that the level of noise emissions (including the application of any tonal penalty) exceeds the values in Tables 3 and 4, the operator of Tullymurdoch Wind Farm shall undertake appropriate mitigation to

reduce turbine noise emissions such that the limits in Tables 3 and 4 are met, or such that noise from the turbines hereby permitted (including the application of any tonal penalty) meets the levels set out in Tables 5 and 6.

Prior to the first export date, the wind farm operator 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. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

- (A) 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 wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the planning authority made under this paragraph (A), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (G) to the planning authority in the format set out in Guidance Note 1(E).
- (B) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.
- (C) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning

authority pursuant to paragraph (B) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

- (D) Prior to the commencement of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph (E) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:
- i. the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.
 - 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 (A), 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 emissions 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 emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (A) 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 missions.
- (F) Where a further assessment of the rating level of noise emissions 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 wind farm operator shall continuously log wind speed, wind direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance

with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Planning Authority on its request within 14 days of receipt in writing of such a request.

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

Reason: to protect the amenity of local residents.

Table 1 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co-ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Nether Drumhead Cottage (321864, 755021)	38	38	38	38	38	38	38	40	43	46	48	50
Nether Drumhead Farm (321688, 755012)	38	38	38	38	38	38	38	40	43	46	48	50
Over Drumhead (321812, 755302)	38	38	38	38	38	38	38	40	43	46	48	50
Tullymurdoch (319857, 752520)	45	45	45	45	45	45	45	45	45	45	45	45
Derryhill (321727, 754168)	38	38	38	38	38	38	38	41	46	50	54	58
Cottertown (322761, 754401)	38	38	38	38	38	38	38	39	42	46	48	50

Table 2 - Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co-ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Nether Drumhead Cottage (321864, 755021)	43	43	43	43	43	43	43	43	43	44	46	49
Nether Drumhead Farm (321688, 755012)	43	43	43	43	43	43	43	43	43	44	46	49
Over Drumhead (321812, 755302)	43	43	43	43	43	43	43	43	43	44	46	49
Tullymurdoch (319857, 752520)	45	45	45	45	45	45	45	45	45	45	45	45
Derryhill (321727, 754168)	42	42	42	42	42	42	42	42	44	49	53	57
Cottertown (322761, 754401)	42	42	42	42	42	42	42	42	42	43	46	49

Note iv (to Tables 1 and 2): the limits set in condition 27 for the property known as Derryhill shall only apply for the purposes of this condition in the event that the property is lawfully occupied as a dwelling and at all other times there shall be no noise limits applying to this property, which shall not be regarded as a noise sensitive property.

Table 3 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA₉₀ Decibel Levels											
Craighead (319660, 754070)	40	40	40	40	40	40	40	43	43	43	43	43

Table 4 - Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA₉₀ Decibel Levels											
Craighead (319660, 754070)	43	43	43	43	43	43	43	43	43	43	43	43

Table 5 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA₉₀ Decibel Levels											
Craighead (319660, 754070)	30	30	30	30	30	30	30	33	33	33	33	33

Table 6- Between 23:00 and 07:00 - Noise level dB LA_{90, 10-minute}

Location (easting, northing grid co- ordinates	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Craighead (319660, 754070)	33	33	33	33	33	33	33	33	33	33	33	33

Guidance Notes for Noise Condition 27

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise emissions 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).

Note 1

- (a) Values of the LA_{90,10-minute} noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), 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 before and after each set of measurements, using a calibrator meeting IEC 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

- (b) The sound level meter shall be located in a free field location outside the complainants dwelling, in accordance with recommendations in the Institute of Acoustics Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Farm Noise (IOA May 2013). In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location
- (c) The $LA_{90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10- minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s), arithmetic mean wind direction in metres from north and rainfall data in each successive 10-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. The mean hub height wind speed shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.
- (e) Data provided to the planning authority in accordance with paragraphs (E) (F) and (G) of the noise condition shall be provided in in electronic format as comma separated values, or in the case of aAudio recordings as 16bit WAV files.
- (f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise emissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Note 2

- (a) The noise measurements should be made so as to provide not less than 20

valid data points as defined in Note 2 paragraph (b).

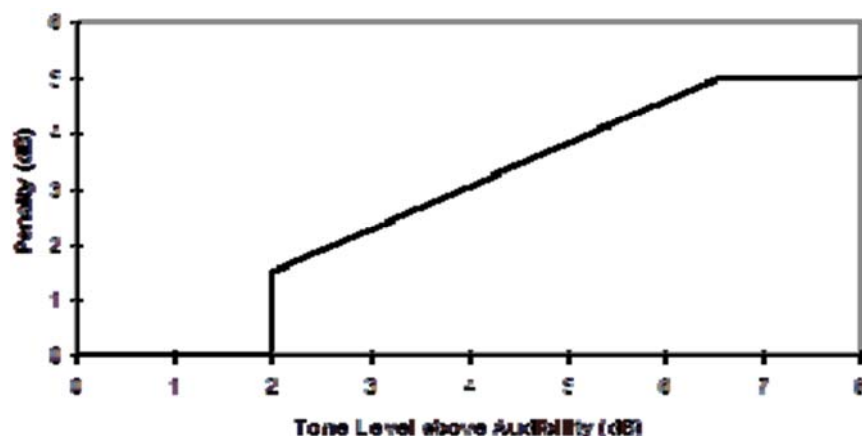
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the planning authority under paragraph (D) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

Values of the LA_{90,10-minute} noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and 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) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (D) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which LA_{90,10-minute} data have been determined as valid in accordance with 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 shall be reported.
- (c) For each of the 2-minute samples the tone level above 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 substituted.
- (e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

- (a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment 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 Note 2.
- (c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (B) 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 emission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant

requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (D) of this condition
- ii. The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then the development fails to comply with the conditions.

JUSTIFICATION

The proposal is considered to comply with the over-riding thrust of the Development Plan and there are no material reasons which justify departing from the development plan.

INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that

period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

The plans and documents relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page

Plan and Document Reference

15/01561/1

15/01561/2

15/01561/3

15/01561/4

15/01561/5

15/01561/6

Document 4 – Report of handling for application 15/01561/FLL

Perth and Kinross Council
Development Management Committee – 18 November 2015
Report of Handling by Development Quality Manager

Modification of permission 12/01423/FLL (formation of wind farm with associated access track and ancillary works) change of turbines at Tullymurdoch Wind Farm by Alyth

Ref. No: 15/01561/FLL
Ward No: N3 - Blairgowrie and Glens

Summary

This report assesses changes to the wind turbine dimensions associated with the approved Tullymurdoch Wind Farm. It should be noted that the earlier planning appeal to the Scottish Ministers associated with this windfarm found that there were some conflicts with TAYplan policy 6 and LDP policy ER1 but overall the proposed scheme was in compliance with the development plan.

The changes in turbine dimensions incorporated in this application are not considered significant to result in a conflict with the overriding thrust of the Strategic Development Plan TAYplan or the Perth and Kinross Local Development Plan 2014. Accordingly the application is recommended for approval.

BACKGROUND AND DESCRIPTION

- 1 Since the time of the submission of the planning application for the Tullymurdoch windfarm in July 2012, technology advances in wind turbine development have resulted in more efficient turbines with relatively little change in turbine dimensions. The applicant proposes to utilise an up to date, energy efficient turbine on the Tullymurdoch site to ensure the maximum benefit in terms of energy production within the parameters of the maximum tip height requirements of the approved Environmental Statement (ES) at 120 metres.
- 2 The turbine proposed within this modification to the planning permission, reduces the overall tip height to 114.75 metres although the rotor diameter increases from 80 to 92m, equating to a 6m increase in blade length.
- 3 The earlier approved ES covered the full range of potential environmental effects associated with the Tullymurdoch windfarm. In support of this application the applicant has submitted supplementary environmental information to bolster the original ES for the change of turbine dimensions. It assesses only those topic areas where the effects may be altered by the modification to the turbine dimensions, namely:-

- Landscape and Visual
- Ornithology
- Ecology
- Noise
- Cultural Heritage
- Hydrology, Flood Risk, Water Quality, Water Resources, Hydrogeology and Geology
- Access Transport and Traffic
- Land Use Socio Economics, Recreation and Tourism
- Existing Infrastructure, Aviation, Air Quality and Climate, Public Access and Safety as well as Shadow Flicker.

- 4 It should be noted that it is not appropriate to re-visit the concept of a wind farm in this location through this application. The assessment can only consider whether the change in turbine dimensions are acceptable.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

DEVELOPMENT PLAN

- 6 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

- 7 The overall vision of the Tay Plan states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

- 8 The principal policies are, in summary:

Policy 3: Managing TAYplan’s Assets

- 9 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

Policy 6: Energy and Waste/Resource Management Infrastructure

- 10 Relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

PERTH AND KINROSS LOCAL DEVELOPMENT PLAN 2014

- 11 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 12 The principal policies are, in summary:

Policy TA1B - Transport Standards and Accessibility Requirements

- 13 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy CF2 - Public Access

- 14 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

Policy HE1A - Scheduled Monuments

- 15 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

Policy HE1B - Non Designated Archaeology

- 16 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

Policy HE2 - Listed Buildings

- 17 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy NE1A - International Nature Conservation Sites

- 18 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

Policy NE1B - National Designations

- 19 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

Policy NE1C - Local Designations

- 20 Development which would affect an area designated as being of local nature conservation or geological interest will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of local importance.

Policy NE3 - Biodiversity

- 21 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy ER1A - Renewable and Low Carbon Energy Generation

- 22 Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported where they are in accordance with the 8 criteria set out. Proposals made for such schemes by a community may be supported, provided it has been demonstrated that there will not be significant environmental effects and the only community significantly affected by the proposal is the community proposing and developing it.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 23 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP2 - New Development and Flooding

- 24 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP5 - Nuisance from Artificial Light and Light Pollution

- 25 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

Policy EP8 - Noise Pollution

- 26 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

OTHER POLICIES

- 27 Perth & Kinross Wind Energy Policy & Guidelines (WEPG) 2005.
- 28 Tayside Landscape Character Assessment (TLCA).
- 29 The David Tyldesley and Associates – Landscape Study – Wind Farm Development in the Ochil Hills and part of Southern Highland Perthshire (2004).
- 30 The David Tyldesley and Associates – Landscape Study to Inform Planning for Wind Energy (2010).
- 31 Perth and Kinross Local Landscape Areas.
- 32 Scottish Natural Heritage – Siting and Designing Windfarms in the Landscape (2014).

SITE HISTORY

- 33 12/01423/FLL Formation of wind farm with associated access track and ancillary works refused by Development Management Committee 15 March 2013 but approved on appeal in 2014.
- 34 15/00012/PAN Installation of an underground electricity cable 23 June 2015.
- 35 15/01063/FLL Engineering operations to provide road widening 22 July 2015 Application Permitted.
- 36 15/01080/SCRN Installation of underground electricity cable 17 July 2015.

- 37 15/01562/FLM Installation of underground cables and temporary ancillary infrastructure, pending consideration.

CONSULTATIONS

External

- 38 **The Scottish Government**
- 39 **Historic Scotland:-** No objection.
- 40 **Transport Scotland** - No objection subject to conditions.
- 41 **Scottish Environment Protection Agency (SEPA)** - No objection
- 42 **Scottish Natural Heritage (SNH)** - No objection. Provide updated comments on pre-construction surveys.
- 43 **Ministry Of Defence (windfarms) (MOD)** - No objection subject to conditions.
- 44 **Civil Aviation Authority Renewable Energy Project Officer (CAA)** - No objection subject to conditions.
- 45 **National Air Traffic Services (NATS)** - No objection.
- 46 **Royal Society for Protection of Birds (RSPB)** - No response.
- 47 **Scottish Water (SW)** - No response.
- 48 **Angus Council** - No response.
- 49 **Cairngorm National Park (CNP)** - No response.
- 50 **Alyth Community Council** - No response.
- 51 **Blairgowrie and Rattray Community Council** - No response.
- 52 **Mount Blair Community Council** - No response.
- 53 **Kirriemuir Lanward West Community Council** - Object to the application and raise concern with noise pollution associated with the proposed turbine.

Internal

- 54 **Bio-diversity Officer** - No objection.
- 55 **Strategy and Policy** - No objection.
- 56 **Community Greenspace Landscape-** No response received within timescale.

- 57 **Environmental Health** - Conditional control recommended.
- 58 **Perth and Kinross Area Archaeologist** - No objection.
- 59 **Transport Planning** - No objection to the proposed modification provided the conditions attached to the original consent are applied to any further consent.
- 60 **Community Greenspace - Access Officers** - No response received within timescale.

REPRESENTATIONS

- 61 A total of eleven letters of representation were received during the advertisement period for the application.
- 62 The representations have raised the following relevant issues: -
- Concern that the proposal could result in an increased noise impact.
 - Increased landscape and visual impact from larger rotor diameter, excessive height.
 - Concerns that there could be an impact on protected species.
 - Inappropriate land use, loss of open space, over intensive development.
 - Contrary to the development plan.
 - Road safety concerns.
 - Flood risk concerns.
 - Concerns regarding notification of the application to neighbouring residents.
- 63 The concerns regarding notification of the application are noted. However I can confirm that the correct notification procedures have been undertaken in accordance with legislative requirements. All the relevant planning issues which have been raised are covered in the Appraisal section of this report.

ADDITIONAL STATEMENTS

64

Environment Statement	Submitted
Screening Opinion	Not Required
Environmental Impact Assessment	Yes
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Reports on Impact or Potential Impact	Submitted

APPRAISAL

Policy

- 65 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.

Principle

- 66 As already highlighted it is not appropriate to re-visit the concept of a wind farm in this location through this application. The assessment has to focus on whether the change in turbine dimensions are acceptable.

Landscape and Visual

- 67 There are no changes to the locations of the turbine bases thus the assessment is concerned with the perceived changes to turbine geometry and whether this may lead to inappropriate proportions of turbine, column and rotor, and the potential for disparity with other wind farms in the vicinity.
- 68 In order to ascertain the likely difference caused by these changes, a comparative Zone of Theoretical Visibility drawing (ZTV) has been prepared by the applicant along with a series of comparative photomontages and wireline images for a selection of representative viewpoints.
- 69 The comparative ZTV shows that there would be no notable discernible alteration to the viewshed or number of turbines visible within the study area.
- 70 The comparative visualisations cover a range of key viewpoints assessed in the original ES. The assessment in the Supplementary Environmental Information confirms that no adverse effects on visual amenity, over and above those anticipated in relation to the consented development, would arise from the proposed variation to the turbine geometry. Additionally it notes that the revisions to the consented scheme would not adversely affect the proportional balance of column to rotor of turbines or result in inconsistencies with the Drumderg development.
- 71 The applicant's assessment also takes account of schemes currently awaiting construction or determination. In the Environmental Statement (ES) it notes that revisions to the consented geometry at Tullymurdoch are considered to pose no adverse effect on the visual amenity of the area. It is also considered that there would be no material change to the findings of the ES in respect of residual effects on landscape character or designations.

- 72 The Planning Authority has consulted SNH on the application. They have referred to their siting and designing wind farms in the landscape guidance. This notes that where there are multiple wind farms in close proximity the development should be designed with a *similarity of design and wind farm image... that limits visual confusion, and reinforces the appropriateness of each development for its location*. To achieve this, the choice of turbine at Tullymurdoch should be compatible with those at the existing and consented wind farms, including aspects of scale, form, colour, and rotation speed.
- 73 SNH note that the proposal to increase the rotor size of the Tullymurdoch turbines by 10 metres is a material change to the design and would mean the rotor size would now noticeably differ from that of the existing Drumderg wind farm. Should the Tullymurdoch and Drumderg be seen as a single overlapping development this could create a more complex and confusing image, however they are of the view that Tullymurdoch and Drumderg are sufficiently separate that this effect typically would not occur. They note that the reduction in overall blade tip height (from 120 metres to 115 metres) would also improve Tullymurdoch's visual relationship with Drumderg.
- 74 With regards to the consented Welton of Creuchies scheme SNH note that this is sufficiently separate from Tullymurdoch that the proposed change in turbine dimensions would have no material effect on the visual relationship.
- 75 SNH highlight that Tullymurdoch and the proposed Saddle Hill wind farm would frequently been seen together as one overlapping wind farm. In the scenario where Saddle Hill was consented, the proposed changes to the turbine dimensions at Tullymurdoch would closely match those proposed at Saddle Hill and would offer a small improvement to their visual relationship.
- 76 Overall, SNH conclude that the proposed changes to the turbine dimensions at Tullymurdoch would not result in any additional landscape and visual impacts but recommend that the turbines have no advertising or branding and that they are the same colouring as Drumderg. I agree with SNH's assessment and do not consider that the scheme conflicts with the landscape and visual criteria contained with TAYplan policy 3 and 6 or Perth and Kinross Local Development Plan 2014 Policy ER1A or ER6.

Ornithology

- 77 The change in turbine model/turbine specifications (particularly hub height, rotor diameter, and tip height) may result in a slight change in the predicted collision risk, due to the increased rotor swept area, and the movement of the rotors to a slightly lower height than originally predicted.

- 78 The applicant confirms that at the initial stage of flight activity surveys commencing in September 2009, the following flight height recording bands were used: 0-25 m (a1), 25-125 m (a2) and >125 m (a3). For the purposes of data analysis for the earlier application, those birds recorded at height band a2 were considered to be at potential rotor swept height (RSH), although including a lower buffer between 25-40 m, and an upper buffer between 120-125 m, therefore providing a precautionary approach. Birds recorded in height band a3 were above RSH and birds recorded in height band a1 were considered to be below RSH for the purposes of collision risk modelling.
- 79 By changing the turbine model the rotor swept area will increase in area, but reduce in height so that it covers part of height bands a1 and a2. The turbine will cover the area between 22.5 m and 25 m of a1 (2.75 m) and the area between 25 m and 114.75 m of a2 (89.75 m).
- 80 The applicant considers that when the original modelling is applied to the scenario of a new turbine it is still considered precautionary and it is not necessary to carry out further collision risk modelling. I note that SNH has no objection which is shared by the Council's bio-diversity officer. In light of this the change in dimensions are not considered to adversely affect ornithology.

Ecology

- 81 The Supplementary Environmental Information (SEI) to the approved ES only focuses on those ecological changes that may occur as a result of the proposed amended turbine dimensions, since the footprint of the development site remains unchanged.
- 82 The potential effect that the larger swept path could have on ecology is bats. In this case the proposed modification would not have a significant effect upon bats as the site lacks suitable habitat for foraging and commuting bat with low bat activity recorded within the approved turbine footprint.
- 83 Letters of representation have highlighted that there are wild cat and breeding birds within the vicinity of the site. SNH have highlighted that they are aware of recent records of protected species and they recommend species protection plans (SPP) are submitted prior to commencement of works and thereafter implemented during construction. I consider that incorporating condition 17 L of the original consent will ensure compliance with Tayplan Policy 3 and Perth and Kinross Local Development Plan 2014 Policy NE3.

Noise

- 84 Noise received a considerable amount of discussion during the Public Local Inquiry Session associated with the Tullymurdoch appeal. This resulted in conditional control being applied by the Reporter.
- 85 An updated Noise Assessment has been prepared and submitted to Perth and Kinross Council, based on the Servion MM92 to enable an assessment against the conditional controls applied to the earlier application.

- 86 The applicant's consultant confirms that 'with appropriate mitigation in the form of the application of reduced noise operational modes to certain turbines under certain wind conditions, a turbine of the proposed revised dimensions could be operated within the noise limits set through planning conditions attached to the current consent for the Development'.
- 87 The updated noise assessment has been reviewed by the Council's acoustic consultant who confirms that the proposed turbine under this application has about the same sound power level but a bit higher at 6m/s. This means that mitigation required for this proposal will be much the same as that proposed in the earlier application approved at appeal by the Reporter. The noise limits set by the Reporter via conditional control will therefore be maintained.
- 88 The noise consultant notes that the other change is the ratio of hub height to rotor diameter is 0.74 instead of 1.0. It also means that the turbines are close together relative to the rotor diameter. Both of these factors, together with some degree of forestry nearby, suggest that there may be an increased chance of amplitude modulation (AM). The suggestion of an AM condition was discussed at the Public Local Inquiry and rejected by the Reporter on the fact that the guidance did not support such a condition. The Guidance still remains the same at this point in time therefore an AM condition is not proposed for this application.
- 89 Taking these matters into account applying the same noise conditions that were imposed at appeal would achieve compliance with policy EP8.

Cultural Heritage

- 90 No significant direct effects were predicted for known archaeological sites under the earlier application and there will be no additional direct effect as a result of the change in turbine model. The effect on the setting of cultural heritage assets will be negligible. Accordingly there is no conflict with policy HE1A, HE1B or HE2.

Hydrology, Flood Risk, Water Quality, Water Resources, Hydrogeology and Geology

- 91 The Wind Farm footprint remains the same as that presented within the earlier application. Applying conditional control will safeguard the water environment.

Access Transport and Traffic

- 92 Chapter 11 of the approved ES assessed the effects of the Tullymurdoch Wind Farm on Access, Traffic and Transport. The modification to the proposed candidate turbine does not affect the results of Chapter 11 of the approved ES. It should be noted that upgrades to the road network have already been approved under application 15/01063/FLL. Applying the same control as the earlier application can secure appropriate mitigation.

Land Use Socio Economics, Recreation and Tourism

- 93 The change in the turbine dimensions are not considered to alter the findings associated with the earlier application that was approved on appeal. I note that construction of the development has potential to provide opportunities for local contractors to become involved in the construction phase of the development.

Existing Infrastructure, Aviation, Air Quality and Climate, Public Access and Safety as well as Shadow Flicker.

- 94 It is consider that re-applying conditional control associated with the earlier application will safeguard impact on existing infrastructure, air quality and climate, public access/safety and shadowflicker.

LEGAL AGREEMENTS

- 95 Not Required

DIRECTION BY SCOTTISH MINISTERS

- 96 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 97 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is not considered to result in a significant conflict with the overriding thrust of the Strategic Development Plan TAYplan and the Perth and Kinross Local Development Plan 2014. Accordingly the application is recommended for approval.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 Permission for operation of the development is limited to a period of twenty-five years from the commissioning of the development. Decommissioning shall be completed no later than whichever is the earlier of the following dates:

- a) two years from the end of the twenty-five year period mentioned in this condition; or
- b) two years from the date on which the development ceases to supply electricity on a commercial basis to the National Grid.

Reason: to clarify the extent of the permission for the avoidance of doubt and to ensure the satisfactory restoration of the site in the interests of amenity.

- 2 Within one month of the commissioning of the development written confirmation of the date of the commissioning shall be submitted to the planning authority and within one month of the final commissioning of the development written confirmation of the date of the final commissioning of the development shall be submitted to the planning authority.

Reason: to clarify the extent of the permission for the avoidance of doubt and these details relate to the timing of various requirements in other planning conditions forming part of this permission.

Note i) the 'commissioning of the development' means the date on which the first wind turbine generator forming part of the development first supplies electricity on a commercial basis.

Note ii) the 'final commissioning of the development' means the date on which the last wind turbine generator forming part of the development first supplies electricity on a commercial basis.

- 3 The turbines and associated crane pads shall be erected in the positions indicated in drawing number 15/01561/2, save for the ability to vary the indicated position of any turbine and associated crane pads by up to 25 metres, with any variation in Above Ordnance Datum from the approved position of the turbine being limited to + or – 5 metres, under the supervision of the Ecological Clerk of Works appointed under condition 18 below. Variation in the position of any turbines and associated crane pads between 25 metres and 50 metres shall only be permitted with the prior written approval of the planning authority. For the avoidance of doubt, this condition does not allow for any movement of the position of the turbines greater than 50 metres.

Reason: to allow limited flexibility in siting turbines and associated crane pad in the interests of nature conservation/ecology and to minimise landscape impacts.

- 4 Before the commencement of the development, the colours and finish of the wind turbine generators and the above-ground elements, including the anemometry mast, shall be submitted to and approved in writing by the planning authority. All wind turbine generators shall be of a three bladed design and shall rotate in the same direction. Each turbine shall be supplied by the same manufacturer, have the same design of tower and nacelle, and be of the same colour and finish. The use of logos on turbine blades, towers or nacelles is prohibited, unless otherwise agreed in writing by the planning authority.

Reason: in the interests of visual amenity and so that the planning authority have an accurate record of what is to be constructed on the site.

Ministry of Defence requirements

- 5.a) Prior to the commencement of the development the developer shall notify the Ministry of Defence of the following details:
- i. The date of the commencement of the development and the date by which the developer expects all the turbines to have been erected;
 - ii. The latitude and longitude of each turbine; and
 - iii. The maximum height of construction equipment.
- b) On completion of the construction phase of the development, the developer shall notify the Ministry of Defence of the following details:
- i. The final latitude and longitude of each turbine; and
 - ii. Details of the installed aviation lighting (see condition 7 below).
- c) The development shall be implemented in accordance with the approved details unless otherwise agreed in writing with the planning authority and the Ministry of Defence.
- d) When the notifications required as per a) and b) above are sent to the Ministry of Defence copies shall be sent at the same time to the planning authority.

Reason: in the interests of aviation safety.

- 6.a) Prior to the commencement of the development the developer shall submit details of aviation lighting for the turbines to the planning authority for approval, in consultation with the Ministry of Defence.
- b) The submitted details shall be either 25 candella omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration and shall be fitted to the turbines at the highest practicable point, unless otherwise agreed in writing by the planning authority, in consultation with the Ministry of Defence.
- c) The approved lighting shall be maintained to ensure it remains operational on the turbines for the lifetime of the development, unless otherwise agreed in writing with the planning authority, in consultation with the Ministry of Defence

Reason: in the interests of aviation safety.

- 7.a) Prior to the commissioning of the development a television and radio reception mitigation plan shall be submitted to and approved by the planning authority. The plan shall include the results of a baseline television and radio reception survey recording the current standard of television and radio reception in the area and shall assess the impairment (if any) of such television and radio reception that is likely to arise from construction or operation of the turbines.
- b) On being notified of a claim that the development is causing television picture loss or other interference with television or radio reception at a house, office, shop or other building existing at the date of the grant of the planning permission the wind farm operator shall immediately commission an investigation by and report from an independent qualified engineer. Within one month of being notified of a claim in terms of this part of this condition the wind farm operator shall submit to the planning authority a copy of the ensuing engineer's report.
- c) Should any impairment of the television or radio reception be attributable to and caused solely by the wind farm the wind farm operator shall, within two months of being notified of a claim in terms of part (b) of this condition, remedy such impairment so that the standard of reception at the house, office, shop or other building existing at the date of the grant of the planning permission is restored to the standard identified in the baseline television and radio reception survey.
- d) This condition applies only to claims made within 12 months of the commissioning of the development.

Reason: to protect residential amenity.

- 8 No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development on residential properties existing at the date of the grant of planning permission, including remedial measures, has been submitted to and approved in writing by the planning authority. Operation of the turbines shall take place in accordance with the approved protocol.

Reason: to protect residential amenity.

- 9 No development shall take place within the development site as outlined in red on the approved plan(s) until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, agreed by Perth & Kinross Heritage Trust, and approved by the planning authority. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the reasonable satisfaction of the planning authority in agreement with Perth & Kinross Heritage Trust.

Reason: to safeguard any archaeological interest of the site.

- 10.a) No part of the development hereby authorised shall be commenced until a decommissioning, restoration and aftercare scheme (the scheme) for the site has been submitted by the developer and approved by the planning authority.
- b) The scheme must include the following, at least in principle:
- i. Provision for removal of all above-ground elements of the development, including wind turbines, foundation and crane pads, to 1 metre below ground level, and all buildings and ancillary development, apart from the access tracks;
 - ii. Particulars of subsoil, topsoil and peat replacement and re-seeding, as appropriate, with details of depths of replaced materials and finished ground levels to return the site to as near as reasonably possible to its original condition;
 - iii. Such other measures as are necessary to return the site as nearly as reasonably possible to its original condition, including any necessary aftercare to ensure the restoration works are established;
 - iv. A programme showing the dates each part of the scheme is intended to be implemented; and
 - v. Details of all seed mixes proposed to be used for re-instatement of surface vegetation. The seed mixes shall be sourced locally.
- c) If restoration does not commence within 10 years of the agreement of this scheme then the planning authority may request the preparation of a revised scheme for approval by the planning authority prior to restoration commencing.
- d) Two years before the site is due to be restored, the full details of the scheme, which shall accord with the principles earlier approved unless otherwise agreed, shall be submitted for the approval of the planning authority in consultation with such other parties as the planning authority deems appropriate.
- e) Thereafter the site shall be restored in accordance with the approved scheme.
- f) Within one month of completion of the approved scheme the planning authority shall be notified in writing that decommissioning and restoration are complete.

Reason: in the interests of visual amenity and nature conservation and in case restoration has to be carried out prior to the expiry of the 25 year consent period.

- 11.a) The development shall not begin until the following details have been submitted to and approved by the planning authority and documentary evidence has been provided that the bond or other financial instrument is in place:
- i: details of a bond or other financial instrument which will ensure that funds sufficient to meet the cost of implementing the decommissioning and restoration scheme that is to be approved in terms of condition 2 are available to the developer or the council as planning authority at all times prior to completion of decommissioning and site restoration; and
 - ii: confirmation by an independent chartered surveyor (whose appointment

for this task has been approved by the planning authority) that the amount of the bond or financial instrument is sufficient to meet the cost of all decommissioning and site restoration.

- b) The approved bond or financial instrument shall be maintained throughout the duration of this permission. At the end of fifteen years from the commencement of the development and each five years thereafter from the commencement of the development an independent review of the approved bond or financial instrument shall be carried out and submitted to the planning authority. The planning authority may direct that the approved bond or financial instrument be amended in accordance with conclusions of the independent review, if this is necessary to ensure that funds remain sufficient for decommissioning and site restoration.

Reason: to ensure that at all times there are sufficient funds available to ensure decommissioning and site restoration.

- 12.a) In the event of the wind farm not exporting electricity on a commercial basis to the public electricity grid network for a continuous period of twelve months from 50% or more of the turbines installed and commissioned at that time, the planning authority may direct that the wind farm operator submit to it within a period of three months for its approval an interim decommissioning and restoration scheme for the for non-supplying part of the development. The scheme shall include a programme for its implementation.

- b) Before giving any direction in terms of this condition the planning authority shall consult the wind farm operator and shall have due regard to the circumstances surrounding the failure to supply electricity.
- c) The interim decommissioning and restoration scheme approved in terms of this condition shall be carried out in accordance with its programme for implementation.
- d) This condition shall take effect following the final commissioning of the development (see Note ii attached to condition 3 above).

Reason: to ensure the turbines are removed from the site at the end of their operational life to protect the character of the countryside, the visual amenity of the area and nature conservation interests.

- 13 All temporary contractors' site compounds shall be removed and the land reinstated to its former profile and condition no later than 3 months following the final commissioning of the development or by the end of the first available seeding/planting season after the final commissioning of the development, whichever is the later.

Reason: in the interests of visual amenity

- 14 No electricity or control cable shall be installed above ground within the site. Cables shall be laid underground alongside the approved tracks unless otherwise agreed in writing by the planning authority.

Reason: to minimise visual impacts and disruption to habitats.

- 15.a) Prior to the commencement of the development, precise details of the location, extent, depth, means of working, means of draining and method and timing of restoration of any proposed borrow pits and associated areas for rock crushing shall be submitted to, and approved in writing by, the planning authority.
- b) Any borrow pit approved under this condition shall be exploited to serve the development only.
- c) Unless otherwise approved by the planning authority, rock crushing activities shall be confined to the approved borrow pits and immediately adjacent areas.

Reason: in the interest of proper site management and visual and residential amenity.

- 16 Prior to the commencement of development a Construction and Environmental Management Plan will be submitted to and be approved in writing by the planning authority, in consultation with SEPA and SNH, at least one month prior to the commencement of development. The Construction and Environmental Management Plan will identify from the environmental statement appropriate mitigation strategies and consolidate these, clearly outlining what shall be implemented, when and by whom. It will incorporate:

- a construction method statement;
- a site waste management plan;
- a pollution prevention plan;
- ecology protection measures, if any; and
- a water management plan

And include:

- a) track construction details;
- b) a peat and soil stripping management plan including the mineral and slope stability of the site and outlining the storage and proposed use and replacement of peat, topsoil and subsoil. The scheme shall have regard to the drainage implications of soil movement and storage;
- c) details of the height and location of all stockpiles of road stone;
- d) oil spill contingencies and foul drainage arrangements;
- e) details of all concrete batching and handling facilities;
- f) a dust and mud management plan which incorporates wheel washing facilities shall be provided at the exits from the site, with all soiled vehicles leaving the site being required to use these facilities before using public roads;
- g) details of any water abstraction;

- h) a detailed survey which identifies any spring, borehole or other private water supply potentially affected by the development. The private water action plan must include details regarding all water monitoring and reporting, pollution incident reporting and mitigation measures to address a temporary or permanent material change in either the quality or quantity of an existing private water supply;
- i) a surface and groundwater management plan which must include specific details regarding the monitoring of any watercourses, springs or boreholes affected by the development prior to and during the construction phase, details of drainage from all access tracks, construction areas, laydown areas, turbine pads, crane pads and borrow pits at all stages of their formation and use including means of protecting groundwater, diverting surface water runoff and allowing for recharging of peat areas, details of pollution prevention and control measures and foul drainage arrangements, details of any necessary mitigation measures and maintenance of the quantity and quality of water supplied from any spring or borehole which serves residential property or farm in the area around the development site;
- j) details of bird surveys to be carried out before the commencement of development;
- k) the procedures for access for wind farm staff for turbine, track and other infrastructure maintenance and operational requirements, during the bird breeding season and in proximity to potential nesting sites for breeding birds. The operational protocol must also address interpretation and visitor management to encourage responsible public access during the bird breeding season. The approved protocol must be implemented in full to the satisfaction of the planning authority;
- l) measures for the protection of or beneficial to European and other protected species, formation of any required protected species protection plans and implementation measures for any such plans;
- m) restoration of habitat and the provision of foraging areas;
- n) construction of artificial otter holts and methods of construction to prevent harm to otters;
- o) monitoring of habitats and a programme for implementation; and
- p) landscaping details in relation to borrow pits, road verges, turbine bases and temporary site compounds.

All work shall be carried out in accordance with the approved Construction Environmental Management Plan and all mitigation measures proposed within the environmental statement shall be undertaken within the approved timescales, unless as otherwise agreed in writing with the planning authority.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 17.a) Unless otherwise agreed in writing by the Local Planning Authority, within a minimum of two months prior to the commencement of the development, an independent and suitably qualified ecologist shall be appointed as the Ecological Clerk of Works (ECOW) for the site, by the wind farm operator and at the operator's expense. This appointment shall be subject to the prior written approval of the planning authority.

- b) The ECoW shall oversee, on behalf of the planning authority, in consultation with SNH, the implementation of all ecology related planning conditions throughout the construction of the wind farm. The ECoW shall undertake a watching brief throughout the construction of all roads, cable tracks compounds, turbine bases and hard standings.
- c) The scope of works for the ECoW shall include the following:
 - i. Monitoring compliance with the mitigation works related to the development.
 - ii. Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.
 - iii. Advising on the acceptability of micro-siting any turbines and development infrastructure tracks.
- d) If any protected species are found on site, the ECoW will ensure that work is suspended at that location and that a protected species protection plan is implemented. The ECoW shall inform the planning authority of the precise details of the suspension, reasons and measures to mitigate.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 18.a) Prior to the commencing of any blasting on site, precise details of the methods to minimise air overpressure and ground vibration as a result of blasting operations shall be submitted to the planning authority. No blasting shall be carried out within the site until such time as the details have been approved in writing by the planning authority. The approved details shall be implemented in full, to the satisfaction of the planning authority.
- b) The frequency of blasting shall be limited to a maximum of two blasting periods per week. No blasting shall be carried out on the site outwith the blasting periods of 10:00 am to noon and 2:00 pm to 4:00 pm on Mondays to Fridays and 10:00 am to noon on Saturdays. There shall be no blasting or drilling operations on Sundays, Bank Holidays or national holidays (the dates of which shall be agreed with the planning authority before the start of development on site). The aforementioned shall not apply in cases of emergency if it is considered necessary to carry out blasting operations in the interests of safety. The planning authority shall be notified in writing immediately of any such event.

Reason: to protect residential amenity and the amenity of this area generally.

- 19 Any lighting rigs associated with the development shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.

Reason: to protect the residential amenity of the occupiers of neighbouring properties and the amenity of this area generally.

20 Prior to the commencement of construction the developer shall agree with Perth & Kinross Council the following details:

- a) the access routes to be used by construction traffic. These routes shall be improved by means of passing places/strip widening and junction improvements at locations to be agreed with the council prior to the commencement of works on site and thereafter where deemed necessary over the duration of the contract.
- b) a traffic management scheme for abnormal loads in accordance with the Roads Traffic Act 1982, the Road Vehicles (Authorisations of Special Types) (General) Order 2003 and the Council's procedure for Abnormal Loads Routing.

All works shall be carried out to the standard and specification required by the council and the traffic management scheme shall be implemented as approved during the construction period.

Reason: in the interests of road safety and to ensure free traffic flow.

21 Prior to the commencement of construction the applicant shall enter into a maintenance agreement in respect of the agreed haul routes. The required maintenance shall be carried out in accordance with the agreement at the end of the construction period.

Reason: in the interests of road safety and to ensure free traffic flow.

22 Prior to the commencement of development, the applicant shall submit for the written approval of the planning authority a construction traffic management scheme which shall include the following details:

- a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
- c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
- d) arrangements for liaison with the council regarding winter maintenance;
- e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- i) details of information signs to inform other road users of construction traffic;
- j) arrangements to ensure that access for emergency service vehicles is not impeded;

- k) co-ordination with other major commercial users known to use roads affected by construction traffic;
- l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- n) monitoring, reporting and implementation arrangements; and
- o) arrangements for dealing with non-compliance.

The approved construction traffic management scheme must be implemented in full during the course of the construction phase of the development and also the removal and restoration periods. At the reasonable request of the planning authority, the developer shall amend the approved construction traffic management scheme to ensure its continued effectiveness.

Reason: in the interests of road safety.

- 23 The clearance of snow from access tracks within the site shall be by mechanical means only. For the avoidance of doubt, the use of salt or any other chemical is strictly prohibited.

Reason: in order to ensure the environmental interests of the site are not compromised.

- 24 The access tracks shall be constructed in the positions indicated in drawing number 09016-PL-03 Rev A – Site Layout, save for the ability to vary the indicated position by up to 10 metres of the approved track under the supervision of the ECOW appointed under condition 18 above. Variation of between 10 metres and 50 metres in the position of any track shall only be permitted with the prior written approval of the planning authority.

Reason: to allow limited flexibility in siting access tracks in the interests of nature conservation/ecology and to minimise landscape impacts.

- 25 Construction works within the site which is audible from the boundary of any noise sensitive dwelling shall only take place between 7:00 am and 7:00 pm on Mondays to Fridays inclusive, and between 7:00 am and 1:00 pm on Saturdays. There shall be no such activity at any time on Sundays or on local or national public holidays (the dates of which shall be agreed with the planning authority before the start of development on site). Outwith the hours specified, development within the site shall be limited to turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment; and construction work that is not audible from the boundary of any noise sensitive dwelling. Receipt by track of any materials or equipment to the site for the construction of the development shall not take place outwith the hours specified, unless otherwise approved by the planning authority having been given a minimum of two working days notice of the occurrence of the proposed event.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and the amenity of this area generally.

- 26 The rating level of noise emissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out for those properties identified in the Tables 1 & 2 attached to these conditions.

At Craighead only, the rating level of noise immissions from the combined effects of the wind turbines hereby permitted, operating in conjunction with the consented and operational turbines of the Drumderg Wind Farm (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out in Tables 3 and 4 attached to these conditions.

Following complaint, in the event that the level of noise emissions (including the application of any tonal penalty) exceeds the values in Tables 3 and 4, the operator of Tullymurdoch Wind Farm shall undertake appropriate mitigation to reduce turbine noise emissions such that the limits in Tables 3 and 4 are met, or such that noise from the turbines hereby permitted (including the application of any tonal penalty) meets the levels set out in Tables 5 and 6.

Prior to the first export date, the wind farm operator 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. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

- (A) 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 wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the planning authority made under this paragraph (A), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (G) to the planning authority in the format set out in Guidance Note 1(E).

- (B) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.
- (C) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning authority pursuant to paragraph (B) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.
- (D) Prior to the commencement of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph (E) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:
- i. the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.
 - 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 (A), 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 emissions 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 emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (A) 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 missions.
- (F) Where a further assessment of the rating level of noise emissions 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 wind farm operator shall continuously log wind speed, wind direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Planning Authority on its request within 14 days of receipt in writing of such a request.

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

Reason: to protect the amenity of local residents.

Table 1 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co-ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Nether Drumhead Cottage (321864, 755021)	38	38	38	38	38	38	38	40	43	46	48	50
Nether Drumhead Farm (321688, 755012)	38	38	38	38	38	38	38	40	43	46	48	50
Over Drumhead (321812, 755302)	38	38	38	38	38	38	38	40	43	46	48	50
Tullymurdoch (319857, 752520)	45	45	45	45	45	45	45	45	45	45	45	45
Derryhill (321727, 754168)	38	38	38	38	38	38	38	41	46	50	54	58
Cottertown (322761, 754401)	38	38	38	38	38	38	38	39	42	46	48	50

Table 2 - Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co-ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Nether Drumhead Cottage (321864, 755021)	43	43	43	43	43	43	43	43	43	44	46	49
Nether Drumhead Farm (321688, 755012)	43	43	43	43	43	43	43	43	43	44	46	49
Over Drumhead (321812, 755302)	43	43	43	43	43	43	43	43	43	44	46	49
Tullymurdoch (319857, 752520)	45	45	45	45	45	45	45	45	45	45	45	45
Derryhill (321727, 754168)	42	42	42	42	42	42	42	42	44	49	53	57
Cottertown (322761, 754401)	42	42	42	42	42	42	42	42	42	43	46	49

Note iv (to Tables 1 and 2): the limits set in condition 27 for the property known as Derryhill shall only apply for the purposes of this condition in the event that the property is lawfully occupied as a dwelling and at all other times there shall be no noise limits applying to this property, which shall not be regarded as a noise sensitive property.

Table 3 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Craighead (319660, 754070)	40	40	40	40	40	40	40	43	43	43	43	43

Table 4 - Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Craighead (319660, 754070)	43	43	43	43	43	43	43	43	43	43	43	43

Table 5 - Between 07:00 and 23:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Craighead (319660, 754070)	30	30	30	30	30	30	30	33	33	33	33	33

Table 6- Between 23:00 and 07:00 - Noise level dB LA₉₀, 10-minute

Location (easting, northing grid co- ordinates	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA ₉₀ Decibel Levels											
Craighead (319660, 754070)	33	33	33	33	33	33	33	33	33	33	33	33

Guidance Notes for Noise Condition 27

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise emissions 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).

Note 1

- (a) Values of the LA_{90,10-minute} noise statistic should be measured at the complainant’s property (or an approved alternative representative location as detailed in Note 1(b)), 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 before and after each set of measurements, using a calibrator meeting IEC 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

- (b) The sound level meter shall be located in a free field location outside the complainants dwelling, in accordance with recommendations in the Institute of Acoustics Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Farm Noise (IOA May 2013). In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location
- (c) The $LA_{90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10- minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s), arithmetic mean wind direction in metres from north and rainfall data in each successive 10-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. The mean hub height wind speed shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.
- (e) Data provided to the planning authority in accordance with paragraphs (E) (F) and (G) of the noise condition shall be provided in in electronic format as comma separated values, or in the case of aAudio recordings as 16bit WAV files.
- (f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise emissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Note 2

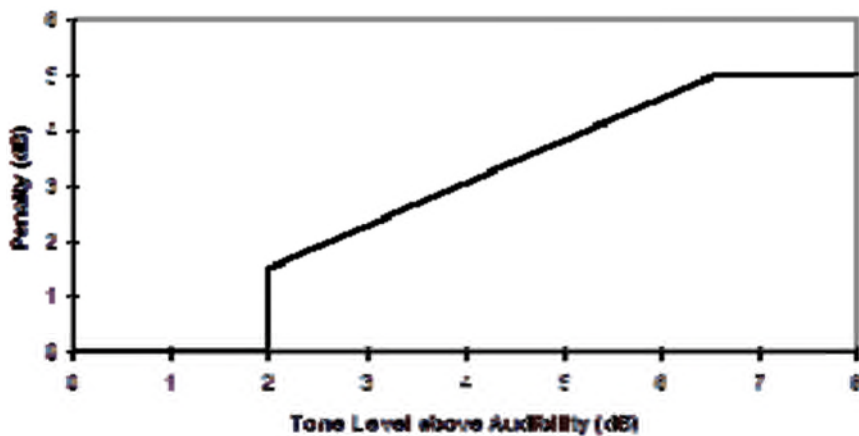
- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).

- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the planning authority under paragraph (D) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

Values of the LA_{90,10-minute} noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and 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) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (D) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which LA_{90,10-minute} data have been determined as valid in accordance with 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 shall be reported.
- (c) For each of the 2-minute samples the tone level above 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 substituted.
- (e) A least squares “best fit” linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

- (a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment 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 Note 2.
- (c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (B) 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 emission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
 - i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (D) of this condition.

- ii. The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (B) of the noise condition then the development fails to comply with the conditions.

B JUSTIFICATION

The proposal is considered to comply with the over-riding thrust of the Development Plan and there are no material reasons which justify departing from the development plan.

C PROCEDURAL NOTES

None

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

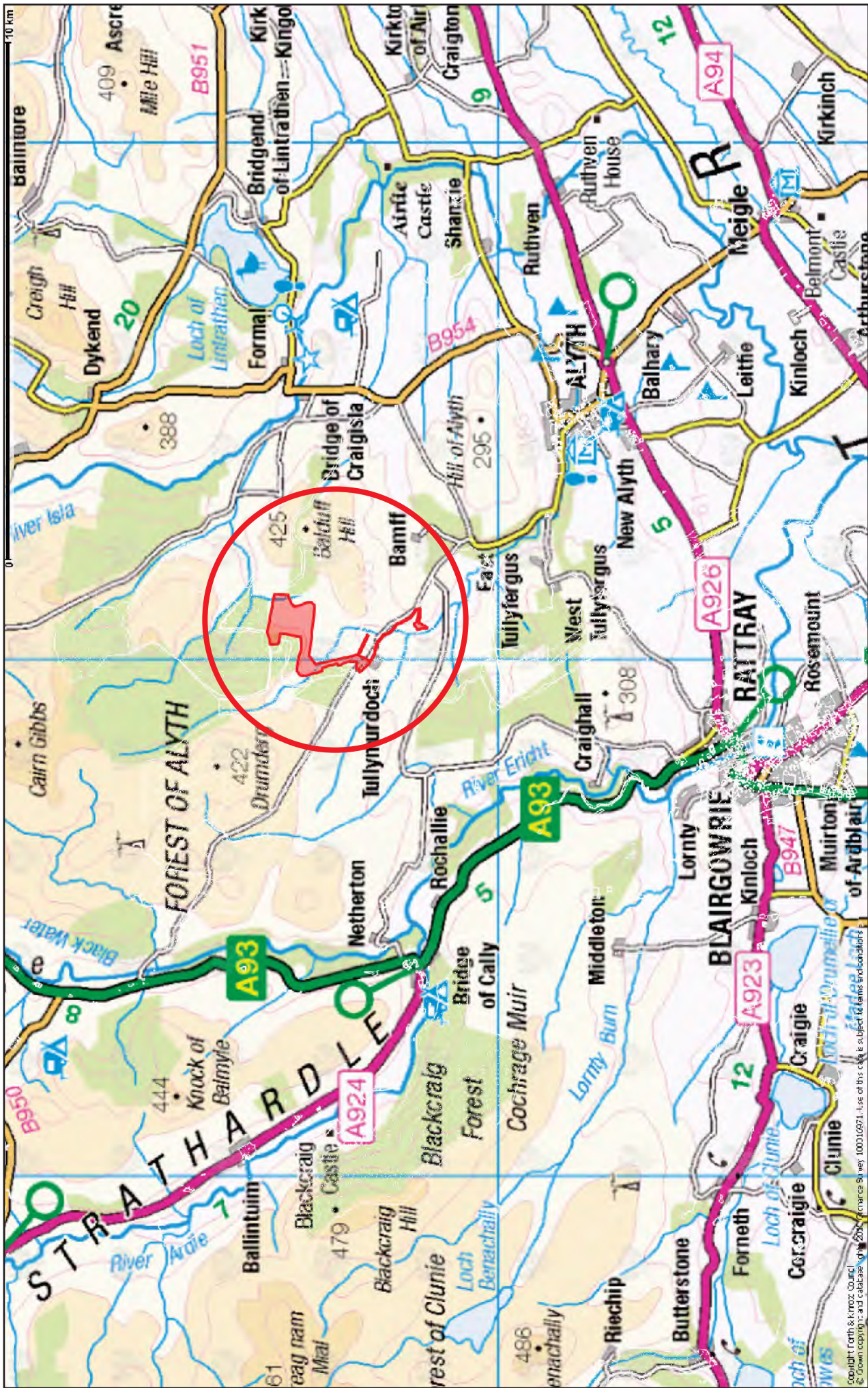
NICK BRIAN
DEVELOPMENT QUALITY MANAGER

Background Papers: 11
Contact Officer: John Russell – Ext 75346
Date: 30 October 2015

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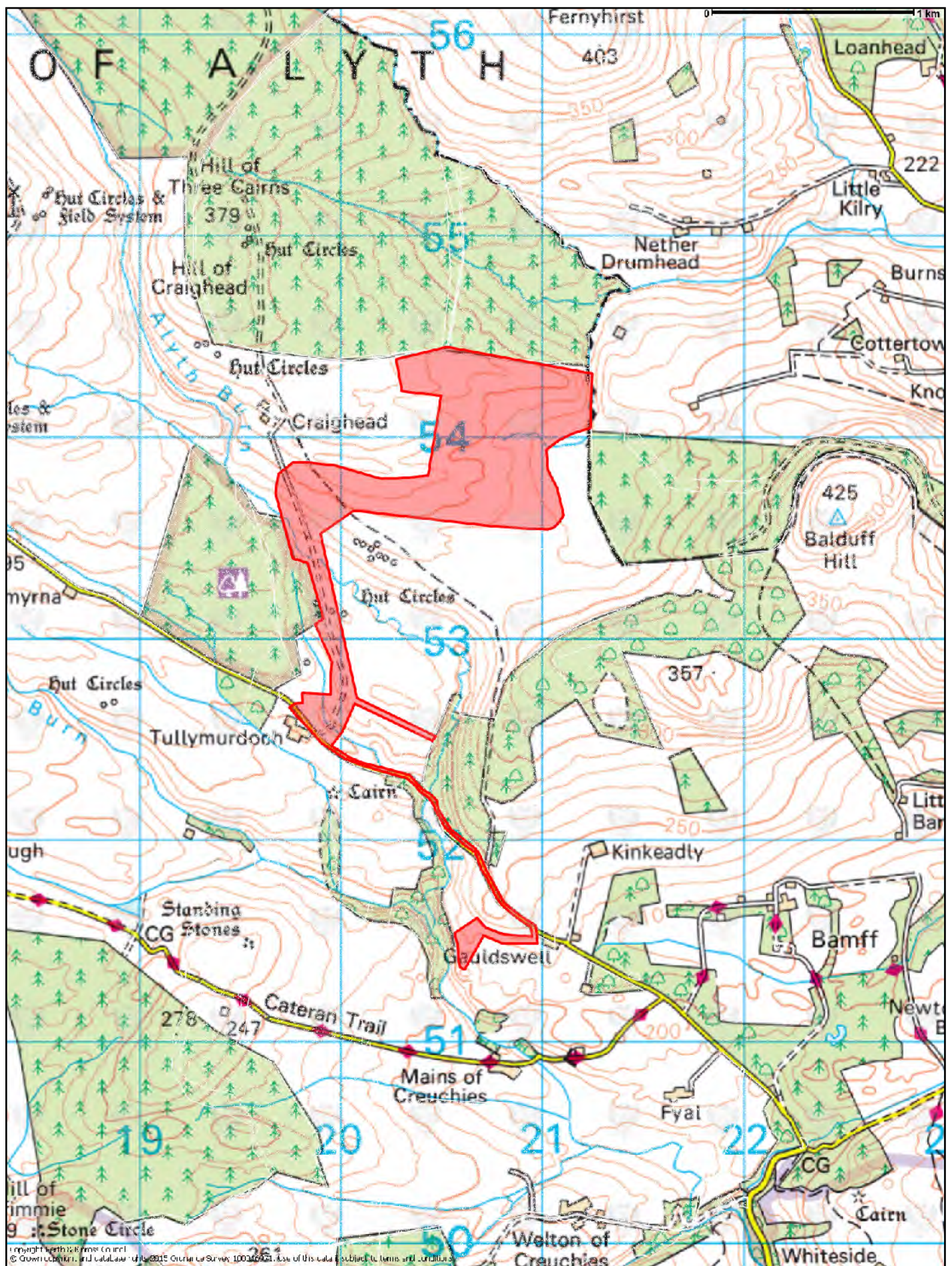
15/01561/FLL

Modification of permission 12/01423/FLL (formation of wind farm with associated access track and ancillary works) change of turbine on land at Tullymurdoch Wind Farm, Altham (Previous Committee Decision)



Scale 1:100000

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Scale 1:25000

15/01561/FLL

Modification of permission 12/01423/FLL (formation of wind farm with associated access track and ancillary works) change of turbine on land at Tullymurdoch Wind Farm, Alyth (Previous Committee Decision)



**Document 5 – Letter requesting discharge of turbine details
dated 17 October 2017**



Mr John Russell
Development Management
Perth and Kinross Council
Pullar House
35 Kinnoull Street
Perth
PH1 5GD

17th October 2017

Our Reference: 2132/SD

Your Reference: 12/01423/FLL

Dear Mr Russell,

Discharge of Planning Condition 5, Above Ground Elements, in relation to Tullymurdoch Wind Farm

Arcus Consultancy Services (Arcus) has been commissioned by Temporis Capital, owners of Tullymurdoch Ltd, to submit a formal request to discharge condition 5 of the original Tullymurdoch Wind Farm consent (planning reference: 12/01423/FLL) on the basis of the Senvion MM92 turbine, the erection of which has already been approved pursuant to Modification consent reference: 15/01561/FLL. At the point of making this application, works have not proceeded to the point of placing any reliance on the specific turbine detail already approved under Condition 5.

Perth & Kinross Council had previously declined to discharge the wind turbine element of condition 5 of planning consent: 12/01423/FLL, stating that the dimensions of the MM92 were outwith the Rochdale Envelope of the Environmental Statement (ES) submitted to inform planning consent: 12/01423/FLL and, as such, the environmental effects of the candidate turbine had not been assessed.

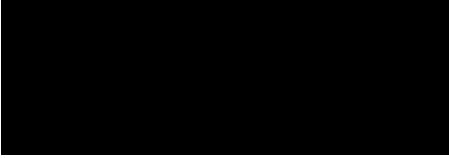
Since this decision was taken by Perth & Kinross Council, a detailed and robust review of a candidate turbine with the dimensions of the Senvion MM92 turbine has been considered as part of the determination process for the Modification consent: 15/01561/FLL. The validity of this assessment has withstood rigorous challenge, and forms an addendum to the 2012 ES, thus ensuring a complete and full EIA has been undertaken for the Senvion MM92.

As a result of the Senvion MM92 being subjected to a full EIA and associated consultation, there is no justification preventing Perth & Kinross Council from approving the Senvion MM92 under the terms of planning consent: 12/01423/FLL.

Please find attached the MM92 turbine elevations previously approved by Perth & Kinross Council under condition 4 of the Modification consent: 15/01561/FLL.

We formally request that these elevations be approved under condition 5 of planning consent: 12/01423/FLL.

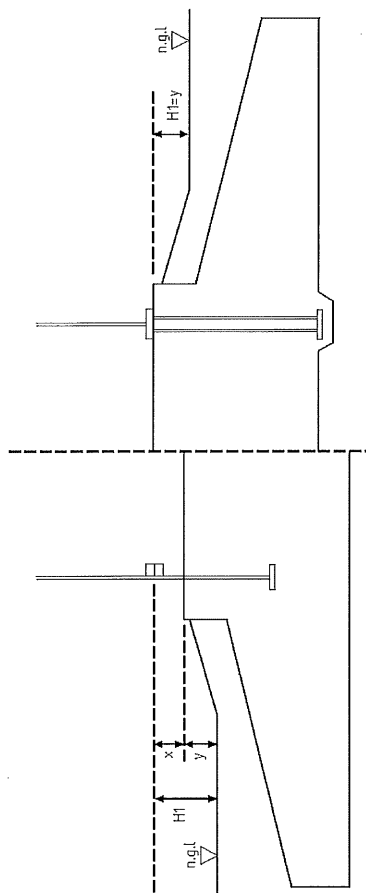
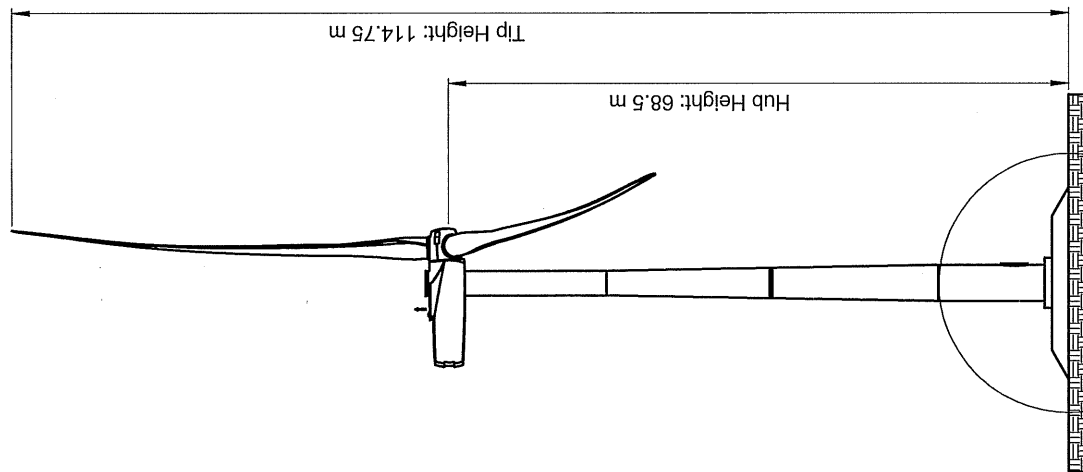
Yours sincerely,



Stuart Davidson
Principal Environmental Consultant

Enclosed: MM92 Specification Drawing

Original document 7000203 without
any dimensional data.
All values are added afterwards,
based on the specific WEA project.



Foundation with embedded
steel can

Foundation with anchor
cage

Project name: Tullymurdoch

Turbine: MM92

Hub Height above natural ground level: 68.5 m

Tip Height above natural ground level: 114.75 m

H1 (Height of upper flange of embedded steel can / anchor cage above natural ground level) = 0.5 m

* (refer to Specification for Foundation Design T-2.9-RT.00.34-A-A)

x (Distance between flange of embedded steel can and top of foundation) = 0.5 m

* (refer to embedded steel can drawing number Z-2.9-RT.00.53-A-B)

y (Height of edge of foundation above natural ground) = 0 m

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SENVISION
Service SE
Überseering 10
22287 Hamburg
Phone: +49-40-5555009.0
Fax: No. +49-40-5555003099
www.senvision.com

Hub Height and Tip Height Summary

Weight / Weight:
Material / Material:
Drawing / Title:
Drawing Number:
Drawing Number:
Drawing Number:

Version / Revision:
Version / Revision:
Version / Revision:

Plot:

GE-ADPC-D-01-VC-DINA3

Document 6 – Email refusing discharge of turbine details dated 19 October 2017

From: John Russell

Sent: 19 October 2017 09:43

To: 'Stuart Davidson'

Cc: Matthew Ridley; Geoff Fogg; Jamie Scott - TES

Subject: RE: 12/01423/FLL - Discharge of Condition 5

Dear Mr Davidson,

RE: Discharge of Planning Condition 5, Above Ground Elements, in relation to Tullymurdoch Windfarm.

I have reviewed your correspondence dated the 17 October 2017 regarding the above matter.

As you are aware the Planning Authority previously came to the settled view that the Senvion MM92 could not be accepted under condition 5 of application 12/01423/FLL. Hence the submission of application 15/01561/FLL. I have again reviewed this matter based on your correspondence and discussed the matter further with Legal Services. I can advise the Planning Authority's view remains unchanged, the Senvion MM92 Turbine cannot be accepted under condition 5 of application 12/01423/FLL.

I trust this fully clarifies the Planning Authority's position on this matter.

Kind Regards,

John Russell

Development Management Planning Officer - Planning and Development

Perth & Kinross Council

The Environment Service

Pullar House, 35 Kinnoull St, Perth, PH1 5GD



[REDACTED]
www.pkc.gov.uk

Follow us

From: Stuart Davidson [mailto:s[REDACTED]]

Sent: 17 October 2017 18:05

To: John Russell

Cc: Matthew Ridley

Subject: 12/01423/FLL - Discharge of Condition 5

Good afternoon John,

Further to discussions between Temporis and Perth & Kinross Council, please see the attached letter and attachment marked for your attention regarding condition 5 of application: 12/01423/FLL. I would be grateful if you could please confirm receipt?

Regards,

Stuart

Stuart Davidson

Principal Environmental Consultant

[REDACTED]
[REDACTED]
[REDACTED]

Arcus Consultancy Services Ltd

7th Floor

145 St Vincent Street

Glasgow

G2 5JF

www.arcusconsulting.co.uk

Document 7 – 2012 Environmental Statement Extracts (emphasis added)

Tullymurdoch Wind Farm July 2012 Environmental Statement – Volume 1 - Text

1 Introduction

1.1 Overview of the Proposed Development

- 1 This Environmental Statement ("ES") has been prepared on behalf of RDS Element Power Ltd. ("RDS Element Power") to accompany a planning application for a wind farm to be known as the Tullymurdoch Wind Farm ("the Development"). The application is being made to Perth and Kinross Council ("PKC") under the Town and Country Planning (Scotland) Act 1997 (as amended by The Planning etc. (Scotland) Act 2006).
- 2 The location of the proposed Development is shown in Figure 1.1, Site Location Plan. The Site, defined by the Planning Application Boundary (Figure 1.2, Planning Application Boundary), is located approximately 6km to the north west of the town of Alyth, Perth and Kinross, and 2km to the east of the existing Drumderg wind farm.
- 3 The proposed Development will comprise 7 wind turbines with associated infrastructure. **The wind turbines will have an indicative** hub height of 80m, an 80m rotor diameter, with a maximum height to tip of 120m. Associated infrastructure will consist of turbine foundations and crane hardstandings, access tracks (new or upgraded), a control building with substation and underground power cables, a temporary works compound and lay down area, a borrow pit, as well as an anemometer mast to monitor wind speeds.
- 4 The site layout, including infrastructure is shown in Figure 1.3, Site Layout Plan.
- 5 **Depending on the final turbine selected**, each turbine will have a generating capacity of between 2 MegaWatts (MW) and 2.5 MW, with an overall installed capacity for the proposed Development of approximately 14 to 17.5 MegaWatts (MW). This would be enough to provide energy for between 7,440 and 9,300 homes¹, equivalent to powering 37 to 47 % of the households in Perth².
- 6 **The final capacity of the proposed Development will however depend on the manufacturer and the final model of the wind turbines selected, which will also determine the precise dimensions of the turbine tower and blades (up to a maximum height of 120m).**
- 7 The proposed Development will require a connection to the local electricity distribution network to allow power produced by the turbines to be exported from the site. The grid connection is not part of this application, and effects arising from this connection are not considered as part of this application. The Distribution Network Operator (DNO) will be responsible for submitting any planning application required for this work under Section 37 of the Electricity Act 1989.
- 8 Planning permission for the proposed Development is being sought for an operational period of 25 years. Construction will take place over a period of approximately ten months. At the end of the operational life of the wind farm, the wind turbines will be decommissioned and removed, and the site fully reinstated as agreed with the planning authority.

3 Project Description

3.3 General Project Description

Components of the proposed Development

- 1 The proposed Development will comprise of the following principal elements which are shown on Figure 1.3, Site Layout Plan, in Chapter 1 of this ES:

- 7 wind turbines with a maximum rated capacity of up to 2.5 MW, and **a maximum tip height of 120m**. Each turbine requires the following associated infrastructure: a transformer (which is either located within the turbine tower, or is external, depending on the final turbine selected);
- foundations; and a crane hardstanding area.
- Meteorological mast;
- New access tracks, upgraded track and upgraded site access;
- Control building and substation;
- Underground cables;
- Borrow Pit; and
- Temporary construction compound.

3.6 Wind Turbines and Associated Infrastructure

Wind Turbines

- 1 The proposed Development will comprise of seven, three bladed horizontal – axis wind turbines with a maximum height to blade tip of up to 120m. An indicative turbine used for the assessment purposes is shown in Figure 3.2, Typical Wind Turbine. This illustrates a typical design for this height, with hub height of 80m and rotor diameter of 80m. The final choice of the wind turbine will depend on the turbine technology at the time of construction and project economics.
- 2 Table 3.1 details the candidate turbine specifications.

Table 3.1 <u>Indicative</u> Turbine Specifications	
Description	Information
Number of Turbines	7
Anticipated turbine rated capacity (MW)	2.0 to 2.5
Number of Blades	3
Tower style	Tubular steel
Approximate Hub Height	80m
Approximate rotor diameter	80m
Maximum height to blade tip	120m
Variable revolutions per minute	6 – 18
Noise curve	Based on Enercon E82

Document 8 – 2015 Written Statement Extracts (emphasis as per original)

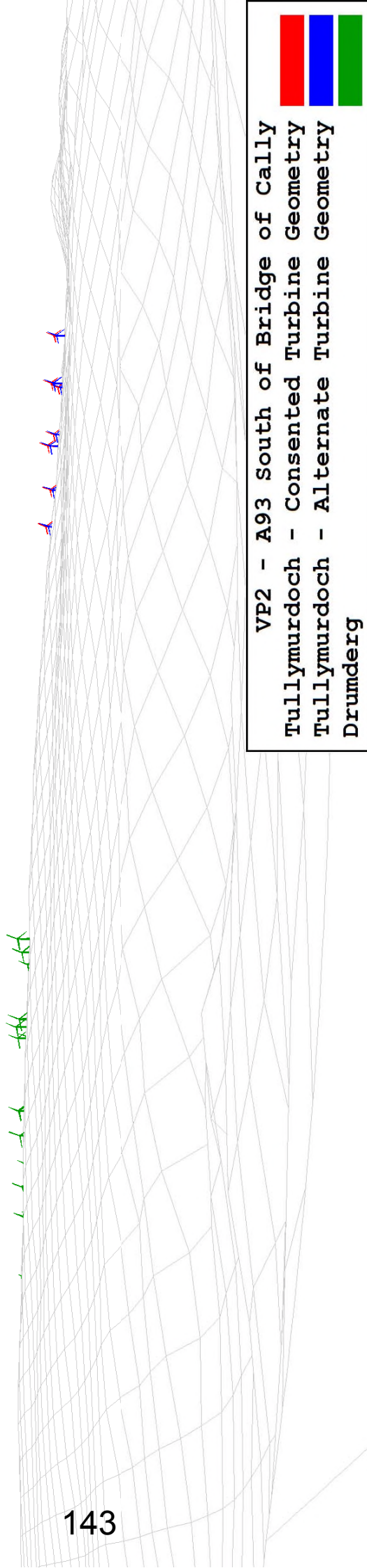
5 SUMMARY AND CONCLUSION

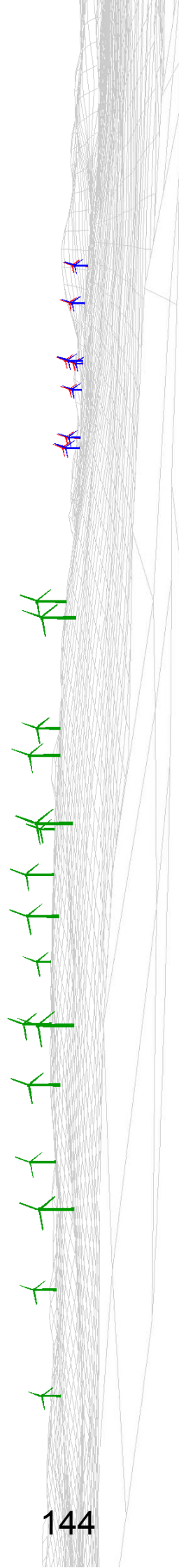
In summary, this SEI assessment has identified and assessed any key environmental changes as a result of the modification to the turbine dimensions at Tullymurdoch Wind Farm, which reduces the overall tip height from 120 metres (m) to 114.75m, although the rotor diameter increases from 80-82m to 92m, equating to a 5-6m increase in blade length.

Table 5.1 Summary




Environmental Topic	Description of changes between the turbine presented within the ES and the proposed turbine
Landscape and Visual	No additional effects on landscape fabric, and no increased effects on landscape character, designations or visual receptors. Additionally, no increased cumulative effects. No material change to the findings of the ES.
Ornithology	No change in terms of habitat loss or disturbance/displacement. The collision risk presented within the approved ES is precautionary and remains valid, changes in turbine dimensions will not result in any effects of greater significance.
Ecology	No change to footprint of development therefore no change to flora or ground dwelling fauna. Low levels of bat activity recorded at the site mean that the small increase in swept area would not significantly increase risk to bats. There is no increase in significance of impact predicted on bats.
Noise	The updated noise assessment for the MM92 demonstrates that with suitable mitigation the turbine can comply with the noise limits stipulated within Condition 27 of the consent and would therefore result in no change to the findings of the approved ES.
Cultural Heritage	No change to the direct effects of cultural heritage features, small change in the turbine proportions, this would not change the level of indirect effects on cultural heritage features predicted in the approved ES.
Hydrology, Flood Risk, Water Quality, Water Resources, Hydrogeology and Geology	No change
Access Transport and Traffic	No change to the number or type of vehicles accessing the site and therefore no change to the assessment of significance within the approved ES.
Land Use Socio Economics, Recreation and Tourism	No Change
Miscellaneous Issues	No change to Existing infrastructure, aviation, air quality and climate, highway safety, public access and safety. Minor change to shadow flicker which remains not significant

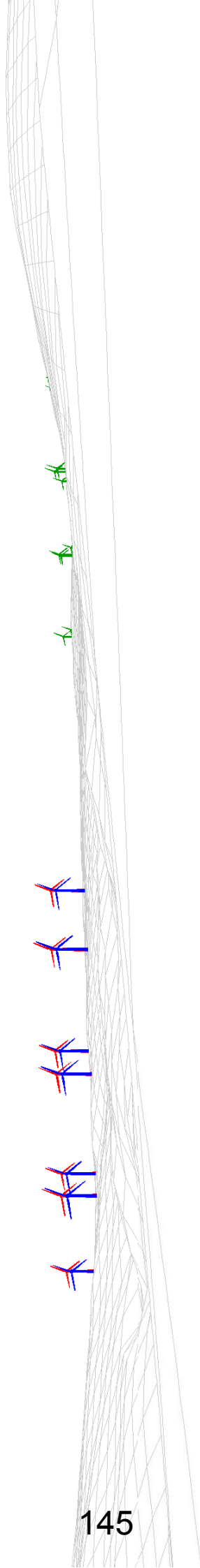
Document 9 – Wirelines



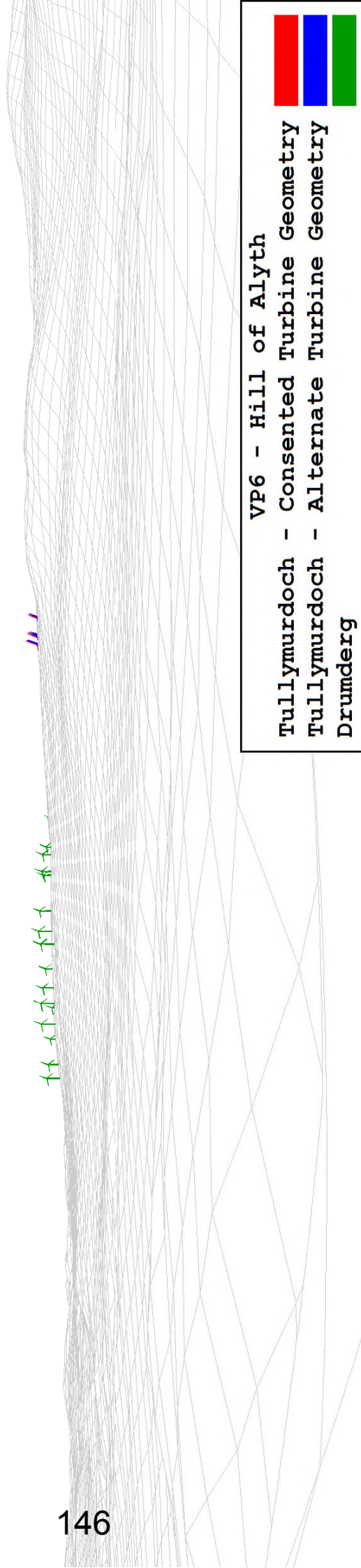


VP3 - Hill of Ashmore

Tullymurdoch - Consented Turbine Geometry	
Tullymurdoch - Alternate Turbine Geometry	
Drumderg	



VP5 - Loanhead of Kilry	
Tullymurdoch - Consented Turbine Geometry	
Tullymurdoch - Alternate Turbine Geometry	
Drumderg	





VP18 - South of Burrelton, A94	
Tullymurdoch - Consented Turbine Geometry	
Tullymurdoch - Alternate Turbine Geometry	
Drumderg	



**Document 10 – DPEA reference PPA-170-2098, Airies Wind Farm, Reporter's
Notice of Intention dated 09 June 2015**

Appeal: Notice of Intention

T: 01324 696 400
F: 01324 696 444
E: dpea@scotland.gsi.gov.uk



Notice of Intention by Dannie Onn, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-170-2098
- Site address: Airies Farm, Glenluce, Newton Stewart, Dumfries and Galloway, DG8 0PE
- Appeal by Airies Wind Farm Limited against the failure by Dumfries and Galloway Council to issue a decision on an application for planning permission reference 14/P/1/0297 dated 3 June 2014 to carry out the development without compliance with condition 10 imposed in the grant of planning permission 12/P/1/0271 dated 20 August 2013 .
- The development proposed: erection of 14 wind turbines (maximum tip height 126.5 metres) and formation of associated access tracks and hardstandings, erection of 1 permanent wind monitoring mast (height of 80 metres), 1 temporary wind monitoring mast (height of 80 metres), substation and control building, formation of temporary construction compounds and offices, borrow pits and concrete batching plant.
- Date of site visit by Reporter: 19 December 2014

Date of appeal decision: 9 June 2015

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 covering the matters listed in paragraph 15 of this notice. The permission would then be for erection of 14 wind turbines and formation of associated access tracks and hardstandings, erection of 1 permanent wind monitoring mast (height of 80 metres), 1 temporary wind monitoring mast (height of 80 metres), substation and control building, formation of temporary construction compounds and offices, borrow pits and concrete batching plant in accordance with application 14/P/1/0297 dated 3 June 2014 without compliance with condition 10 previously imposed but subject to a replacement condition 10 and the other conditions imposed, so far as they are still subsisting and capable of taking effect. A list of those conditions is at the end of this notice with the new condition in bold text. I also attach 4 advisory notices which apply to the new permission created.

Procedural matters

Validity of the appeal

1. Effectively, the application is to replace the existing condition, which would allow taller turbines to be used at the permitted wind farm. A height limit has been set by

condition. The developer may apply to carry out the development without the condition and may appeal against the failure of the council to validate that application.

2. In this case, the proposed blade diameter would remain the same, but each hub would be fixed on a tower 10.5 metres taller. The only significant difference would be a change in the height of the turbines to 137 metres (maximum blade tip), amounting to a little more than an eight per cent increase. Either height would be classified as large turbines. The development proposed would remain the same in substance and character, that is 14 wind turbines and ancillary development. It seems to me to be reasonable to seek to alter this specific aspect of the development by applying for planning permission to carry it out without complying with a condition on the previous permission rather than require a fresh application. I therefore proceed to determine the appeal.

3. The council declined to validate and register the application. As required by the appeal regulations¹, DPEA advertised the appeal in compliance with the development management procedure regulations². I received representations in response to the advertisement and have taken them into account. Applications accepted by the planning authority are publicised on a weekly list. However, neither the development management procedure regulations nor the appeal regulations require this at an appeal against a council's failure to determine an application. The legally required notifications have been properly carried out in this case and no party has been deprived of the opportunity to comment on the proposed change.

Environmental Impact Assessment (EIA)

4. The proposed development is EIA development and the original application in 2012 was accompanied by an Environmental Statement (ES). In the application under section 42, the appellant submitted a comparative environmental assessment of the proposal to increase the height of the turbines. Its stated purpose is to present the findings of a review and comparative environmental assessment of the proposed change in the scheme with the environmental effects of the scheme presented in the 2012 ES. The assessment predicts no material change in the landscape character or visual effects compared to the 2012 ES. It adds that the findings of the ES would not alter. No other significant changes are identified and the report concludes that no material differences are predicted in the key environmental effects of the proposals to increase the turbine height at Airies Windfarm.

5. The comparative assessment is not intended to be additional environmental information under the EIA regulations³ and was not therefore publicised in accordance with those regulations. The appellant says that the purpose of the report is to confirm that the findings of the ES remain valid. It seemed to me that any new environmental information which responds to changes in circumstances following an ES would normally meet the definition of additional information under the EIA regulations. I therefore required that the additional information be advertised in accordance with those regulations. Taking the responses into account, I consider that the environmental information before me is sufficient to allow me to give proper consideration to the likely significant effects of the proposed development on the environment.

¹ Regulation 29 of the Town and Country Planning (Appeals) (Scotland) Regulations 2013

² Regulations 20 and 25 of the Town and County Planning (Development Management Procedure) (Scotland) Regulations 2013

³ Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011

Description of development

6. I note that the description of the development on the planning permission includes 'maximum tip height 126.5 metres'. However, I do not consider that the height originally applied for need coincide with a height limit set by condition. That said, the height limit was added (and set in parentheses) by the council when granting the permission. I consider that this new permission would be more clearly defined by omitting that rider. In my opinion, no party would be prejudiced by the change I have made in granting permission.

Reasoning

7. The determining issues in this appeal are the landscape and visual impacts of the proposed turbines and consequently whether the condition limiting the height of the proposed turbines remains necessary. By virtue of section 42(2) of the Planning Act, my assessment of this appeal is limited to the conditions subject to which planning permission should be granted.

Landscape and visual impacts

8. The increased height is proposed to make better use of the wind resource at the site. The appellant's comparative assessment report concludes that this could be achieved with no additional significant environmental impacts. In consideration of the initial application, the council found that the proposed development was acceptable, having regard to the development plan and all material considerations.

9. Since the initial application was approved, the development plan has been changed by the adoption of the Dumfries and Galloway Local Development Plan (LDP), which replaces the former structure plan and local plan. Of specific relevance to this appeal are policies IN1 *Renewable Energy* and IN2 *Wind Energy*. Policy IN1 supports renewable energy developments provided they do not individually or in combination have an unacceptable significant adverse impact on landscape and the amenity of the surrounding area (amongst other things). Part 1 of policy IN2 includes that the landscape and visual impacts and cumulative impacts are considerations in assessment of windfarm proposals. It makes specific reference to the guidance within the Dumfries and Galloway Windfarm Landscape Capacity Study, which itself is appended to LDP supplementary guidance – Part 1 Wind Energy Development; Development Management Considerations. That supplementary guidance provides more detail and guidance, particularly in relation to landscape assessment.

10. The turbines as now proposed would appear from most viewpoints to be of a similar scale to those previously permitted on the site. The arrangement would be the same. Within 5km of the turbines there would be hardly anywhere at all where the turbines would be more visible with the proposed increase than without it. Beyond that distance the change would be barely noticeable in the context of the cumulative views – that is, there are few places where the wind farm would become visible in isolation. In most cases, the change in view would be an additional 1-3 turbines only. This change in impact would be of minimal significance in my view.

11. The additional benefit in terms of the increase in renewable energy is a consideration under policy IN1 of the LDP and adds weight to my considerations. In summary then, I

consider that the development as now proposed would comply with policies IN1 and IN2 of the LDP.

Whether the condition remains necessary

12. Scottish Government Circular 4/1998 on the use of conditions in planning permissions sets six tests for the validity of conditions. There is no dispute that the condition is relevant to planning, relevant to the development permitted, enforceable, precise and reasonable. The issue here is whether it is necessary.

13. The existing condition 10 seeks exact details of the proposed structures, but also restricts the height to that applied for 'for the avoidance of doubt'. The main purpose of the condition is for the planning authority to be able to manage the appearance of the development when the proposal has been further defined. The condition is necessary to manage the impacts of the turbines, but I do not consider it necessary to restrict the height of the turbines when it is clear that the permission relates to and describes turbines of a specific height. In my view the height limit in the condition is unnecessary in the permission as defined. Indeed it need not have been attached in the first place.

14. However, removing that part of the condition would leave the permission with a turbine height limit of 126.5 metres. To achieve the purpose of the appeal (taller turbines) would require a replacement condition specifying a new height limit. I will therefore impose a new condition as proposed.

Other matters

15. The council, the developer and the land owners have signed and registered an agreement under S75 of the Planning Act. It applies where there is a planning permission as set out in a draft attached to the agreement. That draft takes the form of the 2012 planning permission for the site. In this case, my decision creates a new planning permission which would not be in the exact form of the permission in the agreement. I therefore adopt the alternative approach proposed by the appellant, which is to issue this intentions notice. The changes should not involve lengthy negotiations. I will accordingly defer determination of this appeal to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of 12 weeks from the date of this notice, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without the planning obligation.

Dannie Onn

Reporter

Conditions

1. The development hereby granted planning permission shall be implemented in full and strict accordance with the approved plans and the details included within the Environmental Statement unless otherwise agreed in writing by the planning authority or unless otherwise required by conditions attached to this permission.
2. This planning permission shall expire 25 years from the date on which electricity is first generated from the development (the date of commissioning). Thereafter, the wind farm shall be decommissioned unless a further application for planning permission is timeously submitted and approved. The site shall be reinstated within a period of 6 months following decommissioning in accordance with the restoration scheme approved under Condition 5 below.
3. The date of commissioning shall be notified in writing to the Council as Local Planning Authority.
4. No development in respect of this planning permission shall take place unless an Indicative Decommissioning Method Statement for the decommissioning and reinstatement of the road and track edges, the area of temporary construction compound, crane hardstanding areas, areas of trenching, areas around turbine and anemometer mast bases, and other areas that may be disturbed as a result of the construction process, has been submitted to and approved in writing by the Council as planning authority. The scheme shall include the removal of the above-ground elements of the development, the treatment of ground surfaces, the management and timing of the works, environmental management provisions, and traffic management plan to address any traffic impact issues during decommissioning. Not later than 18 months before the end of the permission, any additional details of the Decommissioning Method Statement reserved under the initial approval, or adjustments to those initially approved, shall be submitted to and approved in writing by the local planning authority. Thereafter, the Decommissioning Method Statement shall be implemented as finally approved.
5. No development in respect of this planning permission shall take place unless a scheme for the reinstatement of the borrow pits and associated tracks, together with a detailed method statement for the re-vegetation of the sides and bases of the borrow pits and their associated tracks, have been submitted to and approved in writing by the Council as planning authority. The scheme shall incorporate an accurate scaled plan of the site and shall include a specification of all land reinstatement including any form of planting. The final levels of reinstated borrow pit tracks must match adjacent levels. Thereafter, the agreed reinstatement scheme shall be implemented at the appropriate time to the satisfaction of the Council as planning authority.
6. Should any wind turbine fails to produce an electricity supply to a local grid for a continuous period of 9 months then it will be deemed to have ceased to be required and, unless otherwise agreed in writing by the planning authority, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored in accordance with the agreed scheme under Condition 4, all to the satisfaction of the Council as planning authority.
7. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no symbols, signs, logos or other lettering

(other than those required for health and safety reasons) shall be displayed on the turbines, other buildings or structures within the site without a grant of express advertisement consent from the planning authority.

8. The wind turbine blades on all the turbines hereby granted planning permission shall rotate in the same direction.

9. Prior to the commencement of works on site exact details of the location of the turbines, tracks and cabling shall be submitted to the Council as planning authority, to be approved in writing. These details shall be plotted on an accurate scaled plan of the site. Any variation in location shall not exceed 30 metres in any direction from that shown on the originally approved plans. Any variation of turbines, tracks or associated infrastructure by between 30 and 50 metres shall require the written approval of the planning authority. Variation over 50 metres will require formal planning permission approval. Thereafter, the said turbines, tracks and cabling shall be implemented in exact accordance with these approved details.

10. No development in respect of this planning permission shall take place unless the exact details of the proposed turbines (including size, type, external finish / colour, power rating, sound levels), the wind monitoring masts and all associated apparatus have been submitted to and approved in writing by the Council as planning authority. For the avoidance of doubt, the tip height of the turbines hereby granted planning permission shall not exceed 137 metres in height above ground level. The development hereby granted planning permission shall not be brought into use unless it has been implemented in complete accordance with such details as may be so approved.

11. Details of the external materials to be used for the substation building shall be submitted to and approved in writing by the Local Planning Authority before work on the substation is commenced. The substation building hereby granted planning permission shall not be brought into use unless it has been finished in complete accordance with such details as have been so approved. On decommissioning of the windfarm the substation building shall revert to agricultural use in conjunction with the respective surrounding farm unit.

12. No development in respect of this planning permission shall take place unless a Method Statement (or Method Statements) incorporating a Pollution Prevention Plan has been prepared in consultation with Council staff, Scottish Natural Heritage, Scottish Environment Protection Agency and the Galloway Fisheries Trust. It shall detail all on-site construction, borrow pits, drainage, mitigation, forestry felling, trench and turbine base formation, culvert design, internal track construction including floating road construction where the areas of peat are in excess of one metre deep, access construction and restoration/reinstatement works with the timetable for these works, has been submitted to and approved in writing by the Council as planning authority. The Method Statement(s) shall integrate 'best practice' methods for the Scottish / UK wind farm industry with the mitigation measures identified in the Environmental Statement supporting the application to ensure environmental impacts are reduced. The Method Statement(s) shall, where agreed, include provision for additional site survey and monitoring. Thereafter, the development shall be implemented in complete accordance with the approved Method Statement(s) unless otherwise agreed in writing with the Council as planning authority.

13. No development in respect of this planning permission shall take place unless a timetable for the construction period has been agreed in writing with the Council as planning authority. It shall include a start and finish date, noting that the work shall not extend beyond a period of two years from the date of commencement unless with the express consent of the Council as planning authority.

14. Within 12 months of the wind farm hereby granted planning permission becoming fully operational, the temporary construction compound, laydown area and any temporary power performance mast shall be removed from the site and these uses discontinued, unless otherwise agreed in writing with the Council as planning authority. Any works required for the reinstatement of the land shall be carried out prior to the expiry of the permission, in accordance with a scheme for such reinstatement works which shall be submitted to and approved in writing by the Council as planning authority.

15. At wind speeds not exceeding 12 m/s as measured or calculated at a height of 10m above ground level at the wind farm, the wind farm noise emission level at any dwelling existing at the time of this permission shall comply with the following:

- During night time hours, as defined in ETSU-R-97 as 23.00 to 07.00 on all days, the cumulative wind farm noise emission level shall not exceed 43 dB LA90, 10 min or the ETSU-R-97 derived “night hours” noise limit based on the measured LA90, 10 min background noise level plus 5dB(A), whichever is the greater.
- At all other times, the cumulative wind farm noise emission level shall not exceed 35dB LA90, 10 min or the ETSU-R-97 derived “quiet waking hours” noise limit based on the measured LA90, 10 min background noise level plus 5dB(A), whichever is the greater.
- The above noise emission limits may be increased cumulatively to 45 dB LA90, 10 min or the relevant ETSU-R-97 derived “quiet waking hours” or “night hours” noise limit based on the measured LA90, 10 min noise level plus 5dB(A), whichever is the greater, when measured at any dwelling owned by persons with financial involvement with the wind farm.

(Measured background noise levels referred to in this condition shall be those recorded by the regression lines in Chapter 13 and Appendix 13.8 of the 20-20 Renewables Ltd Environmental Statement for the Airies Wind Farm).

16. At the written request of the Planning Authority, and following a justified complaint to the Planning Authority relating to noise emissions arising from the operation of the wind farm, the wind farm operator shall within 28 days, and at the wind farm operators expense, employ an independent consultant approved by Dumfries and Galloway Council Environmental Standards to measure the level of noise emission from the wind farm at the property to which the complaint relates. The measurement and calculation of noise levels shall be undertaken in accordance with ETSU-R-97 having regard to paragraphs 1 to 3 and 5 to 11 inclusive of the schedule of Pages 95 to 97 inclusive and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109.

17. The wind farm operator shall provide to Dumfries and Galloway Council as Planning Authority the independent consultant’s assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3

months of the date of the written request of Dumfries and Galloway Council unless otherwise extended in writing by Dumfries and Galloway Council as Planning Authority.

18. In relation to the investigation of a suitably justified noise complaint and where Environmental Health deem such action necessary, the wind farm operator shall shut down the turbine(s) involved no later than 24 hours after receipt of the request.

19. In evaluating a complaint relating to one of the dwellings named in Table 1 below, noise imission levels shall where appropriate be compared with the relevant ETSU-R-97 derived “quiet waking hours” or “night hours” noise limits derived from the measured background noise levels contained within the Environmental Statement as prepared by 20-20 Renewables Ltd for the Airies Wind Farm.

Table 1 - Nearest Property Noise Limit Set and Representative Background Location

	Property	Easting/Northing	Background Location	ETSU-R-97 Noise Limit Set
R1	Torwood House Hotel	224473 564041	Gass Farm	Standard
R2	Torwood House Holiday Rentals (2 Dogs Lodge)	224541 564116	Gass Farm	Standard
R3	Torwood Bungalow	224431 563833	Gass Farm	Standard
R4	Bungalow at turnoff to Torwood House (Bungalow)	224360 563755	Gass Farm	Standard
R5	Gass Farm (Bungalow)	224933 564018	Gass Farm	Standard
R6	Scotts Corner (Dwelling)	225032 564045	Gass Farm	Standard
R7	Glenchamber (Dwelling)	223788 563912	Gass Farm	Financially involved
R8	Mark of Loch Ronald Bungalow	226047 564587	Three Lochs Holiday Park	Standard
R9	Mark of Loch Ronald Cottage (Holiday Let)	226096 564489	Three Lochs Holiday Park	Standard
R10	Mark of Loch Ronald (Dwelling)	226094 564467	Three Lochs Holiday Park	Standard
R11	Balminnoch Cottage (Dwelling)	226843 565396	Three Lochs Holiday Park	Standard
R12	Balminnoch Lodge (Dwelling)	226957 565280	Three Lochs Holiday Park	Standard
R13	Fell of Loch Ronald (Dwelling)	227089 564347	Three Lochs Holiday Park	Standard
R14	Three Lochs Holiday Park	227172 565413	Three Lochs Holiday Park	Standard
R15	Low Airies (Dwelling)	226138 566535	Low Airies	Financially Involved
R16	The Old School House (Dwelling)	228703 566385	Kilquhockadale	Standard
R17	1 Old Dirnow School House (Dwelling)	229032 566076	Kilquhockadale	Standard
R18	2 Old Dirnow School House (Dwelling)	229038 566069	Kilquhockadale	Standard
R19	Drumabrennan (Dwelling)	229469 567062	Kilquhockadale	Standard
R20	Barnsladie (Bungalow)	229589 567336	Kilquhockadale	Standard
R21	Kilquhockadale (Dwelling)	229285 567807	Kilquhockadale	Standard
R22	Urral (Dwelling)	229298 569555	Kilquhockadale	Standard

20. In the event of a complaint from any dwelling (existing at the date of this permission) not named in Table 1 the measured wind farm noise emission level shall be compared to the prevailing background noise level at the property in Table 1 which is most likely to experience background noise levels similar to the complainant's property (the appropriate

Table 1 property will be nominated by the developer subject to the agreement of the local planning authority at the time of investigating any complaint).

21. If the tonal noise emitted by the development exceeds the threshold of audibility by 8dB or more, then the noise rating level specified in condition 15 shall be reduced by 5dB, always providing that the definition of audibility for the purposes of this condition shall be described in "The Assessment and Rating of Noise from Windfarms (ETSU-R-97)".
22. Prior to any works being undertaken a method statement for the construction project will require to be submitted for approval by Dumfries & Galloway Council Planning Department. This shall include an assessment of potentially noisy operations and outline the noise mitigation measures proposed. This will also include a programme and phases for each stage of work.
23. The permitted core working hours for construction work, which is audible from the boundary of any noise sensitive receptor, shall only take place between the hours of 08:00 – 18:00 on Monday to Friday inclusive, 09:00 – 13:00 on Saturdays with no working on a Sunday or local or national public holiday. It is expected that site workers would be on site no longer than 30 minutes prior to or after the core hours.
24. Outwith core working hours, development at the site shall be limited to turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment, or construction work that is not audible from any noise sensitive property out with the site. The receipt of any materials or equipment for the construction of the site, by track, other than turbine blades, nacelles and towers, is not allowed out with the said hours, unless otherwise agreed by the planning authorities having been given a minimum of two working days' notice of the occurrence of the proposed event. Deliveries to site excluding abnormal loads) during construction will be limited to 08:00-18:00 Monday to Friday and 09:00-13:00 Saturday.
25. Fixed and mobile plant used within the site during the construction period shall not incorporate bleeping type warning devices that are audible out with the site boundary.
26. The contractors shall use good industry practice and comply with the relevant industry guidance in the selection of the quietest item of suitable plant available for all site operations. The work programme on site will also be phased to reduce the combined impacts arising from several noisy operations.
27. Where practicable, noise from fixed plant and equipment will be contained within suitable acoustic enclosures or behind acoustic screens.
28. The site contractors shall publicise the programme for the commencement and duration of operations, provide details of the project programme; and provide named contacts for daytime and out of hours.
29. The site contractors shall conduct all site operations in accordance with good industry practice. This shall include a complaint investigation procedure.
30. Any plant and equipment required for operation at night (23:00 – 07:00) shall be mains electric powered where practicable. Any night-time lighting rigs, pumps or other equipment shall be powered using mains electricity or suitably silenced and shielded to ensure compliance with WHO night-time noise criteria, assuming open windows.

31. Prior to any works being undertaken a programme of noise monitoring during construction shall be conducted in accordance with a protocol agreed with Dumfries & Galloway Council.

32. A detailed assessment of noise and vibration from borrow pit blasting shall be undertaken and submitted to Dumfries & Galloway Council Planning Department for approval prior to any blasting activities.

33. No work shall commence on site until the developer has provided the Ministry of Defence, Defence Geographic Centre, and NATS with the following detailed information:

- the date of commencement of each phase of construction;
- the date of completion of each phase of construction;
- the height above ground level of the tallest structure;
- the maximum extension height of any construction equipment;
- the position of the masts in latitude and longitude; and
- site lighting if appropriate.

34. As soon as is practically possible following the erection of the turbine towers omni-directional infra-red lighting shall be fitted at the highest practicable point giving an optimised flash pattern of 60 flashes per minute of 200ms duration.

35. The developer shall give two weeks' notice in writing of the commencement of all ground disturbance works in respect of this planning permission to the Council Archaeologist. The developer shall allow access to the development site to the Council Archaeologist, or a nominated representative, at all reasonable times, allow observations and records to be made, and allow any material of archaeological interest to be removed and made subject to the requirements of procedures for Treasure Trove in Scotland.

36. Prior to the commencement of works and notwithstanding condition 1 above, in order to reduce the impact of the development on White Cairn, the siting of turbine no's 12 and 13 shown on the submitted site layout plans shall be agreed with the local planning authority.

37. Before the development is commissioned a Habitat Management Plan (HMP), which shall include appropriate ornithological surveys, shall be submitted to and approved in writing by the Local Planning Authority. The approved HMP shall thereafter be implemented in full unless as may otherwise be agreed in writing with the Local Planning Authority. The HMP shall include the mitigation measures proposed in the Environmental Statement.

38. The development hereby granted planning permission shall not be brought into use unless a turning space in hardstanding has been provided within the application site which enables a heavy goods vehicle to enter and exit the public road in forward gear at all times. Thereafter, the said turning space shall be kept clear from obstruction and shall be retained only for that purpose for the lifetime of the development.

39. Before any development is commenced the layout and visibility of the accesses onto the public road shall be agreed with the Local Planning Authority in consultation with the Roads Authority, and then be implemented, and any gates should open into the site.

40. Before any development is commenced a scheme showing the requisite widening, strengthening and additional passing places on the C22w accessing the site shall be

submitted to and agreed with the Local Planning Authority in consultation with the Roads Authority.

41. Prior to any works commencing on site a Road and Transport Management Plan (RTMP) shall be submitted to the local planning authority and shall include a detailed condition survey of any Council maintained roads forming part of the access route. The plan shall include proposals for maintenance of these routes during construction (including monitoring and proposals for agreeing additional maintenance costs and surveying and making good on completion of construction). The RTMP shall include the requirement for signage and Community Consultation on the proposals.

42. All construction traffic and delivery vehicles shall be instructed to use only the access routes to the site agreed with the Principal Roads Services Officer (Wigtown) as part of the Road and Transport Management Plan.

43. No work shall start on site in implementation of this permission until a fully detailed Road and Transport Management Plan (RTMP) has been submitted to and approved by the Local Planning Authority. The plan shall include proposals for;

- A photographic survey of the C22w and the C3w (between Glenluce and the U165W) to be undertaken prior to commencement and following substantial completion of the development.
- Turbine transport route surveys and traffic management including coordinating other local wind farm developers to make sure that critical transport dates do not coincide
- Routing and managing abnormal loads and construction traffic on and off site including the management of concrete delivery wagons during base pours to ensure that they do not platoon.
- Works for the affected public road network including submission of road construction consent for the reconstruction of the U165w, temporary warning signs, traffic management, passing places and road widening, junction improvements, street furniture, road cleaning and wheel washing facilities all to accord with the Roads (Scotland) Act 1984.
- Maintenance and repair of the public road network where it is subject to extraordinary traffic
- Securing contractor compliance with such provisions as may be approved
- Detailed layout and construction of the turbine, borrow pit and site accesses onto the public road U165w including provision of visibility splays measuring 2.4 metres back along the centre line of the access from the nearer edge of the public road carriageway by 90 metres in both directions at each access.
- Detailed layout of the temporary car parking provided for the construction site offices.
- Detailed layout of the HGV turning provided for turbine locations 3, 7 and 14.

Reasons for the conditions:

1. In order to define the terms of this planning permission.
2. In recognition of the lifespan of the subject development.
3. In order to maintain proper planning control.
4. In order to ensure the satisfactory restoration of the development site.
5. In order to ensure the satisfactory restoration of the development site.
6. In order to ensure the satisfactory restoration of the development site, and
7. in the interest of visual amenity.
8. In the interests of visual amenity.
9. In the interests of visual amenity.
- 10. To manage the detailed appearance of the development**
11. To maintain proper planning control.
12. In the interests of visual amenity.
13. In the interests of environmental protection.
14. To maintain proper planning control.
15. In order to safeguard the visual amenities of the locality.
16. To safeguard residential amenity in the locality.
17. To safeguard residential amenity in the locality.
18. To safeguard residential amenity in the locality.
19. To safeguard residential amenity in the locality.
20. To safeguard residential amenity in the locality.
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30. To safeguard residential amenity in the locality.
31. To safeguard residential amenity in the locality.
32. To safeguard residential amenity in the locality.
33. To safeguard residential amenity in the locality.
34. To safeguard the aviation interests of the locality.
35. To maintain aviation safety.
36. To safeguard and record the cultural heritage of the development site.
37. To reduce the impact of the development on white Cairn and its setting.
38. To safeguard and enhance nature conservation interests.
39. In the interests of highway safety.
40. In the interests of highway safety.
41. In the interests of highway safety.
42. In the interests of highway safety.
43. In the interests of highway safety.
44. In the interests of highway safety.

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).