



HEADS OF PLANNING SCOTLAND ENERGY AND RESOURCES SUB-COMMITTEE

Applications under Section 36 of the Electricity Act 1989
Model Conditions



ENERGY AND RESOURCES SUB-COMMITTEE

Applications under Section 36 of the Electricity Act 1989 Model Conditions

S36 Standard Conditions Working Group:

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PURPOSE OF THE WORKING GROUP

The Working Group had the aim of producing standard (or model) conditions for use in respect of applications submitted to the Scottish Ministers under Section 36 of the Electricity Act 1989 (principally wind energy developments). Whilst the conditions of deemed planning permissions are issued by the Scottish Government Local Energy and Consents on behalf of the Scottish Ministers, consultees (including planning authorities) are requested to provide a list of suggested conditions as part of their consultation response. In order to assist the consultees in this exercise, and in order to ensure consistency across Scotland, it has long been recognised that a set of standard conditions would be beneficial. However, no party had previously taken on the responsibility for producing a document which would be adopted beyond their own remit.

The working group effectively consolidated work already produced by the Scottish Government and the DPEA and undertook consultation with statutory consultees and incorporated their comments in order to produce a suite of conditions which could be used with confidence by all parties in the process.

There are two obvious caveats. Firstly, as advised in Circular 4/1998, standard conditions should not be “applied slavishly or unthinkingly” and “such conditions should not be applied simply as a matter of routine. Conditions should be used to achieve a specific end, not to cover every eventuality”. They should be regarded as a template only and can and should be amended to meet the specific requirements in each case.

Secondly, this exercise should be regarded as a first step and not as a definitive document which is set in stone. It will be a perpetual ‘work in progress’ and the HoPS Energy & Resources Sub-Committee has undertaken to review it on an annual basis and publish updated versions as appropriate.

This list of specimen conditions has been prepared for use by the ECDU, to assist consistency of decision making. However, this list is not comprehensive. Not all conditions will be appropriate in every case. Conditions should always be revised or adapted where appropriate to suit the particular circumstances of a case.

The consent granted in accordance with Section 36 of the Electricity Act 1989 and direction that planning permission be deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 are subject to the following conditions:

Conditions Attached to Section 36 Consent

1. Duration of the Consent¹

The consent is for a period of 25 years from the date of Final Commissioning.

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

Reason: To define the duration of the consent.

2. Commencement of Development

The Commencement of the Development shall be no later than [three years]² from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. 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: In accordance with s58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

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

¹ The 25 year duration of the consent runs from the period of Final Commissioning of the development. A longstop date is provided in the definition of Final Commissioning to prevent the 25 years from being artificially extended by a protracted construction period. The requirement to notify of the date of First Commissioning is solely to allow the date of Final Commissioning to be calculated. The suggested 18 months should be adjusted to reflect the circumstances of the particular case. The deemed date of Final Commissioning is intended solely to define the duration of the consent – not to prevent implementation of the development in full if delivered in phases.

² This period may be increased where a longer period for implementation is justified in the circumstances of the case.

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 assignation 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.

5. **Aviation Radar³**

There shall be no Commencement of Development unless the Company has submitted a radar mitigation scheme setting out measures to be taken to minimise any impairment by the Development upon the performance of [aerodrome navigation aids and/ or the efficiency of air traffic control services] at XXXXXXXX to the Scottish Ministers for written approval in consultation with XXXXXXXX and the radar mitigation scheme has been so approved.

No wind turbine forming part of the Development shall be erected unless the approved radar mitigation scheme has been implemented in full.

The Development shall thereafter be operated fully in accordance with the approved radar mitigation scheme.

Reason: To secure mitigation of impacts on the XXXXX [aerodrome navigations systems and or radar station].

Conditions Attached to Deemed Planning Permission

6. **Implementation in accordance with approved plans and requirements of this consent**

Except as otherwise required by the terms of this consent and deemed planning

³ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications. This condition should be imposed only where Scottish Ministers are satisfied that there are reasonable prospects of a solution being delivered.

permission, the Development shall be undertaken in accordance with the application ([including the approved drawings listed at Appendix 1 to this decision/ insert drawing reference showing site layout]), environmental statement (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.

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

7. Design and operation of turbines

There shall be no Commencement of Development unless full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height shall not exceed XXXX metres above ground level. The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

All wind turbine blades shall rotate in the same direction.

None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority

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

8. Design of sub-station and ancillary development

There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

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

9. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference XXX. 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 SEPA and SNH [and Historic Scotland]⁴), micro-siting is subject to the following restrictions:

- a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on plan reference XXX;
- b. No wind turbine, building, mast or hardstanding shall be moved more than XXm from the position shown on the original approved plans;
- c. No access track shall be moved more than XXm from the position shown on the original approved plans;
- d. No micro-siting shall take place within areas of peat of greater depth than the original location;
- e. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- f. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW) [and Archaeological Clerk of Works (ACoW)]⁵.

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

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

10. Borrow Pits – Scheme of Works⁶

There shall be no Commencement of Development unless a site specific scheme for the working and restoration of [the/ each] borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include;

- a. A detailed working method statement based on site survey information and ground investigations;
- b. Details of the handling of any overburden (including peat, soil and rock);
- c. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial

⁴ Include reference to Historic Scotland in cases where SAMS or other archaeological features identified on site.

⁵ Include reference to ACoW in cases where SAMS or other archaeological features identified on site and requirement to appoint imposed in terms of condition 19.

⁶ Consider whether this can be subsumed within the CEMP condition – SEPA preference to include within CEMP, but take advice from planning authority on preferred approach.

- Ecosystems (GWDTE) from drying out;
- d. A programme of implementation of the works described in the scheme; and
 - e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

The approved scheme shall thereafter be implemented in full.

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

11. Borrow Pits – Blasting

Blasting shall only take place on the site between the hours of [10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays], with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the planning authority.

Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

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

12. Planning Monitoring Officer⁷

There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the Planning Authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent (“PMO”). The terms of appointment shall;

- a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;
- b. Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- c. Require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: To enable the development to be suitably monitored to ensure compliance with the consent issued.

13. **Ecological Clerk of Works**

There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall;

- a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan, the Habitat Management Plan approved in accordance with condition 17, [any species or habitat management plans identified in the Environmental Statement] and other plans approved in terms of condition 14 (“the ECoW works”);
- b. Require the ECoW to report to the Company’s nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- c. Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- d. Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 14t.

No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with SNH and SEPA. 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.

14. **Construction and Environmental Management Plan**

There shall be no Commencement of Development unless a Construction and 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 in consultation with SNH and SEPA.

The CEMP shall include (but shall not be limited to)⁸:

- a. a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
- e. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- f. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- g. soil storage and management;
- h. a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- i. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- j. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the construction of the access into the site and the creation and maintenance of associated visibility splays;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines and meteorological masts;
- r. details of watercourse crossings;
- s. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- t. a wetland ecosystems survey and mitigation plan⁹
- u. a felling and tree management plan¹⁰

⁸ Select from the following list those requirements which are relevant to the circumstances of the application.

⁹ This requirement should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications

¹⁰ This requirement should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

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

15. Construction Hours

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.

HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to for from site taking place on a Sunday or on national public holidays.

Reason: In the interests of local amenity.

16. Traffic Management Plan

There shall be no Commencement of Development unless a traffic management plan has been submitted to and approved in writing by the Planning Authority. The traffic management plan shall include:

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

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

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

17. **Habitat Management Plan**¹¹

There shall be no Commencement of Development unless a habitat management plan has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The habitat management plan shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, restoration and aftercare of the site, and shall provide for the maintenance, monitoring and reporting of [insert site specific details or particular species, habitats or wetlands as appropriate] habitat on site.

The approved habitat management plan will 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 will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with SNH and SEPA.

Unless otherwise agreed in advance in writing with the Planning Authority, the approved habitat management plan shall be implemented in full.

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

18. **Deer Management Statement**¹²

There shall be no Commencement of Development unless a deer management statement has been submitted to and approved in writing by the Planning Authority in consultation with SNH. The deer management statement shall set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of Development until the date of completion of restoration.

The approved deer management statement shall thereafter be implemented in full.

Reason: In the interests of good land management and the management of deer.

19. **Programme of Archaeological Works**¹³

There shall be no Commencement of Development unless the Planning Authority has approved the terms of a programme of archaeological works to be observed during construction of the Development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved. The approved scheme of archaeological works shall thereafter be implemented in full.

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

¹¹ Include only where relevant in response to demonstrable requirement.

¹² Include only where relevant in response to demonstrable requirement.

¹³ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

site.

OR

Archaeological Clerk of Works¹⁴

There shall be no Commencement of Development unless the Planning Authority has approved the terms of appointment by the Company of an independent Archaeological Clerk of Works (AcoW) in consultation with Historic Scotland. The scope of the AcoW's appointment shall include:

- a. Monitoring compliance with the archaeological mitigation works that have been approved in this consent;
- b. Advising the Company on adequate protection of archaeological interests on the site;
- c. Checking for new records of archaeological interests for which additional mitigation may be required;
- d. Directing the micro-siting and placement of turbines and tracks;
- e. Monitoring the compliance with mitigation, reinstatement and restoration measures approved in this consent; and
- f. Reporting any breaches of the mitigation, reinstatement and restoration measures approved in this consent to the Planning Authority in writing.

The AcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 14.

No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ACoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with Historic Scotland. The ACoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

20. Replanting of Forestry¹⁵

There shall be no Commencement of the Development unless a woodland planting scheme to compensate for the removal of [insert area which corresponds to woodland to be removed¹⁶] hectares of existing woodland ("the Replanting

¹⁴ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

¹⁵ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

¹⁶ This figure should reflect the area to be felled as a consequence of the development. The total area of replanting may differ, depending upon nature and quality of area felled/ replanted etc in accordance with Control of Woodland Removal policy.

Scheme”) has been submitted for the written approval of the Planning Authority in consultation with Forestry Commission Scotland Conservator.

The Replanting Scheme 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 Replanting Scheme for approval. The Replanting Scheme 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 Replanting Scheme and timescales within which each will be obtained;
- (e) the phasing and associated timescales for implementing the Replanting Scheme;
- (f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- (g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained, then the Company shall submit an amended Replanting Scheme to the Planning Authority for approval in consultation with Forestry Commission Scotland. Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Forestry Commission Scotland Conservator.

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

21. Peat Landslide Management¹⁷

¹⁷ To be imposed only in response to demonstrable requirement following peat risk assessment – not to be applied in all cases. Peat landslide risk should be assessed as part of the EIA process to ascertain whether the environmental risk is acceptable, prior to consent being granted. This condition

There shall be no Commencement of the Development until a detailed peat landslide risk assessment, addressing construction phase of the development and post-construction monitoring, has been approved in writing by the Planning Authority.

The peat landslide risk assessment shall comply with best practice contained in “Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments” published by the Scottish Government in January 2007, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval. The peat landslide risk assessment shall include a scaled plan and details of any mitigation measures to be put in place.

The approved peat landslide risk assessment shall thereafter be undertaken in full prior to Commencement of Development.]¹⁸

Prior to Commencement of Development, the Company shall appoint and pay for an independent and suitably qualified geotechnical engineer acceptable to the Planning Authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority.

The Company shall undertake continuous monitoring of ground conditions during the construction and deforestation phases of the Development. Continuous analysis and call out services shall be provided by the geotechnical engineer throughout the construction phase of the Development. If a risk of peat failure is identified, the Company shall install such geotechnical instrumentation to monitor ground conditions as is recommended by the geotechnical engineer and shall monitor ground conditions. Any remediation work considered necessary by the geotechnical engineer shall be implemented by the Company to the satisfaction of the geotechnical engineer. Monitoring results shall be fed into risk analysis reports to be submitted to the planning authority on a quarterly basis during the construction and deforestation phases of the Development.

Reason: To minimise the risk of peat failure arising from the Development.

22. Noise

The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

- a. The Company shall continuously log power production, wind speed and wind

should be used to control any acceptable risks which have been identified and should not be used to postpone the assessment of acceptability until post-grant.

¹⁸ This section will only be relevant in circumstances where updated landslide assessment is required prior to commencement of development.

direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so.

- b. There shall be no First Commissioning of the Development until the Company has received written approval from the Planning Authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- c. 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. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- 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(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph 17c, and such others as the independent consultant considers likely to result in a breach of the noise limits.
- e. Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise immissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.
- f. The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the Planning Authority. Certificates of calibration of the instrumentation used to undertake the measurements 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, 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 standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (including coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods												
	1	2	3	4	5	6	7	8	9	10	11	12	

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

Location (including coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods												
	1	2	3	4	5	6	7	8	9	10	11	12	

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

23. Shadow Flicker¹⁹

There shall be no Commencement of Development until a scheme for the avoidance or mitigation of any shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters of any turbine forming part of the Development and which lawfully exist or for which planning permission has been granted at the date of this consent has been submitted to and approved in writing by

¹⁹ To be imposed only in cases where there are properties within the 10 rotor diameter distance from the nearest turbine and impacts have been assessed as capable of mitigation to an extent that impacts are acceptable. This condition should not be imposed as a precaution where acceptability of impacts has not been assessed and demonstrated.

the Planning Authority. The approved mitigation scheme shall thereafter be implemented in full.

Reason: To offset impacts of shadow flicker on residential and commercial property amenity.

24. Television Reception²⁰

There shall be no Commencement of Development unless a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any turbine forming part of the Development, the results of which shall be submitted to the Planning Authority.

The approved Television Reception Mitigation Plan shall thereafter be implemented in full.

Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the Company and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

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

25. Private Water Supplies²¹

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

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

26. Redundant turbines

²⁰ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

²¹ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall; (i) by no later than the date of expiration of the 12 month period, submit a scheme to the Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and (ii) implement the approved scheme within six months of the date of its approval, all to the satisfaction of the Planning Authority.

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

27. Aviation Safety²²

There shall be no Commencement of Development until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so;

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

Reason: In the interests of aviation safety.

28. Aviation Lighting²³

Prior to the erection of the first wind turbine, the Company shall submit a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

No turbines shall be erected on site until the scheme has been approved in writing. The Development shall thereafter be operated fully in accordance with the approved scheme.

Reason: In the interests of aviation safety.

29. Site Decommissioning, Restoration and Aftercare

The Development will be decommissioned and will cease to generate electricity by

²² This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

²³ This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

no later than the date falling twenty five 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.

There shall be no Commencement of Development unless 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, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to 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 to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. 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. 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. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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

30. Financial Guarantee²⁴

There shall be no Commencement of Development unless the Company has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 29 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 29. The value of the financial guarantee shall be reviewed 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 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

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 26 of the Town and Country Planning (Scotland) Act 1997.
Date of First Commissioning	Means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.
Date of Final Commissioning	Means the earlier of (i) the date on which 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.
Development	Means [insert description of development as it appears on application] authorised by this consent and deemed planning permission.