

Energy and Climate Change Directorate
Energy Division

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21 June 2019

Dear Mr Sage

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF LIMEKILN WIND FARM, LOCATED SOUTH OF REAY IN CAITHNESS WITHIN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL.

Application

I refer to the Application made by Limekiln Wind Ltd, a company incorporated under the Companies Acts with company number 08074755 and having its registered office at 16 West Borough, Wimborne, Dorset, BH21 1NG dated 13 June 2016 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") and deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 for the construction and operation of Limekiln wind farm, situated approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness, Highland, within the administrative area of the Highland Council.

The application (as amended) is for the construction and operation of a wind powered electricity generating station with 21 turbines, 6 of which having a maximum blade tip height of 126m and 15 having a maximum blade tip height of 139m ("the Development"). The installed generating capacity will exceed 50 MW.

This letter contains the Scottish Ministers' decision to grant consent for the development as more particularly described at Annex 1.

Planning Permission

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

be deemed to be granted in respect of that generating station and any ancillary development. **This letter contains the Scottish Ministers' direction that planning permission is deemed to be granted.**

Background

On 13 June 2016 Infinergy Ltd on behalf of Limekiln Wind Ltd ("the Company") submitted an application to construct and operate Limekiln Wind Farm. The application proposed 24 turbines with ground to blade tip height of either 125 metres or 139 metres, and having a total installed capacity of up to 72 MW. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations") an Environmental Statement (ES) describing the Development and giving an analysis of its environmental effects was submitted for the proposed development. Supplementary environmental information was provided in October 2017 outlining the decision to reduce the number of turbines proposed from 24 to 21.

Consultation

In accordance with statutory requirements, advertisement of the Application and Environmental Statement was made in the local and national press and the opportunity given for those wishing to make representations to do so. The 2000 Regulations have subsequently (with effect from 16th May 2017) been replaced by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 Regulations"). The 2017 Regulations now apply to this application subject to certain modifications. These modifications, among other things, provide that where the 2017 Regulations refer to an "EIA report" this includes an "environmental statement" prepared under the 2000 Regulations.

In October 2017, in response to feedback received and in line with a recommendation from the Highland Council's Planning Officer, Infinergy Ltd on behalf of the Company submitted Additional Information in respect of their decision to remove three turbines and their associated access tracks from the proposed Development thereby leaving a total of 21 turbines.

Under paragraph 2(1) of Schedule 8 to the Electricity Act, notice of the Application must be served on the Relevant Planning Authority and notice was served on the Highland Council. Notifications were also sent to Scottish Natural Heritage (SNH), Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES). A wide range of other relevant organisations were also notified and consulted.

In addition to responses from the Planning Authority, SNH, SEPA and HES, representations were received from 294 members of the public; 290 objected to the Development and 4 were in support.

Caithness and Sutherland Peatlands Special Area of Conservation, Caithness and Sutherland Peatlands Special Protection Area and Caithness Lochs Special Area of Protection

SNH advised of the connectivity between the proposed development and the Caithness and Sutherland Peatlands Special Area of Conservation, Caithness and Sutherland Peatlands Special Protection Area and Caithness Lochs Special Area of Protection. Paragraph 207 of Scottish Planning Policy sets out that Sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 network of protected areas. Any development plan or proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an “appropriate assessment” of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an “appropriate assessment” that there will be no adverse effect on the integrity of the site.

An Appropriate Assessment for each area has been carried out. Ministers conclude, following advice from SNH, that the implementation of the conditions attached to this consent will ensure any adverse effects on the integrity of these sites will be avoided.

Consultation responses

A range of consultation responses were received to both the original application and the supplementary information.

No objections were received from the following;

- British Telecom;
- Caithness District Salmon Fishery Board;
- Civil Aviation Authority;
- Highlands and Islands Airport;
- Historic Environment Scotland;
- Joint Radio Company;
- Mountaineering Council for Scotland;
- National Air Traffic Service;
- Scottish Water; and
- The Crown Estate.

The Highland Council as the Planning Authority objected to Limekiln on the grounds that the impact of the development would be significantly detrimental to parts of the landscape of the North Caithness coastline as the proposal introduces tall man made vertical moving structures to a gentle rural landscape. The Council outlined that this can be evidenced within a number of viewpoints set out in the supporting Environmental Statement. In addition the visual impact of the development would be significantly detrimental from many locations, communities and travellers on roads including the A836 and A9(T) roads. They commented that the proposal would result in the loss of amenity close to the village of Reay, in particular for residents and visitors taking recreational access to the mixed use rural landscape to the south of Reay. These three issues making the proposal contrary to the adopted Highland-wide Local Development Plan and Interim Supplementary Guidance: Onshore wind energy. The council also added that the proposal, if approved, would have an unacceptable impact on Wild Land Area 39.

SEPA did not object to the Application subject to the following condition topics being added: construction environment management; pollution prevention; delivery of mitigation set out in the schedule of mitigation; micro-siting (with specific requirements related to the minimisation of peat disturbance and buffers to water courses); peat management; habitat management; forestry residue management; borrow pit management; and design of water course crossings.

SEPA has also commented on the Supplementary Information including the amended 21 turbine scheme. SEPA has no objection to the revised layout if the planning conditions outlined in its previous response are applied.

SNH objected to the application due to the adverse effects on wild land area 39. Conditions are also required to avoid impacts on the integrity of the Caithness and Sutherland Peatlands Special Area of Conservation and Special Protection Area. SNH also advised that there would be likely significant effects on the qualifying features of the Caithness Lochs SPA, but which are unlikely to have a significant effect on the integrity of the site.

In response to the supplementary information provided by the Company in October 2017, SNH maintained its objection to the development. The reduction in turbine numbers does not alter its previous advice, and its position with respect to the wild land area remains unchanged.

HES did not object to this application.

Transport Scotland did not object to the application. Conditions are sought to secure detailed routes and mitigation for abnormal loads using the trunk road and quality assured traffic management.

Transport Scotland commented on the supplementary environmental information submitted by the Company in October 2017. Transport Scotland concluded that the impact of the revised layout would be no worse than the impact of the previous application. There are no further changes which could result in any significant environmental impacts on the trunk road network. Consequently, Transport Scotland has no objection to the development in terms of environmental impacts on the trunk road network. The previous request for conditions is reiterated.

Caithness West Community Council objected to the application. Concerns were raised in regard to the detrimental impacts of the proposed development on the village of Reay and the surrounding area: in particular residential amenity, impact on tourism and the economy, including the effect of the visibility of the scheme from the A836, which is part of the North Coast 500 route. Conditions are sought to secure traffic management, including the provision of footbridges to the east and west of Reay in the interests of pedestrian safety.

The John Muir Trust objected to the application because of its impact on wild land, the cumulative visual impact and impact on the economy.

Reay Area Windfarm Opposition Group (RAWOG) objected to the application as it does not consider there to be any need case, at the UK or Scottish level, for the proposed development; it is contrary to national and local planning policy; the Electricity Act Schedule 9 tests are not met; there would be significant adverse effects on residential amenity; the landscape and visual effects and effects on wild land would be significantly adverse, including cumulative effects.

Royal Society for the Protection of Birds (RSPB) did not object to the application although it raises concerns regarding the potential impact on golden eagles.

RSPB provided further comments on the supplementary information and amended scheme submitted in October 2017. This reiterated its position of no objection and made a number of observations. It is pleased that the Company has chosen to provide further observational data for golden eagle. There are some reservations about the quality of the ornithological assessment but a significant adverse effect on golden eagle is not considered to be likely while the current forestry cover is maintained. The RSPB remains disappointed with the quality of the cumulative impact assessment undertaken by the Company, and reiterates its view that the sum of multiple negligible impacts is not necessarily negligible as suggested by the Company. However, the construction and operation of the proposed wind farm is unlikely to significantly increase the total cumulative impact of wind energy on bird populations in Caithness.

Scottish Forestry (SF) did not object to the application. SF seek conditions to be attached securing compensatory planting and to provide a forest plan, to be agreed before development commences.

Marine Scotland Science (MSS) did not object to the application. It has recommended that: electrofishing surveys are extended to the Sandside Burn; pre-construction surveys include macroinvertebrate sampling; in river workings are avoided between October and May; monitoring of water quality before and during decommissioning is undertaken; impacts of felling on water quality are considered; and a programme of integrated water quality, macroinvertebrate and fish population monitoring is undertaken.

Ministry of Defence - Defence Infrastructure Organisation (MoD) did not object to the application. Conditions are requested in order to secure aviation warning lighting. It also wishes to be notified of the construction start and end dates, the maximum height of construction equipment and the latitude and longitude of each turbine.

Visit Scotland did not object to the proposal. It notes the importance of tourism to Scotland's local and national economy and of the natural landscape for visitors.

Public Local Inquiry (PLI)

The Highland Council, as the relevant planning authority, lodged an objection meaning in terms of para 2(2)(a) of Schedule 8 of the Electricity Act that a Public Local Inquiry was required to be held.

A pre-examination meeting was held on 31 August 2017 to consider the arrangements and procedures for the inquiry. That meeting coincided with the nearby Drum Hollistan wind farm application (WIN-270-9) being passed from the Scottish Government's

Energy Consents Unit to the Planning and Environmental Appeal Division. The decision was therefore taken to hold a single, conjoined inquiry in respect of both applications. This is reflected in our minute of appointment.

In light of the above, a second pre-examination meeting on 18 October 2017, to consider the arrangements and procedures for a conjoined inquiry into both applications.

The inquiry sessions were held between 26 February and 06 March 2018, and the hearing session took place on 06 March 2018. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the Company) being lodged on 06 April 2018.

Unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 30 August 2017, 01 September 2017, 17 and 18 October 2017, 04 March 2018 and 27 and 28 April 2018. Accompanied site inspections took place on 07 March 2018 and 26 and 27 April 2018.

The Report of Inquiry was received by the Scottish Ministers on 16 October 2018.

The Reporters' recommendation to Scottish Ministers is that consent is granted under section 36 of the Electricity Act and that a direction is given that planning permission is deemed to be granted, both subject to conditions.

The Scottish Ministers' Considerations

Environmental matters

The Scottish Ministers are satisfied that the Environmental Statement and Supplementary Information have been produced in accordance with the applicable Regulations, and that the applicable procedures regarding publicity and consultation laid down in the those Regulations have been followed.

The Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

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

SEPA advised the Scottish Ministers that, on the basis of information provided to them about the Development, appropriate authorisations applied for under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 would be capable of being granted.

Duration of planning permission

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5 year time scale for the commencement of development is appropriate.

Main determinative issues

The Scottish Ministers, having taken account of all relevant information agree with the Reporters that the main determining issues are:

- the extent to which the development accords with and is supported by Scottish Government policy and the terms of the development plan;
- the significant effects of the Development on the environment, more particularly described in the Report at the reference provided in footnotes below, which are, in summary:
 - a) the landscape and visual impact of the Development;
 - b) the Development's impact upon the East Halladale Flows wild land area 39;
 - c) the benefits of the Development, including its renewable energy generation, carbon emissions savings and net economic impact; and
 - d) the degree to which it would be in conformity with national planning policy, the local development plan and other relevant guidance.

Public Local Inquiry Report

In each chapter the Reporters summarise the arguments for each party, taking account of the precognitions, hearing statements, the discussion at the Inquiry and hearing sessions and the closing submissions. The Reporters also took into account the environmental information in the Environmental Statement and in the Supplementary Information submitted during Inquiry, the written representations and all of the other information supplied for the Inquiry and hearing sessions.

Chapter 2 of the PLI Report deals with Legislative and Policy Context, Chapter 3 with the landscape and visual impact (including landscape effects, visual effects and cumulative landscape and visual effects), chapter 4 with Impact on wild land, chapter 5 with Economic impacts, tourism and recreation, chapter 6 with Carbon balance and peat management, chapter 7 with Other relevant issues, chapter 8 with Proposed conditions and legal agreement and chapter 9 has the Reporters' conclusions and recommendations.

Scottish Government Policy Context

At paragraphs 9.30 – 9.34 the Reporters set out that national energy policy articulates a clear commitment to renewable energy and makes clear that onshore wind farms continue to be recognised as important contributors to the achievement of targets for renewable energy generation and the reduction of greenhouse gas emissions. They also acknowledge the seriousness of climate change and its potential effects and the seriousness of the need to cut carbon dioxide emissions. They concluded that the proposed Development;

- would provide net economic benefit, and its renewable energy generation and associated savings of carbon dioxide emissions are all significant factors in its favour; and
- the proposal accords with all relevant national planning policy and development plan provisions.

Scottish Ministers, having considered the Reporters' reasoning and conclusions in respect of these aspects of the Inquiry, which are fully detailed in paragraphs 9.30 to paragraph 9.35 of chapter 9 of the PLI Report, agree with these conclusions and are satisfied they can be adopted for the purpose of their own determination.

Local Development Plan

The development plan for the area is the Highland-wide Local Development Plan ("HwLDP").

The relevant policies of the HwLDP are Policy 28 (Sustainable Design), Policy 29 (Design Quality & Decision-Placing), Policy 31 (Developer contributions), Policy 51 (Trees & Development), Policy 55 (Peat and Soil), Policy 56 (Travel), Policy 57 (Natural, Built and Cultural Heritage), Policy 58 (Protected Species), Policy 59 (Other Important Species), Policy 60 (Other Important Habitats), Policy 61 (Landscape), Policy 63 (Water Environment), Policy 67 (Renewable Energy Developments), Policy 72 (Pollution) and Policy 77 (Public Access). Policy 67 was identified as the key relevant policy in the HwLDP and the Reporters concluded that the proposed Development complied with it.

The Reporters' reasoning and conclusion on this aspect of the PLI are summarised at page 11 and 12 and detailed at page 108, page 109 and page 110 of the PLI Report.

Landscape and Visual Impact

In their assessment of landscape and visual impact of the Development the Reporters have taken into account matters including relevant landscape designations, landscape character and cumulative effects. The assessments and the Reporters' conclusions are detailed in chapter 3 of the PLI Report. Scottish Ministers have taken account of the Reporters' overall conclusions on the landscape and visual effects of the proposed Development, set out at paragraphs 3.138 – 3.143 of the Report, and are content to adopt them for the purpose of their own decision.

Wild Land

Chapter 4 of the PLI Report contains the consideration, reasoning and conclusions of the Reporters of the effects the Development will have upon the East Halladale Flows Wild Land Area (the WLA"). Scottish Ministers have taken account of the Reporters' conclusions, summarised at paragraphs 4.129 – 4.133 and are content to adopt them for the purpose of reaching a determination.

Renewable Energy Generation and Associated Policy Benefits

The Reporters conclude the Development would make a positive contribution towards the achievement of challenging national renewable energy targets and a low carbon economy, and saving greenhouse gas emissions. Ministers agree with this conclusion and have taken renewable energy generation and associated policy benefits into account in reaching their determination.

Community Shared Ownership

The Scottish Ministers have considered the information provided by the Company regarding their aspirations to provide a community shared ownership offer and find it is not sufficient to determine the net benefit that this might bring to the economic position of the area. In paragraph 5.33, chapter 5 of the PLI Report the Reporters state that the weight they attach to the Development's proposed shared ownership is tempered because, at the date of the inquiry, whilst local organisations had expressed a desire to progress the shared ownership option, there was no firm commitment from any third parties to invest in the Development.

The Reporters' overall conclusions and recommendation with regard to Limekiln Wind Farm can be found in chapter 9 of the PLI Report.

The Scottish Ministers have considered fully the Reporter's findings with regards to community shared ownership and are of the view that community benefits are not material considerations and accordingly there can be no such conditions attached to the consent. Being unable to take any community benefit into account (on the grounds that it is not a material consideration), does not alter the Scottish Ministers' assessment that the benefits of the development will outweigh its adverse effects.

Unilateral Undertaking

Ministers' note the Reporters' recommendation that the granting of consent and deemed planning permission should be subject to the Company and a landowner registering a unilateral undertaking pursuant to Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of an alternative forestry access route and other proposals detailed within the draft presented at the PLI. Whilst this is acknowledged, Scottish Ministers' do not consider that the proposals presented in this draft agreement are required as essential to the grant of consent for this development and, for this reason Scottish Ministers' have not imposed the requirement for such a unilateral agreement as part of their determination.

The Scottish Ministers' Determination

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

The Scottish Ministers agree with the Reporters recommendation that section 36 consent should be granted for the proposed wind farm at Limekiln, and that a direction deeming planning permission to be granted should be given

Subject to the conditions set out in **Part 1 of Annex 2**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Limekiln Wind Powered electricity generating station in the Highland Council area (as described in **Annex 1**).

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

Duration of Deemed Planning Permission and Section 36 Consent

The consent hereby granted will last for a period of 30 years from the earlier of i) the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or ii) the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5 year time scale for the commencement of the development is appropriate. A direction by Scottish Ministers under section 58(2) of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise notice of this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated. It should also note how a copy of this decision letter may be inspected on the application website.

Copies of this letter have been sent to the public bodies consulted on the Application including the Planning Authority (The Highland Council), SNH, SEPA and HES. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions,

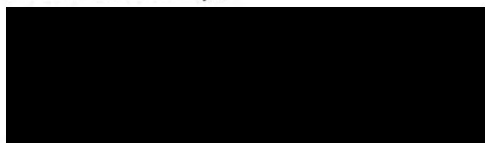
including how the Scottish Ministers exercise their statutory function to determine applications for consent.

The rules relating to the judicial review process can be found on the website of the Scottish Courts:

<http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=8>

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

Yours sincerely,

A large black rectangular box redacting the signature of William Black.

William Black
Head of Energy Consents
A member of the staff of the Scottish Ministers

Description of the Development

The Limekiln Wind Farm with a generating capacity **exceeding 50 MW**, comprising a 21 turbine wind-powered electricity generating station, located on land approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness in the Highland Council planning area.

All as more particularly shown on plan reference **Figure 1** appended to this decision letter and all as specified in the application submitted by Limekiln Wind Ltd, incorporated under the Companies Acts (Registered Number 08074755) and having its registered office at 16 West Borough, Wimborne, Dorset, BH21 1NG and supporting environmental information, which comprises the Environmental Statement dated 13 June 2016.

The principal components and ancillary development comprise;

- 21 wind turbines, 15 with a maximum blade tip height of 139 metres; and 6 with a maximum blade tip height of 126 metres high to blade tip;
- turbine foundations and associated crane hardstandings;
- an onsite network of underground cables;
- a series of onsite access tracks;
- an onsite substation (if required) and control/ maintenance building;
- 2 borrow pits;
- a new vehicular access from the A836 at the Bridge of Isauld;
- temporary works including a construction compound; and
- a permanent anemometer mast.

Conditions attached to Section 36 Consent

The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

1. Duration of the Consent

The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of both the Date of First Commissioning and the Date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after those dates.

Reason: To define the duration of the consent.

2. Commencement of Development

- (1) The Commencement of the Development shall be no later than five years from the date of this consent, or such other period as the Scottish Ministers may hereafter direct in writing.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

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

3. Non-assignment

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

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

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 24 hours of the incident occurring.

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

Conditions attached to Deemed Planning Permission

5. Approved Details

The Development shall be undertaken in accordance with the Application and Environmental Statement submitted on 13 June 2016 as amended by the Supplementary Information submitted in October 2017, except in so far as amended by the terms of this consent.

Reason: *To ensure that the Development is carried out in accordance with the application documentation.*

6. Redundant Turbines

In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then unless otherwise agreed in writing with the Planning Authority, after consultation with the Scottish Ministers and SNH, such wind turbine will be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment will be dismantled and removed from the site by the Partnership within the following 6 month period, and the ground reinstated to the specification and satisfaction of the Planning Authority after consultation with the Scottish Ministers and SNH.

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

7. Failure of Development to Generate Electricity

In the event of the Development, not generating electricity on a commercial basis to the grid network for a continuous period of 12 months from 50% or more turbines installed and commissioned from time to time, the Company must immediately notify the Planning Authority in writing of that situation and shall, if the Planning Authority, in consultation with the Scottish Ministers, direct decommission the Development and reinstate the site to the specification and satisfaction of the Planning Authority. The Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall take the decision on decommissioning following discussions with the Scottish Ministers and other such parties as the Planning Authority consider appropriate.

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

8. Design and Operation of Wind Turbines

- (1) No development shall commence unless and until full details of the proposed wind turbines hereby permitted, including each turbine number and specific height of that turbines (as stated in Figure 1.1 of the Supplementary Information dated September 2017), have been submitted to and approved in writing by the Planning Authority. These details shall include:

- a) the make, model, design, direction of rotation (all wind turbine blades shall rotate in the same direction), power rating, sound power level and dimensions of the turbines to be installed, and
 - b) the external colour and/or finish of the wind turbines to be used (including towers, nacelles and blades) which shall be non-reflective, pale grey semi-matte.
- (2) No wind turbines shall have any text, sign or logo shall be displayed on any external surface of the wind turbines, save those required by law under other legislation.
- (3) Thereafter, the wind turbines shall be installed and operate in accordance with these approved details and, with reference to part (b) above, the wind turbines shall be maintained in the approved colour, free from rust, staining or discolouration until such time as the wind farm is decommissioned.
- (4) All cables between the turbines and between the turbines and the control building on site shall be installed and kept underground.

Reason: *To ensure the Planning Authority is aware of the wind turbine details and to protect the visual amenity of the area.*

9. Signage

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

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

10. Design of Sub-station, Ancillary Buildings and other Ancillary Development

- (1) No development shall commence on the sub-station unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.
- (2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under paragraph (1).

Reason: *To safeguard the visual amenity of the area.*

11. Site Decommissioning, Restoration and Aftercare

- (1) The Development will be decommissioned and will cease to generate electricity by no later than the date thirty years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.
- (2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority (in consultation with SNH and SEPA). The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.
- (3) Not later than 2 years before decommissioning of the Development or the expiration of this consent (whichever is the earlier), a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):
 - a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - c) a dust management plan;
 - d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - f) details of measures for soil storage and management;
 - g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - h) details of measures for sewage disposal and treatment;
 - i) temporary site illumination;
 - j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
 - k) details of watercourse crossings; and

- l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan.

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

12. Supply of energy to the National Grid

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

- a) any one or more (up to eleven) of the wind turbine generators hereby permitted cease to export electricity to the grid for a continuous period of 6 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning Authority for its written approval within 3 months from the end of that 6 month period for the repair or removal of those turbines. The scheme shall include either a programme of remedial works where repairs to the relevant turbine(s) are required, or a programme for removal of the relevant turbine(s) and associated above ground works approved under this permission and the removal of the turbine foundations to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine(s). The scheme shall thereafter be implemented in accordance with the approved details and timetable;
- b) twelve or more of the wind turbine generators hereby permitted cease to export electricity to the grid for a continuous period of 12 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning Authority for its written approval within 3 months of the end of that 12 month period for either the repair of those turbines, including a programme of remedial works, or decommissioning of the development in accordance with Condition 11. The approved scheme shall then be implemented in accordance with the programme contained therein.

Reason: *To ensure appropriate provision is made for turbine(s) requiring repair or for turbine(s) which require decommissioning.*

13. Financial Guarantee

- (1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 11 is submitted to the Planning Authority.
- (2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 11.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 11.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

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

14. Micro-siting

- (1) The wind turbines hereby permitted shall be erected at the following grid coordinates:

Turbine	Easting	Northing
22	98458	61951
23	98785	61581
25	96988	61338
26	97552	61453
27	98118	61260
30	99161	61256
31	97093	60848
32	97731	60965
33	98265	60800
35	98659	61115
36	99273	60738
42	97270	60386
43	97751	60475
44	98367	60322
51	98779	60595
54	97607	60006

55	98078	59956
56	98809	60117
57	99328	60196
60	98510	59713
61	99015	59669

(2) Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority in consultation with ECoW, micro-siting is subject to the following restrictions:

- a) subject to sub-paragraphs (b) and (c) below, the wind turbines and other infrastructure hereby permitted may be micro-sited within 50 metres save that:
- b) wind turbines numbered 25, 31 and 42 may be micro-sited within 25 metres; and,
- c) no wind turbine or other infrastructure may be micro-sited to less than 50 metres from surface water features.

(3) A plan showing the final position of all wind turbines buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority within one month of the completion of the Development works. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Environmental Clerk of Works ("ECoW") or Planning Authority's approval, as applicable.

Reason: To enable necessary minor adjustments to the position of the wind turbines and other infrastructure to allow for site-specific conditions while maintaining control of environmental impacts and taking account of local ground conditions.

15. Borrow Pits – Scheme of Works

(1) No development shall commence unless and until a scheme for the working and restoration of each borrow pit has been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA). The scheme shall include:

- a) detailed working method statement based on site survey information and ground investigations;
- b) details of the handling of any overburden (including peat, soil and rock);
- c) drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out;
- d) a programme of implementation of the works described in the scheme; and
- e) details of the reinstatement, restoration and aftercare of the borrow pit(s) to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of

topographical surveys to be undertaken of the restored borrow pit profiles.

(2) The approved scheme shall be implemented in full.

Reason: *To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and to secure the restoration of borrow pits at the end of the construction period.*

16. Borrow Pits - Blasting

Blasting shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

17. Ecological Clerk of Works

(1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by the Planning Authority (in consultation with SNH and SEPA). The terms of appointment shall:

- a) Impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016 and Supplementary Information dated September 2017 lodged in support of the application and the Construction Environmental Management Plan, Peat Management Plan, Habitat Management Plan, Species Protection Plan, Bird Protection Plan, Water Quality Management Plan and other plans approved in terms of the conditions of this permission ("the ECoW Works");
- b) Advise on microsites proposals issued pursuant to Condition 14;
- c) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the construction project manager; and
- d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity

(2) The ECoW shall be appointed on the approved terms during the establishment of the Habitat Management Plan and throughout the period from Commencement of Development to completion of post construction restoration works".

- (3) No later than eighteen months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted for the written approval of the Planning Authority.
- (4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

18. Construction Method Statement

No development shall commence unless and until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMS, subject to any variations approved in writing by the Planning Authority.

The CMS shall include:

- a) details of the phasing of construction works;
- b) the formation of temporary construction compounds, access tracks and any areas of hardstanding;
- c) details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- d) the maintenance of visibility splays on the entrance to the site;
- e) the method of construction of the crane pads and turbine foundations;
- f) the method of working cable trenches;
- g) the method of construction and erection of the wind turbines;
- h) a dust management plan;
- i) pollution prevention and control statement: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
- j) details of water crossings;
- k) temporary site illumination during the construction period;
- l) details of the proposed storage of materials and soils and disposal of surplus materials;
- m) details of timing of works;
- n) details of surface treatments and the construction of all hard surfaces and access tracks between turbines and between turbines and other infrastructure;
- o) details of routeing of onsite cabling;
- p) details of emergency procedures and pollution response plans;
- q) siting and details of wheel washing facilities;

- r) cleaning of site entrances, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the road;
- s) details and a timetable for post construction restoration/reinstatement of the temporary working areas, and the construction compound;
- t) working practices for protecting nearby residential dwellings, including general measures to control noise and vibration arising from on-site activities, shall be adopted as set out in British Standard 5228 Part 1: 2009;
- u) location of fencing to be erected around Milton Township and the associated rig and furrow;
- v) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
- w) details of the excavation, use and subsequent restoration of the approved borrow pits;
- x) a Site Waste Management Plan to include details of measures to be taken during the construction period to minimise the disturbance of soil and peat;
- y) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances); and
- z) details of watercourse crossings.

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

19. Construction Environmental Management Plan

No development shall commence unless and until a Construction Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority.

The CEMP shall include:

- a) a peat management plan including peat slide hazard and risk assessment and emergency plans for peat slide;
- b) a species protection plan;
- c) a bird protection plan; and
- d) a water quality management plan.

The Development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority.

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

20. Hours of Construction

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 0700 to 1900 on Monday to Friday inclusive and 0700 to 1300 on Saturdays, with no construction work taking place on a Sunday or on a Public Holiday. Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection and delivery, maintenance, emergency works, dust suppression, and the testing of plant and equipment.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

21. Traffic Management Plan

No development shall commence unless and until a Traffic Management Plan ("TMP") has been submitted to and approved in writing by the Planning Authority. The approved TMP shall be carried out as approved in accordance with the timetable specified within the approved TMP. The TMP shall include proposals for:

- a) the routing of construction traffic and traffic management including details of the capacity of existing bridges and structures along the abnormal load delivery route and a risk assessment;
- b) scheduling and timing of movements;
- c) the management of junctions to and crossings of the public highway and other public rights of way;
- d) any identified works to accommodate abnormal loads (including the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site) along the delivery route including any temporary warning signs;
- e) temporary removal and replacement of highway infrastructure/street furniture;
- f) details of all signage and lining arrangements to be put in place and the reinstatement of any signs, verges or other items displaced by construction traffic;
- g) banksman/escort details;
- h) a procedure for monitoring road conditions and applying remedial measures where required as well as reinstatement measures; and
- i) a timetable for implementation of the measures detailed in the TMP.
- j) Provisions for emergency vehicle access; and
- k) Identification of a nominated person to whom any road safety issues can be referred.

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

22. Floating Access Tracks

Floating roads shall be installed in areas where peat depths are in excess of 1 metre. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority. The floating road shall then be implemented as approved.

Reason: *To ensure peat is not unnecessarily disturbed or destroyed.*

23. Deer Fence Management Plan

No development shall commence unless and until a Deer Fence Management Plan ("DFMP") has been submitted to and approved in writing by the Planning Authority in consultation with SNH. The DFMP shall include the mitigation measures described within paragraph 11.10.12 of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016. Thereafter the DFMP shall be implemented as approved.

Reason: *To protect ecological interests.*

24. Habitat Management Plan

- (1) No development shall commence unless and until a Habitat Management Plan ("HMP"), which will include the mitigation measures described within Appendix 11.L of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016, has been submitted to, and approved in writing by the Planning Authority in consultation with SNH, and SEPA.
- (2) The HMP shall set out proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat on site.
- (3) The HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan shall be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted for the written approval of the Planning Authority in consultation with SNH and SEPA.
- (4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full.

Reason: *In the interests of good land management and the protection of habitats.*

25. Species Specific Surveys

No development shall commence unless and until surveys have been carried out at an appropriate time of year for the species concerned, by a suitably qualified person, comprising:

- a) otter surveys at watercourses and adjacent suitable habitats and within a 250m radius of each wind turbine and associated infrastructure;
- b) water vole surveys at watercourses and adjacent suitable habitats up to 200m upstream and downstream of watercourse crossings;
- c) pine marten surveys at suitable habitats prior to tree felling, vegetation removal and dismantling of log and rubble piles;
- d) bat surveys between May and September to include surveys at all structures within 30m of proposed works;
- e) breeding bird surveys, particularly for breeding waders and raptors, of any land upon which construction takes place, plus an appropriate buffer as agreed with the ECoW to identify any species within disturbance distance of construction activity (only required if construction work is carried out during the bird breeding season from 15 March to 31 August inclusive); and
- f) electrofishing surveys at Sandside Burn and Achvarasdal Burn.

The survey results and any mitigation measures required for these species on site shall be set out in a species mitigation and management plan, which shall inform construction activities. No development shall commence unless and until the plan is submitted to and approved in writing by the Planning Authority and the approved plan shall then be implemented in full.

Reason: *In the interests of nature conservation.*

26. Forestry

No development shall commence unless and until the Forestry Residue Management Plan contained in Chapter 16 of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016 shall be implemented as agreed. Thereafter, the Forestry Residue Management Plan shall be implemented as approved.

Reason: *In the interests of nature conservation.*

27. Replanting of Forestry

- (1) No development shall commence unless and until a Compensatory Planting Plan ("CPP") has been submitted to and approved in writing by the Planning Authority in consultation with the Scottish Forestry. The CPP shall provide for the planting of woodland commensurate with the level of woodland lost, to be carried out across an area in the vicinity of the application site, and shall set out a timetable for implementation. Thereafter the CPP shall be implemented as approved.

(2) The CPP must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the CPP for approval. The CPP must include-

- a) details of the location of the area to be planted;
- b) details of land owners and occupiers of the land to be planted;
- c) the nature, design and specification of the proposed woodland to be planted;
- d) details of all consents required for delivery of the CPP and timescales within which each will be obtained;
- e) the phasing and associated timescales for implementing the CPP;
- f) proposals for the maintenance and establishment of the CPP, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the CPP.

Reason: *To enable appropriate woodland removal to proceed, without incurring a net loss in woodland related public benefit, in accordance with the Scottish Government's policy on the Control of Woodland Removal.*

28. Forestry Felling

No development shall commence unless and until a scheme has been submitted to and approved in writing by the Planning Authority which describes proposals for the felling of trees to enable the construction and operation of the Development, and for the mitigation of the visual effects of tree removal, together with a timetable for all works. The scheme shall be implemented as approved.

Reason: *To enable attention to be given to issues of the structural diversity of the woodland and to manage the relationship with adjacent coupes already planned for felling.*

29. Access

No development shall commence unless and until an Access Management Plan ("AMP") has been submitted to and agreed in writing by the Planning Authority. The AMP should ensure that public access is retained in the vicinity of Limekiln Wind Farm during construction, and thereafter that suitable public access is provided during the operational phase of the wind farm. The plan as agreed shall be implemented in full.

Reason: *In the interests of securing public access rights.*

30. Archaeology

No development shall commence unless and until the Company has secured the full implementation of a programme of archaeological work in accordance

with a Written Scheme of Investigation ("WSI") which has been submitted to and approved in writing by the Planning Authority. This written scheme shall include the following components:

- a) an archaeological evaluation to be undertaken in accordance with the agreed WSI; and
- b) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed WSI.

Reason: *To protect and/or record features of archaeological importance on this site.*

31. Peat

No development shall commence unless and until the Company has appointed an independent and suitable qualified geotechnical engineer as a Geotechnical Clerk of Works ("GCoW"), the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority. The terms of the appointment shall impose a duty to monitor compliance with the Peat Management Plan referred to at condition 19(a).

Reason: *To ensure a satisfactory level of environmental protection.*

32. Air safety

- (1) No turbine shall be erected until a scheme for aviation lighting for the wind farm consisting of Ministry of Defence accredited infra-red aviation lighting has been submitted to and approved in writing by the Planning Authority in consultation with the MoD. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission.

Reason: *In the interests of aviation safety.*

- (2) No development shall commence unless and until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and National Air Traffic Services ("NATS") with the following information, and has provided evidence to the Planning Authority of having done so:

- a) the date of the expected commencement of each stage of construction;
- b) the height above ground level of the tallest structure forming part of the Development;
- c) the maximum extension height of any construction equipment; and
- d) the position of the wind turbines and masts in latitude and longitude.

Reason: *In the interests of aviation safety.*

33. Private Water Supply

- (1) No development shall commence unless and until a private water supply method statement and monitoring plan in respect of private water supplies has been submitted to, and approved in writing by, the Planning Authority.
- (2) The detail of the private water supply method statement must detail all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of the section 36 Consent and which may be affected by the Development.
- (3) The private water supply method statement shall include water quality sampling methods and shall specify abstraction points.
- (4) The approved private water supply method statement and monitoring plan shall be implemented in full.
- (5) Monitoring results obtained as described in the private water supply method statement shall be submitted to the Planning Authority on a quarterly basis or on request during the approved programme of monitoring.

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

34. Hydrology

No development shall commence unless and until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Third Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the Date of First Commissioning.

Reason: *To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.*

35. Noise

The rating level of noise immissions from the combined effects of the wind turbines (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, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- a) The Company shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The Company shall provide this information in the format set out in Guidance Note 1(e)

to the Planning Authority on its request, within 14 days of receipt in writing of such a request.

- b) No electricity shall be exported until the Company has submitted to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.
- e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.
- f) 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 for compliance measurements to be made under paragraph (c), 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.

- g) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Planning Authority.

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

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Achins	35	35	35	35	35	35	35	35	35	35
Reay	35	35	35	35	35	35	35	35	35	35
Borlum House	35	35	35	35	35	35	35	35	35	35
Milton	35	35	35	35	35	35	35	35	35	35
Loanscorribest	35	35	35	35	35	35	35	35	35	35
Achunabust	35	35	35	35	35	35	35	35	35	35
Water Plant Houses	35	35	35	35	35	35	35	35	35	35
Rathlin	35	35	35	35	35	35	35	35	35	35
Shebster	35	35	35	35	35	35	35	35	35	35

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

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Achins	38	38	38	38	38	38	38	38	38	38
Reay	38	38	38	38	38	38	38	38	38	38
Borlum House	38	38	38	38	38	38	38	38	38	38
Milton	38	38	38	38	38	38	38	38	38	38
Loanscorribest	38	38	38	38	38	38	38	38	38	38
Achunabust	38	38	38	38	38	38	38	38	38	38
Water Plant Houses	38	38	38	38	38	38	38	38	38	38
Rathlin	38	38	38	38	38	38	38	38	38	38
Shebster	38	38	38	38	38	38	38	38	38	38

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

Property	Easting	Northing
Achins	295877	964090
Reay	296167	964440
Borlum House	297199	964065
Milton	297861	964470
Loanscoribest	298508	964010
Achunabust	299559	964415
Water Plant Houses	300551	964205
Rathlin	301008	964000
Shebster	301405	963875

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

Guidance Notes for Noise Conditions

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

Guidance Note 1

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

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

commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

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

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

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

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

Guidance Note 2

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

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

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

Guidance Note 3

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

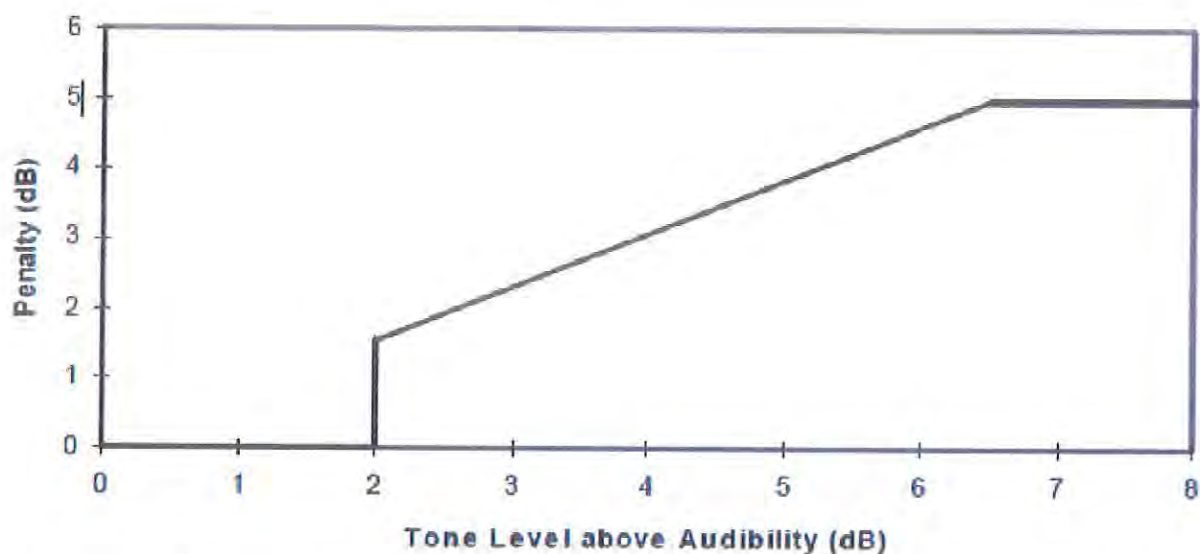
(b) For each 10 minute interval for which LA90, 10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that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

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

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

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

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



Guidance Note 4

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

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

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

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

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (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:

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

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

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

Definitions

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

"the Company" means Limekiln Wind Ltd, a company incorporated under the Companies Acts with company number 08074755 and having its registered office at Infinergy Limited, 16 West Borough, Wimborne, Dorset, BH21 1NG or such other person as from time to time has the benefit of the consent granted under section 36 of The Electricity Act 1989.

"Construction Period" means the period from the Commencement of Development until the approved site compounds areas have been reinstated in accordance with the conditions of this consent;

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

"EIA Report" means the Environmental Impact Assessment Report submitted by the Company on 13 June 2016.

"the Development" means the Development and/or site described in Annex 1.

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

"Final Commissioning" means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.

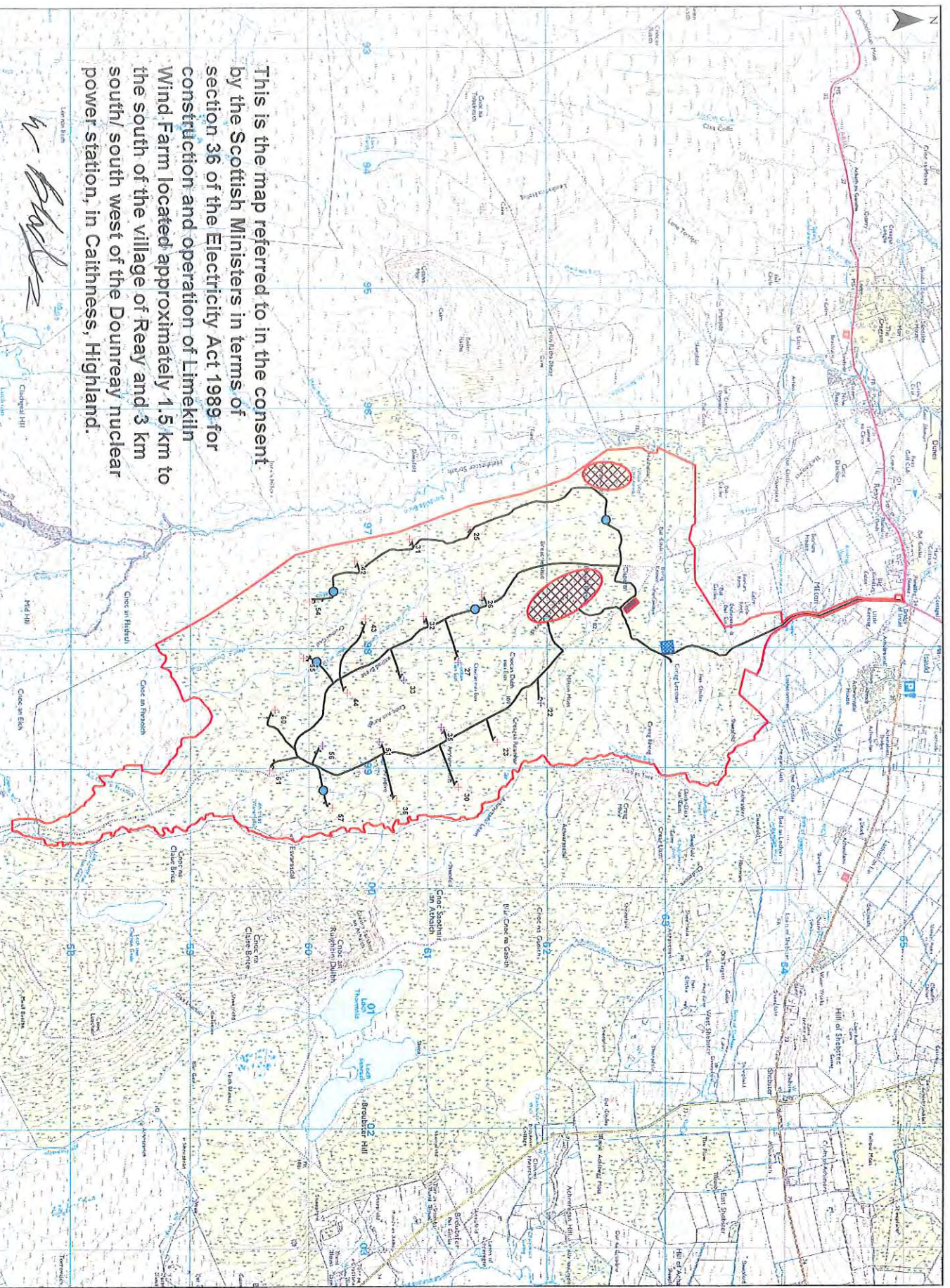
"Planning Authority" means The Highland Council

"Public Holiday" means;

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.
- Good Friday.
- Easter Monday.
- The first Monday in May.
- The fourth Monday in May.
- The first Monday in August.
- The third Friday and fourth Monday in September (subject to change according to published East Ayrshire school holidays).
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.
- Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.

- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.

Figure 1



This is the map referred to in the consent by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for construction and operation of Limekiln Wind Farm located approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness, Highland.

W. B. B. B.

- Legend:**
- Site Boundary
 - Revised Layout Turbine Location (128m)
 - Revised Layout Turbine Location (139m)
 - Access Tracks
 - Watercourse crossings
 - Crane Pad Hardstanding
 - Construction Compound
 - Control Building
 - Borrow Pit Search Area

Title:		Revised Site layout
Project:		Limekiln Wind Farm SI
Source:		© Crown copyright and database rights 2017 Ordnance Survey 0100031573
Client:		Infinergy
Drawn by:	Checked:	
Dogst	HughG	
Date:	Figure:	
29/08/2017	1.1	
Scale:	Revision No:	
0 125 250 300m	1	

INFINERGY

