

Galawhistle Wind Farm Ltd,
c/o Shahid Ali,
Jones Lang LaSalle,
150 St Vincent Street,
Glasgow,
G2 5ND

26 May 2015

Dear Mr Ali,

APPLICATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE CONSENT (AND ASSOCIATED DEEMED PLANNING PERMISSION) GRANTED UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 ON 8 AUGUST 2012 TO CONSTRUCT AND OPERATE GALAWHISTLE WIND FARM, LOCATED APPROXIMATELY 7KM EAST OF MUIRKIRK IN EAST AYRSHIRE AND 4KM WEST OF DOUGLAS IN SOUTH LANARKSHIRE

I refer to the variation application made by Jones Lang LaSalle (on 23 September 2014), on behalf of Galawhistle Wind Farm Ltd, for:

- a) variation under section 36C of the Electricity Act 1989 to the consent granted under section 36 of the Electricity Act 1989 on 8 August 2012 for construction and operation of the Galawhistle Wind Farm electricity generating station approximately 7km east of Muirkirk in East Ayrshire and 4km west of Douglas in South Lanarkshire ("the relevant section 36 consent") and
- b) a direction under section 57(2ZA) of the Town and Country Planning (Scotland) Act 1997 to vary the direction given by the Scottish Ministers under section 57(2) of that Act on 8 August 2012 ("the section 57(2) direction").

This letter contains the Scottish Ministers' decision to grant the application and to vary the relevant section 36 consent and section 57(2) direction.

Nature of the Variation Sought

The variations proposed in the application were to amend the relevant section 36 consent and section 57(2) direction as necessary to:-

- a) To formalise use of a 45m blade length within the consented wind turbine blade tip height limits.
- b) To amend the overall maximum capacity of the site from 55MW to 66MW.
- c) To amend the locations of 2 electrical substations and associated infrastructure, and to provide an additional construction compound.

- d) To remove the construction compound and laydown area located on Spireslack colliery as part of the Consented Development.
- e) To amend wind farm access track layouts, chiefly to replace tracks to wind turbines which previously ran through Spireslack colliery as part of the Consented Development.
- f) To realign borrow pits 2 and 3 to accommodate revised track layout, and to include working areas next to all consented borrow pits.

Environmental Impacts

The Scottish Ministers are satisfied that environmental information, including the Environmental Statement, has been produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 and that the applicable procedures regarding publicity and consultation laid down in those Regulations have been followed.

Having consulted with relevant consultees, Scottish Ministers have considered the environmental information and assessed the environmental impacts of the Development as amended by the proposed variation. Ministers consider that the proposed variations to the consented development will not result in significant environmental impacts that were not previously assessed.

Consultation

The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 set out that an applicant must publish the application on a website, serve a copy of the variation application on the planning authority and advertise by public notices in specified publications as set out in regulation 4 of the 2013 Regulations. These requirements have been met.

The Scottish Government Energy Consents and Deployment Unit (ECDU) consulted a wide range of relevant organisations on the application and Supporting Document including South Lanarkshire Council, East Ayrshire Council, SNH and SEPA.

There were no objections to this proposal from the organisations consulted however the following comments were made:-

South Lanarkshire Council

South Lanarkshire Council considered from consultation responses, representation and assessment of the supporting information and appendices, that there are no material or significant changes to the development as previously consented by Scottish Ministers, subject to amendment to the existing conditions and addition of a new condition.

The Council had no objection to the variations subject to the imposition or variation of conditions in relation to:

- the Construction Method Statement to illustrate compliance with the Council's Sustainable Drainage Systems (SuDs) design criteria guidance and inclusive sign off by the relevant parties carrying out the elements of work;

- the carrying out of a water level and quality monitoring programme will be undertaken prior to any construction, during construction and decommissioning;
- the submission of a fish and macroinvertebrate monitoring plan to the Planning Authorities and Marine Scotland Science setting out the steps that shall be taken to monitor the environmental effects of the development, during the construction phase, operational phase and decommissioning phase.

SLC also commented that, following assessment, the noise associated with the proposed increased blade length could continue to accord with the lowest limit already set by conditions. They also considered that there would be no significant or material change to the impacts in terms of landscape and visual receptors than those previously identified in the original proposal.

East Ayrshire Council

Concluded that the application is acceptable and will not detract visually from the surrounding area or represent any significant visual or landscape impacts from the consented development. The Council considered that there will be no significant impacts upon surrounding properties as a result of the proposed development but a condition should be imposed relating to the interests of air safety.

Historic Scotland – were content that the proposed variations will not have any additional significant environmental impacts on heritage assets within their remit as compared to the consented wind farm.

Forestry Commission Scotland (FCS) - FCS offered their opinion on the Woodland Creation that is proposed within the Habitat Management Plan (HMP) as a mitigation measure to achieve Objective 2: Enhancing habitats for key bird, mammal and fish species.

The plan is proposing to plant 15 ha of woodland in 2015-2016 in an area adjacent to Monks Water and above Glenbuck Farm. That woodland will comprise of 60% OG to allow the scheme to blend in with the surrounding landscape. Whenever possible, existing mature trees will be incorporated into the scheme. The mixture of species will consist of species found in NVC W1 and W4 communities. The trees will be protected with tree shelters and those located out with a 20m buffer zone around water features will be fertilized.

FCS assessed the planting proposals against the United Kingdom Forestry Standards. FCS evaluated the measures that were proposed in relation to the landscape issues, overall design, species selection, fertilizing and monitoring methods. From what is detailed in the HMP and in the Environmental Statement (ES) FCS considered that a suitable method has been selected.

Ministry of Defence (MOD) - no objection to the proposal.

NATS - NATS anticipates no impact and is satisfied that the mitigation currently deployed for Galawhistle is appropriate. As such NATS has no objection to the proposed S36 consent variation.

Halcrow - considered that the variations do not affect their previous findings regarding hydrology, hydrogeology and soils; no further work has been undertaken regarding peat stability. Halcrow confirm that the changes outlined in this variation do not affect their findings on the peat landslide risk assessment previously undertaken in 2010 and their conclusions and recommendations made therein will still remain valid.

Scottish Natural Heritage – are of the view that the proposed amendments will not materially alter the conclusions of the original Appropriate Assessment. They have no objection to the proposed amendments on the grounds of their impact on the Muirkirk and North Lowther Uplands SPA. SNH are also content that the proposed variations will not affect the qualifying interests of Muirkirk Uplands SSSI or North Lowther Uplands SSSI. With regards to protected species, SNH are content that the existing planning conditions will ensure that no offences are committed under protected species legislation. However, they recommend that the agreed Otter Protection Plan is revised to take account of the amended proposal and updated survey results.

SNH recommend that the Construction Method Statement, Habitat Management Plan, Environmental Management Plan, Otter Protection Plan, Peat Management Statement and Water Quality Monitoring Plan be updated to reflect the amended scheme. In particular, the Habitat Management Plan should be revised to ensure that it adequately addresses the impacts of the amended scheme on Valued Ecological Receptors including wet modified bog and wet and dry heath.

SNH do not consider that the changes to the proportions of the turbines will significantly alter the landscape and visual impacts of the development.

SEPA - have no objection to this Section 36 variation.

Transport Scotland – Trunk Road and Bus Operations (TS-TRBO) – have no comments to make on the site access itself and confirm they are satisfied that the traffic generated by the development will not give rise to any significant environmental impacts on the trunk road network. They do however consider that conditions should be added to the consent in relation to the movement of abnormal loads.

The Crown Estate – confirmed that their interests are not affected by this proposal and confirmed that they have no further comments to make.

Marine Scotland – commented that the proposed changes may have a potential impact on fish populations and fisheries. With the exception of effects on flood risk, the Ecology and Hydrology, Hydrogeology and Geology reports concluded there are no differences in the likely significant effects on ecological receptors and the environment for the proposed development, when compared with the consented development. An additional water-crossing is proposed on the Galawhistle Burn. Bridges are the preferred choice of design in stream crossings, furthermore all crossings should ensure unlimited fish movement and no risk to flooding, and the latter is particularly important as the proposed crossing on the Galawhistle Burn is within a zone of potential flood risk. MSS wish to be consulted on the water quality monitoring plan which forms part of the condition of consent. Fish and macroinvertebrate surveys throughout construction, operation and decommissioning were also recommended by MSS. Such monitoring/surveys serve to ensure protection of

water bodies, as stated in The Water Framework Directive and protection for salmonid populations within and downstream of the development area.

Civil Aviation Authority - confirmed that the proposed variations to the Galawhistle Wind Farm are unlikely to have a negative implication for aviation stakeholders.

Glasgow Prestwick Airport – raised no objection.

Public Representations

Scottish Ministers and South Lanarkshire Council received one public representation letter of objection from a resident approximately 3km from the wind farm. Concerns related mainly to visual impacts and noise from the larger turbines.

Two representation letters of objection were received by East Ayrshire Council citing reasons such as: overcapacity of windfarms in this area; contravenes planning guidance; direct effect on tourism; spoils natural beauty of countryside; lack of community engagement and no details of community benefit.

The Scottish Ministers' Determination

The Scottish Ministers have considered the application documentation and all relevant responses from consultees. They have also considered the third party representations received. Having consented the Galawhistle Wind Farm on 8 August 2012 and set out their reasons for doing so in the decision letter associated with that consent; and being satisfied that the variations proposed in the application do not fundamentally alter the character, scale or environmental impacts of the proposed development, the Scottish Ministers are supportive of the proposed variation of that consent on the basis that such a variation will facilitate progress in developing the proposal.

The Scottish Ministers consider that amendments to the existing conditions, and addition of two new conditions, associated with the original section 36 consent will be required for the proposed development. The variation proposal describes the requirement for an additional water course crossing at Galawhistle Burn. To address this, the Construction Method Statement should include details of compliance with South Lanarkshire Council's Sustainable Systems design criteria (condition 3 amended). In addition to this, a new condition should be added to ensure appropriate monitoring of fish and macroinvertebrate is undertaken (condition 44). A water level and quality monitoring programme will also be required to be undertaken prior to any construction, during construction and decommissioning (condition 22 amended). Lastly, in order to ensure aviation safety, evidence and information regarding construction dates, heights of construction equipment and exact turbine locations must be provided (condition 45).

Accordingly, subject to the conditions set out in Annex 2, Scottish Ministers **hereby vary the section 36 consent and direct that the section 57(2) direction is varied as set out in the table below.**

Annex or Condition	Amendment
In Annex 1	<p>(a) for “55MW” substitute “66MW”;</p> <p>(b) in paragraph (iv) for “20km” substitute “17km”;</p> <p>(c) after “Environmental Statement” insert “(17 March 2010) and the Supporting Statement (23 September 2014). In the event of any incompatibility between the terms of the Application and the Environmental Statement and the terms of the Supporting Statement, the Supporting Statement prevails.”</p>
In Annex 2, Part 1	<p>a) in condition 2 for “the date of this consent” substitute “8 August 2012”.</p>
In Annex 2, Part 2	<p>a) in condition 1—</p> <p>(i) after “Environmental Statement” insert “(17 March 2010) and the Supporting Statement (23 September 2014)”; and</p> <p>(ii) At the end insert— “In the event of any incompatibility between the terms of the Application and the Environmental Statement and the terms of the Supporting Statement, the Supporting Statement prevails.”</p> <p>(iii) in the Reason, substitute “Environmental Statement” with “application documentation”;</p> <p>b) in condition 3 after paragraph (j) insert “(k) Details of compliance with South Lanarkshire Council's Sustainable Drainage Systems (SuDs) design criteria guidance. A coloured plan showing the sustainable drainage apparatus serving the application site together with the contact name and emergency telephone number of the party responsible for its future maintenance. Details of the future maintenance regime in accordance with the latest Construction Design and Management (CDM) Regulations is to be provided on this drawing.”</p> <p>c) in condition 7 for “Figure 1.2 of the Environmental Statement” substitute “Figure 1a of the Supporting Statement (23 September 2014);</p> <p>d) in condition 14 after “take effect” insert “This Plan is to be implemented as approved”;</p> <p>e) in condition 22, substitute full text with “The Company shall ensure that all practicable measures are taken to ensure that the effect on private water supplies are minimised. A water level and</p>

quality monitoring programme will be undertaken prior to any construction, during construction and decommissioning. This shall include visual inspections of water features and periodic ad-hoc sampling and analysis of surface water, groundwater and private supplies, (e.g. turbidity and pH) so measures can be taken if needed. This water level and quality monitoring programme is to be submitted to and approved in writing by the Planning Authorities, in consultation with SEPA and Marine Scotland Science”;

f) After condition 43 insert—

“44. A fish and macroinvertebrate monitoring plan shall be submitted to the Planning Authorities and Marine Scotland Science setting out the steps that shall be taken to monitor the environmental effects of the development, during the construction phase, operational phase and decommissioning phase. The methodology of such monitoring including locations frequency, gathering of information on background levels, etc shall be submitted to the Planning Authorities in consultation with Marine Scotland Science for approval prior to the commencement of works on site. Thereafter, the plan shall be implemented to the satisfaction of the Planning Authorities in consultation with Marine Scotland Science and the results of such monitoring shall be submitted to the Planning Authorities and Marine Scotland Science on a 6 monthly basis, or on request.

Reason: To ensure protection of water bodies as stated in The Water Framework Directive and protection for salmonid populations within and downstream of the development area.

45. There shall be no Commencement of Development until the Company has provided the Planning Authorities and the Defence Infrastructure Organisation Safeguarding, with the following information and has provided evidence to the Planning Authority of having done so:-

- a) the date that the construction work will start and end;
- b) the maximum height of all construction equipment;
- c) the latitude and longitude of every turbine.

REASON: In the interests of aviation safety.”

Definitions

a) for the definition of “the Company” substitute—

“the Company” means Galawhistle Wind Farm Limited, a company having its registered office at First Floor, 500 Pavilion Drive, Northampton Business Park, Northampton, NN4 7YJ (registered company number 07715284) or such other person that from time to time has the benefit of the consent to construct and operate the Development granted under section 36 of the Electricity Act 1989.”

- b) in the definition of "Site", for "Figure 2" substitute "Figure 1a of the Supporting Statement";
- c) after the definition of "Site" insert "Supporting Statement" means the Supporting Statement submitted by the Company on 23 September 2014 in connection with the application to vary this consent made on that date".

Annex 3

Insert "Annex 3 : Figure 1a - Site Map"

For illustrative purposes a consolidated version of the section 36 consent and section 57(2) direction as varied (with variations shown in tracked changes for ease of reference), is provided at Annex 1.

Copies of this letter have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents and Deployment Unit website.

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



FRANCES PACITTI
Head of Energy Consents
For and on behalf of the Scottish Ministers
A member of the staff of the Scottish Government

cc. Ms Ruth Findlay - South Lanarkshire Council
Ms Jane Little - East Ayrshire Council
Mr Toby Taylor - Galawhistle Wind Farm Limited

Annex 1A

COPY OF THE ORIGINAL DECISION LETTER ISSUED ON 8 AUGUST 2012

Energy and Climate Change Directorate
Energy Division

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Keith Hobbs
Head of Estates
Infinis Plc
Suite 15, Merlin House
Mossland Road, Hillington Park
GLASGOW
G52 4XZ

8 August 2012

Dear Mr Hobbs

CONSENT AND DEEMED PLANNING PERMISSION BY THE SCOTTISH MINISTERS TO CONSTRUCT AND OPERATE THE GALAWHISTLE WIND FARM ELECTRICITY GENERATING STATION , EAST AYRSHIRE AND SOUTH LANARKSHIRE

Application

I refer to the Application made by Infinis Plc, ("The Company") dated 17 March 2010 for:

- (i) consent under section 36 of the Electricity Act 1989 ("The Electricity Act") for construction and operation of Galawhistle Wind Farm electricity generating station west of Douglas in South Lanarkshire and East of Muirkirk in East Ayrshire, with a generation capacity of up to 55 MW
- (ii) a direction under section 57 (2) of the Town and Country Planning (Scotland) Act 1997 ("the planning act") that planning permission be deemed to be granted in respect of that generating station and any ancillary developments (as described in Annex 1).

Consultation

In accordance with statutory requirements, advertisements of the Application had to be placed in the local and national press. Ministers note that these requirements have been met. Under Schedule 8 of the Electricity Act, the relevant planning authority is required to be notified in respect of a Section 36 consent application.

Notifications were sent to East Ayrshire Council and South Lanarkshire Council as the Planning Authorities, as well as to Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA).

East Ayrshire Council and South Lanarkshire Council (statutory consultees and the relevant “Planning Authorities”) did not object to the proposal, subject to a detailed scheme of conditions being put in place prior to Commencement of the Development, therefore a Public Local Inquiry (PLI) is not a requirement.

The Scottish Ministers have considered fully and carefully the Application and accompanying documents and all relevant responses from consultees and third party representations received. A total of two public representations were received, both of which were objections to the Application. The objections raised concerns regarding the potential visual impact, impact on natural and cultural heritage, and cumulative noise impact. The Scottish Ministers are satisfied that all issues can either be appropriately addressed by way of mitigation or, where residual impacts remain that these are within acceptable levels and are outweighed by the benefits the development would bring.

Scottish Environment Protection Agency (SEPA) (a statutory consultee), initially objected to the proposal as there was insufficient information to assess the potential impact on the groundwater environment. Following the submission of additional information, SEPA lifted their objection. They have recommended conditions relating to a waste management plan and a water level and quality monitoring programme.

SEPA advise that proposals such as watercourse crossings and abstractions will require authorisation from them. Without prejudice to the determination of any corresponding application(s) under the “Water Environment (Controlled Activities)(Scotland) Regulations 2011” (CAR), SEPA stated that the proposal would be expected to fall into Category 1 - “capable” of being consented.

Scottish Natural Heritage (SNH) (a statutory consultee) initially objected to the proposal as there was insufficient information to assess the potential impact on the qualifying interests of:

The Muirkirk and North Lowther Uplands SPA;
The Muirkirk Uplands SSSI, and;
The North Lowther Uplands SSSI.

Following the submission of additional information, SNH were content that the proposal would not adversely affect the integrity of the designated sites, subject to a planning condition, and an appropriate assessment being undertaken for the Muirkirk and North Lowther Uplands SPA. The assessment (Annex E) concluded that, subject to a condition on a Habitat Management Plan being implemented, the impacts of the proposal would not adversely affect the integrity of the Site.

RSPB Scotland stated that they do not object, as the proposal would not have a significant impact on bird populations of conservation importance within the site, or have an adverse effect on the integrity of the Muirkirk and North Lowther Uplands SPA. They have recommended planning conditions to mitigate against habitat impacts and minor impacts on priority bird species.

Forestry Commission Scotland (FCS) stated that the proposals will have little or no effect on woodland within the site boundary or adjacent, so have no comment on the proposal.

Civil Aviation Authority (CAA) The Civil Aviation Authority (CAA) had no site-specific observations but emphasised the importance of consulting NATS and the Ministry of Defence due to the proximity to the aviation safeguarding mechanisms at Lowther Hill.

NATS initially objected to the proposal as they believed it would cause adverse impact on the Lowther Hill radar and associated air traffic operations. This objection was lifted following the agreement of planning conditions to implement a mitigation scheme to blank the radar coverage from Lowther Hill and infill coverage from a further primary surveillance radar.

Glasgow Prestwick Airport had no objection to the proposed development, but wished to be part of discussions to help NATS remove their objection.

Defence Estates has no objections to the scheme but have recommended requests that the turbines are fitted with aviation lighting. The MoD also asked to be informed of the following information if consent is granted:

- the date construction starts and ends;
- the maximum height of construction equipment; and
- the latitude and longitude of every turbine.

Marine Scotland Science-Freshwater Laboratory's (MSS-FL) did not object but included some recommendations with regard to the monitoring methodology.

Association of Salmon Fishery Boards (ASFB) advised that the Company should consult with the Ayr DSFB, Ayrshire Rivers Trust and Clyde River Foundation. Ayrshire Rivers Trust stated that that any impact from the proposal would be peripheral.

Transport Scotland advised that there will be a minimal increase in traffic on the trunk road and concluded that the proposed development is not likely to have a significant impact on the operation of the trunk road network.

Historic Scotland confirmed that the proposal does not raise any significant issues, and there are no scheduled monuments, listed buildings or gardens or designed landscapes within the Site.

Douglas Community Council objected to the proposal, as it was feared that the movement of the abnormal loads would cause disruption to the community, in particular the provision of emergency services.

The Crown Estate advised that none of their current interests are affected by the proposed wind farm.

Ayrshire Rivers Trust and **Mountaineering Council of Scotland** were consulted but did not have any comments to make.

Planning

The legislation requires that the Commencement of the Development should begin within a 3 year time scale. Scottish Government policy, however, is that due to the constraints, scale and complexity of constructing Wind Power Developments above 50MW, that a 5 year time scale for the Commencement of the Development is granted. A direction by Scottish Ministers under section 58 of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

Environmental matters

An Environmental Statement has been produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations").

The 2000 Regulations prohibit the Scottish Ministers from granting consent unless they have taken into consideration the environmental information, as defined in those regulations and unless the applicable procedures regarding publicity and consultation laid down in those regulations have been followed..

Schedule 9 of the Act places a duty on the Company to have regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. It requires the Company to do what it reasonably can to mitigate the effects that the Development would have on these features. Schedule 9 also requires that Scottish Ministers have regard to these features and the extent to which the Company has complied with this duty.

The Scottish Ministers are satisfied that the Company has had due regard to these features and have complied with the duty in Schedule 9. The Scottish Ministers have also considered the environmental information carefully; in addition to the Environmental Statement they have considered the submissions prepared by the Planning Authority, those designated as statutory consultees in terms of Regulation 6 of the Electricity (Applications for Consent) Regulations 1990 and those of the consultative bodies in terms of the 2000 Regulations. They have also considered representations made by other persons about the likely environmental effects of the proposed Development.

The Scottish Ministers Considerations

The Scottish Ministers have considered fully and carefully the Application, appropriate assessment, accompanying documents and all relevant responses from consultees and third party representations received.

The 55 MW Development, approximately 7 kilometres east of Muirkirk in East Ayrshire and 4 kilometres west of Douglas in the South Lanarkshire will provide sufficient power for approximately 31,311 homes. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the

promotion of renewable energy and its target to meet the equivalent of 100% of demand for Scotland's electricity to be met from renewable sources by 2020.

Scottish Ministers aim to achieve a thriving renewables industry in Scotland. The focus being to enhance Scotland's manufacturing capacity, to develop new indigenous industries, particularly in rural areas, and to provide significant export opportunities. Scottish Ministers have considered material details of how this proposal can contribute to local or national economic development priorities as stated in Scottish Planning Policy (SPP).

Ministers have also considered the objections raised within the two public representations received, including the concerns over the proposal's effect on potential visual impact, impact on natural and cultural heritage, and cumulative noise impact. Ministers are of the view that these issues will be addressed where appropriate by way of mitigation, and that any residual impacts are acceptable and outweighed by the benefits the Development will bring.

The Scottish Ministers' Determination

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for construction and operation of the Galawhistle wind farm, west of Douglas in South Lanarkshire and East of Muirkirk in East Ayrshire (as described in Annex 1).

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

The Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission because of the constraints of constructing a generating station with a capacity of over 50MW within 3 years and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction if there has not been Commencement of the Development within that period.

The Scottish Ministers direct that within 2 months of the date of this consent (and within 2 months of the Final Commissioning of the Development if there has been any variation on the original approved plan), the Company shall provide to Scottish Ministers a detailed plan showing the site boundary and all turbines, anemometer masts, access tracks and infrastructure in a format compatible with the Scottish Government's Spatial Data Management Environment (SDME), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shapefile format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by the Scottish Government), all metadata should be provided in this format.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended), the Company must publicise 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.

In reaching their decision, the Scottish Ministers have taken into account the environmental information submitted with the Application, including the Environmental Statement, the representations made by statutory consultative bodies and others, in accordance with the Electricity Works (Environmental Impact Assessment)(Scotland) Regulations 2000; the Application; appropriate assessment, further representations received, including all objections, in the context of the expert advice provided by statutory consultees, and Government energy and climate change policy.

As the relevant Planning Authorities have not objected to the Application, the Scottish Ministers have considered all material considerations and have concluded that there is no need to conduct a public inquiry before reaching their decision. In reaching their decision they have had regard to all relevant considerations and, subject to the conditions of this consent and deemed planning permission, are satisfied that it is appropriate for the Company to construct and operate the generating station in the manner set out in the Application. The Scottish Ministers also note that the Development is consistent with Government policy on the promotion of renewable energy.

Copies of this letter and the consent have been sent to both Planning Authorities. This letter has also been published on the Scottish Government Energy Consents and Deployment Unit website.

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/session/rules/print/rules/CHAP58.pdf> . Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely

SIMON COOTE

Head of Energy Consents and Deployment Unit
A member of the staff of the Scottish Ministers

Annex 1

DESCRIPTION OF THE DEVELOPMENT

The Development shall have a maximum capacity of 5566 MW and shall comprise a wind-powered electricity generating station west of Douglas in South Lanarkshire and East of Muirkirk in East Ayrshire, including:

I. Not more than 22 turbines, each with a total height to blade tip of up to 122m;

ii. Crane hardstandings

iii. One permanent anemometer mast;

IV. Access track of 20-17 km approximately;

v. Transformers and electrical cabling;

vi. Four onsite borrow pits;

VII. Temporary construction compound and laydown area;

VIII. Substation and control building.

All as specified in the Application and Environmental Statement (17 March 2010) and the Supporting Statement (23 September 2014). In the event of any incompatibility between the terms of the Application and the Environmental Statement and the terms of the Supporting Statement, the Supporting Statement prevails. References in this consent and deemed planning permission to "the Development" shall be construed accordingly.

Annex 2

CONDITIONS

Part 1

Conditions of Section 36 Consent

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

1. This consent is for a period from the date of this consent until the date occurring 25 years after the Final Commissioning of the Development. Written confirmation of the date of the Final Commissioning of the Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that event.

Reason: To define the duration of the consent

2. The Commencement of the Development shall be no later than 5 years from ~~the date of this consent~~ 8 August 2012, or such other period as the Scottish Ministers may hereafter direct. If Commencement of the Development does not occur by the end of such period, then by no later than the date occurring 6 months after the end of the period, the Site and the ground shall be fully reinstated by the Company to the specification and satisfaction of the Scottish Ministers, following consultation with the Planning Authorities.

Reason: To ensure the commencement of the Development is undertaken within five years

3. 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 Scottish Ministers, after consultation with the Relevant Planning Authority and Scottish Natural Heritage, such wind turbine shall be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment shall be dismantled and removed from the Site by the Company within the following 6 month period, and the ground fully reinstated to the specification and satisfaction of the Scottish Ministers after consultation with the Relevant Planning Authority and SNH.

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

4. The Company shall not be permitted to assign the consent set out in paragraph one above without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may grant consent (with or without conditions) or refuse such authorisation 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.

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

5. In the event of a serious health and safety, environmental or construction incident occurring on site during the period of consent, the Company must notify Scottish Ministers within 24 hours of the incident occurring.

Reason: To ensure compliance with Health and Safety legislation

6. No turbine shall be erected until the Company has agreed a Mitigation Scheme with the Operator which has been submitted to and agreed in writing by the Scottish Ministers and the Planning Authorities, in order to mitigate the impact of the development on the Primary Radar Installation at Lowther Hill.

Reason: To mitigate the adverse impact of the development on air traffic operations

7. No turbine shall be erected unless and until the approved Mitigation Scheme has been implemented and the Development shall thereafter be operated fully in accordance with such approved scheme.

Reason: To mitigate the adverse impact of the development on air traffic operations

Part 2

Planning Conditions

The deemed planning permission is subject to the following planning conditions:-

1. The Development shall be carried out strictly in accordance with the terms of the Application and Environmental Statement (17 March 2010) and the Supporting Statement (23 September 2014) submitted by the Company as part of the Variation Application, including all mitigation measures stated therein, except in so far as amended by the terms of this consent and deemed planning permission. In the event of any incompatibility between the terms of the Application and the Environmental Statement and the terms of the Supporting Statement, the Supporting Statement prevails.

Reason: To ensure compliance with all the commitments made in the application documentation. Environmental Statement

2. Written confirmation of the date of the Commencement of the Development shall be supplied in writing to the Planning Authorities.

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

3. No construction work shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authorities. The Construction Method Statement shall be submitted no later than three months prior to the proposed Commencement of the Development unless both Planning Authorities agree otherwise. Thereafter, the Company shall implement the approved construction Method Statement. The Construction Method Statement shall include the following:

- a) A plan of the construction operations at an appropriate scale;
- b) A plan to an appropriate scale shall be submitted to the Planning Authorities showing the location of any contractor's site compound and laydown areas required temporarily in connection with the construction of the Development.
- c) Method of defining track route and location (track corridors should be pegged out 500 - 1000m in advance of operations);
- d) Details of track design approach: maps of tracks indicating double and single tracks and position of passing places; and the full extent of anticipated track footprints including extent of supporting geogrid below roadstone and cabling at the edges of the track;
- e) Track construction: Floating track construction over peat > 1m deep and gradients of 1:10 or less;
- f) Track construction for peat < 1m deep, or on gradients of > 1:10, cross slopes or other ground unsuitable for floating roads.
- g) Procedures to be followed when, during track construction, it becomes apparent that the chosen route is more unstable or sensitive than was previously concluded, including ceasing work until a solution, informed with reference to advice from Ecological Clerk of Works (ECoW), is identified;
- h) Details of peat/soil stripping, storage and re-use. All soils stored on site shall be in accordance with British Standard BS 3882 2007;
- i) specifying that no material to be used for the development is brought on site unless it has certification from a suitably UKAS accredited laboratory to confirm that the material is not contaminated;
- j) A scheme of working for each borrow pit.
- j)k) Details of compliance with South Lanarkshire Council's Sustainable Drainage Systems (SuDs) design criteria guidance. A coloured plan showing the sustainable drainage apparatus serving the application site together with the contact name and emergency telephone number of the party responsible for its future maintenance. Details of the future maintenance regime in accordance with the latest Construction Design and Management (CDM) Regulations is to be provided on this drawing.

Reason: In order to define the terms of this permission. to minimise the level of visual intrusion. in the interests of road safety and to minimise any adverse impacts as a result of the construction phase of the Development

4. No work shall commence on the Development until the Habitat Management Plan (HMP) has been submitted to and approved in writing by both Planning Authorities, in consultation with SNH, Scottish Wildlife Trust and RSPB. The HMP shall be submitted to both Planning Authorities a minimum of three months prior to the Commencement of the Development. The HMP will set out the habitat enhancement measures to be carried out on site, the aims, objectives and targets of these measures, monitoring requirements, responsibility for implementing habitat works and on reporting and reviewing HMP activities over the 25 year lifetime of the development. Once approved the HMP shall be fully implemented.

The HMP shall include the following:-

- a) Details of the enhancement of wet modified bog and wet and dry heath, prescriptions shall be implemented on site through blocking of drainage channels,

fencing to allow improved stock control, reduced levels of grazing, re-wetting and where appropriate, creation of pools. These activities will be applied across all modified bog and heath, to offset the direct loss that will result from the construction of the Development.

- b) Details of how the Company shall establish new native woodland along the Monks Water and adjacent lower slopes to benefit wider biodiversity and to improve riparian conditions for otters and fish. Details of how the Company shall also create additional habitat for black grouse, and increase prey availability for bats, Merlin, hen harriers and peregrine. The extent of this planting shall be limited to avoid encouraging these species into proximity of turbines.
- c) Details of how a survey and monitoring of species and habitat will be carried out to assess the effectiveness of mitigation. Site clearance activities and construction shall take place outwith the bird breeding season (March to July inclusive). The Company shall within 3 months of the date of this consent and deemed planning permission invite the Planning Authorities, SNH and RSPB to participate with them in a Habitat Management Group (HMG). The purpose of the HMG will be to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring. The HMG shall have the power to review the terms of the HMP but any changes to the HMP shall only take effect once approved in writing by both Planning Authorities. The HMP will operate for the full lifespan of the Development, including decommissioning.

Reason: To safeguard the designated sites, species and habitats and to maintain effective planning control

- 5. No works shall commence on the Development until an Environmental Management Plan (as defined in Section 8.173 of the Environmental Statement), has been submitted to and approved in writing by both Planning Authorities, in consultation with SNH, Scottish Wildlife Trust and RSPB,. This plan is to be submitted to both Planning Authorities a minimum of three months prior to the Commencement of the Development. This Plan is to be implemented as approved.

Reason: To safeguard the designated sites, species and habitats and to maintain effective planning control

- 6. Bird diverters shall be attached to the outer guy wires of the anemometer mast, at 2.5m intervals, prior to raising the mast, and maintained for the life of the mast.

Reason: To minimise environmental impact on natural heritage

- 7. Subject to the maintenance of a 50 metre buffer existing water courses, turbines and tracks may be micro-sited within 50 metres of the positions shown on the Site Layout Plan as contained in Figure 1a.2 of the [Environmental Statement Supporting Statement \(23 September 2014\)](#).

Reason: To take account of local ground conditions, and to protect the existing water environment

- 8. No works shall commence on the Development until, an Ecological Clerk of Works (ECoW) has been put in place. The ECoW shall be appointed by the Company and

approved by both Planning Authorities, for the period from Commencement of the Development to Final Commissioning of the Development. The scope of work of the ECoW shall include:

- monitoring compliance with the ecological and other environmental mitigation works that have been approved in this consent, including the Environmental Management Plan (as defined in Section 8.173 of the Environmental Statement), the Habitat Management Plan, and the three best practice measures for breeding birds (as defined in Section 7.443 of the Environmental Statement);
- advising the Company on adequate protection of nature conservation interests on the Site;
- directing the micro-siting and placement of the turbines and tracks, and monitoring compliance with the Construction Method Statement.

Reason: To minimise environmental impact during the construction phase

9. No works shall commence on the Development until an otter species protection plan has been produced for the Development and submitted to and approved in writing by both Planning Authorities, in consultation with SNH,. The otter species protection plan must include full details of the mitigation measures outlined in the Environmental Statement. The plan shall be implemented as approved.

Reason: To minimise impact on otters at the Site

10. The three best practice measures for breeding birds as defined in Section 7.443 of the Environmental Statement shall be implemented during the construction phase of the development, timing, and pre-construction surveys.

Reason: To ensure compliance with the protection given to breeding birds under the Wildlife and Countryside Act 1981 as amended

11. The Company shall not amend the site layout without ensuring that the development still conforms to the guidance produced by Natural England on 'Bats and Onshore Wind Turbines' (i.e. turbines should be located at least 50m away from roosts, hedgerows, tree-lines or woodlands).

Reason: to minimise potential impacts on bats

12. No woodland planting should be undertaken within 50m of turbines on the Site.

Reason: to avoid encouraging bat activity in the vicinity of wind turbines and the associated risk of injury or mortality

13. No works shall commence on the Development until a Peat Management Statement (which shall be implemented as approved) has been submitted in writing to and agreed by both Planning Authorities. The Peat Management Statement shall include:

- a) Provisions for the storage of excavated material from wind turbine foundations or for road construction;
- b) Detailed means of construction of tracks on the Site;

- c) Arrangements for the management of water flows in connection with construction works;
- d) Provisions for the supervision of construction staff at all times;
- e) Arrangements (prior to the Commencement of the Development) for investigations (including specialist movement dissection equipment); and
- f) Arrangements for drainage during the Construction Period.

Reason: to minimise any adverse impacts from excavating peat

14. No works shall commence on the Development, until a Traffic Management Plan has been submitted to and approved in writing by both Planning Authorities. Thereafter, all transportation shall be in accordance with the approved plan. Any proposed amendments to the Traffic Management Plan must be approved by both Planning Authorities before the amendments can take effect. **This Plan is to be implemented as approved.**

The Traffic Management Plan shall cover:

- a) The intended turbine transportation route, timings and methodology.
- b) All temporary works including relocation of signs, guardrails, bollards, street furniture and all temporary measures.
- c) The duration and frequency of temporary works required at each of the affected locations on a site specific basis.
- d) Proposals for the transportation of staff and construction materials.

Reason: In the interests of road safety and in order to retain effective planning control

15. Only mechanical means of snow clearance shall be used to clear access tracks, unless otherwise agreed in writing by the Relevant Planning Authority.

Reason: To minimise the environmental impact of snow clearing operations by avoiding the use of chemicals or salt without explicit approval

16. Prior to the Commencement of the Development, the Company shall erect signs on all access routes advising drivers of heavy goods vehicles to remain on specified access routes. No signs will be erected on the Site without the prior written approval of the Relevant Planning Authority, other than those required for safety or traffic management.

Reason: In the interests of traffic and public safety

17. No work shall commence on the Development until a scheme relating to off-site public road improvements and measures for the monitoring and maintenance of public roads has been submitted to and approved in writing by the Relevant Planning Authority. The scheme shall be implemented as approved. The costs of all road infrastructure improvements resulting from the proposed Development shall be borne fully by the Company. The matters to be addressed include:

Assessment, Strengthening Works and Maintenance

- a) A full structural assessment of the A70 shall be undertaken by the Company and agreed with both Planning Authorities prior to Commencement of the development.
- b) All identified necessary road works required (eg. kerbing, drainage improvements, patching, widening, strengthening and vertical realignments) shall be carried out and completed prior to commencement of any works on-site by the Company under section 56 of the Roads (Scotland) Act 1984. Alterations to any part of the public road would require detailed drawings to be submitted by the Company for approval under section 56 of the Roads (Scotland) Act 1984. All work must be carried out to the Specification for Highway Works by an approved contractor at the Company's expense prior to the delivery of any abnormal loads to the Site.
- c) As it is difficult to accurately assess how an existing road will perform under concentrated HGV loading conditions particularly where poor ground conditions exist, even when strengthened and, to allow for localised deterioration, a regime of ongoing maintenance to ensure safe passage on the road by the public during the Construction Period shall be agreed between the Company and the Relevant Planning Authority prior to commencement of any work on Site.
- d) There shall be an obligation on the Company to ensure that part of the A70 within the area of a Relevant Planning Authority is to be reinstated to its former condition (as it was prior to the Commencement of the Development) if requested by that Relevant Planning Authority within six months of the Final Commissioning of the Development. This condition may be applied on completion of abnormal load deliveries or once the Site is operational.
- e) Any resultant damage to any of the road structures due to the Company's construction traffic/abnormal loads shall be repaired at the Company's expense.

Other Issues

- f) Location, visibilities and standard of construction of any additional accesses from the public road system to the site shall require to be approved by the Relevant Planning Authority and constructed prior to commencement of any work on the Site in the interests of road safety.
- g) All routing of construction traffic shall be agreed in advance with the Relevant Planning Authority prior to construction work commencing on-site.
- h) Written permission shall be sought for any re-location of existing street furniture (barriers, road signs, bollards etc) required as a result of the proposal. Any work carried out would be at the Company's expense.
- i) A Transportation Protocol for construction traffic shall be agreed in writing between the Company and the Planning Authorities, which would include agreements on routing, timing of deliveries, marking of vehicles, driver behaviour, and wheel washes at site accesses, with the Company being required to record any breaches of the Protocol and notifying the Planning Authorities of all breaches.

Reason: In the interests of road safety and in order to retain effective planning control

18. A wheel and chassis wash facility which operates on a closed cycle shall be installed at a location(s) within East Ayrshire determined by East Ayrshire Council and shall be operational throughout the construction period. The public roads adjacent to site accesses shall be kept free from mud, dirt, stones and other deleterious material arising from construction activities (utilising mechanical brushes where appropriate).

Reason: In the interests of road safety and in the interests of free traffic flow

19. No works shall commence on site until a scheme for the control and mitigation of dust has been submitted to and approved by both Planning Authorities. Thereafter all works on site shall be undertaken in accordance with the approved scheme unless otherwise approved in writing by the relevant Planning Authority.

Reason: To minimise disturbance to residents in the vicinity of the wind farm

20. No works shall commence on the Development until:

- a) a comprehensive site investigation has been carried out to the appropriate Phase level, and submitted to and approved in writing by both Planning Authorities. The investigation shall be completed in accordance with the advice given in the following:
 - Planning Advice Note 33 (2000) on the Development of Contaminated Land and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995)
 - Contaminated Land Report 11 - 'Model Procedures for the Management of Land Contamination (CLR 11) - issued by DEFRA and the Environment Agency
 - BS 10175:2001 - British Standards institution 'The Investigation of Potentially Contaminated Sites - Code of Practice'.
- b) In the event that the Phase 1 investigation indicates any potential pollution linkages, a Conceptual Site Model shall be formulated and these linkages must be subjected to risk assessment. In the event that a Phase 2 investigation is required, then a risk assessment of all relevant pollution linkages using site specific assessment criteria will require to be submitted.
- c) In the event that the risk assessment identifies any unacceptable risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation plan will be submitted to and approved in writing by both Planning Authorities. No works other than investigative works shall be carried out on site until the Company has received written approval of the remediation plan from both Planning Authorities. The remediation plan will be implemented as approved.

Reason: To avoid unacceptable risks to human health and the environment and to ensure that the land is remediated and made suitable for its proposed use

21. Prior to Commencement of the Development, the Company shall comply with Sustainable Drainage Systems (SuDs) design criteria guidance.

Reason: In the interests of road safety and in order to retain effective planning control

22. The Company shall ensure that all practicable measures are taken to ensure that the effect on private water supplies are minimised. A water level and quality monitoring programme will be undertaken prior to any construction, during construction and

~~decommissioning. This shall include visual inspections of water features and periodic adhoc sampling and analysis of surface water, groundwater and private supplies, (e.g. turbidity and pH) so measures can be taken if needed. This water level and quality monitoring programme is to be submitted to and approved in writing by the Planning Authorities, in consultation with SEPA and Marine Scotland Science". The Company shall ensures that all practicable measures are taken to ensure that the effect on private water supplies are minimised. A water level and quality monitoring programme will be undertaken prior to any construction and during construction. This shall include visual inspections of water features and periodic adhoc sampling and analysis of surface water, groundwater and private supplies, (e.g. turbidity and pH) so measures can be taken if needed. This water level and quality monitoring programme is to be completed in consultation with SEPA.~~

Reason: To protect water assets from the risk of contamination and damage

23. No works shall commence on the Development until a full site waste management plan has been submitted to and approved in writing by the Planning Authorities, in consultation with SEPA. This plan shall be implemented as approved.

Reason: To safeguard the amenity of the area

24. No fuel, oil, lubricant, paint or solvent shall be stored on site other than within bunds or double skin tanks which must be locked and capable of containing at least 110% of the largest capacity vessel stored therein and any spillage of any oil shall be cleaned-up immediately. Any electrical equipment utilising oils or organic fluids should similarly be in a bundled area sufficient to contain any spillage. Details of the arrangements for such storage and contingency plans for dealing with spillages shall be submitted to the Relevant Planning Authority for approval no later than three months prior to the Commencement of the Development.

Reason: To ensure compliance with all commitments made in the Environmental Statement to minimise pollution risks arising from construction activities

25. The colour of the turbines shall be low-reflectivity semi-matt pale grey colour as stated in the Environmental Statement. The blades of all turbines shall rotate in the same direction.

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

26. The Site shall not be illuminated by lighting unless:
a) an emergency requires the provision of lighting; or
b) the Relevant Planning Authority have given their prior written approval;

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

27. No part of the Development shall display a name, logo, sign or advertisement unless required under other legislation.

Reason: In the interests of visual amenity

28. All electricity and control cables between the turbines shall be laid underground and alongside tracks which are constructed on the Site as part of the Development.

Reason: In the interests of visual amenity

29. No development shall take place until temporary fencing, or other temporary marker, has been erected in a manner to be agreed by the Relevant Planning Authority, to protect known archaeological sites within the Site.

Reason: In order to safeguard any archaeological interests of the Site

30. No work shall take place within the Site until the Company has secured the implementation of a programme of archaeological works which has been submitted to and approved in writing by the Planning Authorities, in consultation with the West of Scotland Archaeology Service,. Thereafter the Company shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the Site is undertaken to the satisfaction of the Planning Authorities in consultation with the West of Scotland Archaeology Service.

Reason: In order to safeguard any archaeological interests of the Site

31. No works shall commence within the Site until the access proposals have been submitted to and approved by the Relevant Planning Authority. The proposals should promote recreational access use of the turbine array road network.

Reason: In the interests of amenity and in order to retain effective planning control

32. The combined rated noise level of all of the wind turbines at the Development, when measured at any dwelling, shall not exceed a noise level of:

- a) During Night Hours, the greater of the Night Hours LA90 10min Background Noise Level plus 5 dB(A) or 43 dB LA90 10min at Wind Speeds not exceeding 12 metres per second; and at all other times the greater of the Quiet Waking Hours LA90 10min Background Noise Level plus 5 dB(A) or 40 dB LA90 10min at Wind Speeds not exceeding 12 metres per second;

Reason: To minimise disturbance to residents in the vicinity of the Development

33. If the tonal noise emitted from the Development exceeds the threshold of audibility by 6.5dB or more (with audibility having the same definition as described in 'The Assessment and rating of Noise from Wind Farms (ETSU-R-97)'), then each of the acceptable noise limits specified in condition 32 shall be reduced by 5dB.

Reason: To safeguard the noise amenity of local residents in accordance with ETSU-R-97

34. All construction work associated with the Development shall be carried out in accordance with the current British Standard 5228, ' Code of Practice for Noise

Vibration control on construction and open sites'. The carrying out of audible construction activities should be limited to:

- Monday to Friday 8:00 to 19:00,
- Saturday 8:00 to 13:00 and
- Sunday - No audible activity.

Reason: To safeguard the noise amenity of local residents in accordance with ETSU-R-97

35. The receipt of any materials or equipment other than turbine blades, nacelles and towers, shall not take place except during the hours of 8:00 - 19:00 hours from Mondays to Fridays (unless otherwise agreed by the Relevant Planning Authority on a minimum five working days notice of the proposed occurrence of the proposed event).

Reason: To safeguard the noise amenity of local residents in accordance with ETSU-R-97

36. The impact of vibration shall comply with the levels within relevant British Standards and Planning Advice Notes. The Company is to adopt at all times good blasting practice and, as far as is reasonably practicable, to not carry out blasting operations in adverse weather. Blasting hours of operation shall be agreed with the Relevant Planning Authority and blasting shall be controlled such that the maximum peak particle velocity in any plane does not exceed 6mm per second, at all sensitive receptors.

Reason: To minimise disturbance to residents in the vicinity of the Development

37. The Environmental Statement states that there are properties within the Site which are uninhabited and are uninhabitable in their current condition. The Company shall contact the Relevant Planning Authority in the event that these properties become inhabited in the future, whereupon the assessment on these properties (in Appendix 10C of the Environmental Statement) will be applicable.

Reason: To safeguard the noise amenity of local residents in accordance with ETSU-R-97

38. No fixed or mobile plant used within the Site during the Construction Period shall incorporate bleeping type warning devices that are audible at any noise sensitive receptor. No works shall commence on the Development until details of alternative warning devices have been submitted to and approved in writing by the Planning Authorities. Silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the site. Save for the purposes of maintenance, no machinery shall be operated with the covers open or removed.

Reason: In the interests of safety

39. No wind turbines shall generate electricity to the grid until a scheme of investigation and alleviation of any electromagnetic interference for TV and radio reception which

may be caused by the operation of the turbines hereby permitted has been submitted to and approved in writing by the Planning Authorities. Mitigation measures as defined in Section 13.19 to 13.21 of the Environmental Statement, shall be implemented by the Company and procedures set out in the approved scheme shall be followed at all times.

Reason: For the protection of amenity of local residents

40. No later than 18 months prior to the end of the period of consent, or by such later date as may be agreed by both Planning Authorities, the Company shall submit a method statement for the decommissioning of the Development and the restoration of the Site for the approval of the Planning Authorities. Decommissioning in accordance with the approved method statement shall be completed within 12 months of the end of the period of this consent and deemed planning permission or any alternative timescale if agreed by both Planning Authorities in writing and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development.

Reason: To provide for a comprehensive scheme of restoration enabling the land to be returned to the specific restoration after use

41. No later than 2 years prior to the decommissioning of the Development, an aftercare scheme shall be submitted for the approval of both Planning Authorities in consultation with SNH.

Reason: To enable the land to be returned to the specific restoration after use

42. At least one month prior to the Commencement of the Development, the Company shall provide to the Planning Authorities details of the bond or other financial provision which it proposes to put in place to cover all site restoration costs on the expiry of this consent. No work shall commence on the Site until both Planning Authorities have confirmed in writing:

- 1) that the proposed bond or other financial provision is satisfactory and;
- 2) that the terms for reviewing this bond or financial provision are satisfactory. The Company shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent and the bond will be subject to a review every 5 years, from the Commencement of the Development, to be conducted by the Company. The outcome of each review shall be provided by the Company to both Planning Authorities and the landowners. Any recommendations in a review for changes to the proposed bond or other financial provision shall be implemented unless both Planning Authorities confirm in writing that it is not necessary to do so.

Reason: To ensure the financial security for the cost of the site reinstatement to the satisfaction of the Planning Authorities

43. Prior to the erection of any wind turbine, a scheme of aviation lighting will be submitted to and approved in writing by the Planning Authorities in consultation with the Ministry of Defence. Thereafter the approved scheme will be fully implemented on site, unless otherwise agreed in writing with the Planning Authorities.

Reason: In the interest of aviation safety

44. A fish and macroinvertebrate monitoring plan shall be submitted to the Planning Authorities and Marine Scotland Science setting out the steps that shall be taken to monitor the environmental effects of the development, during the construction phase, operational phase and decommissioning phase. The methodology of such monitoring including locations frequency, gathering of information on background levels, etc shall be submitted to the Planning Authorities in consultation with Marine Scotland Science for approval prior to the commencement of works on site. Thereafter, the plan shall be implemented to the satisfaction of the Planning Authorities in consultation with Marine Scotland Science and the results of such monitoring shall be submitted to the Planning Authorities and Marine Scotland Science on a 6 monthly basis, or on request.

Reason: To ensure protection of water bodies as stated in The Water Framework Directive and protection for salmonid populations within and downstream of the development area.

45. There shall be no Commencement of Development until the Company has provided the Planning Authorities and the Defence Infrastructure Organisation Safeguarding, with the following information and has provided evidence to the Planning Authority of having done so:-

- a) the date that the construction work will start and end;
- b) the maximum height of all construction equipment;
- c) the latitude and longitude of every turbine.

REASON: In the interests of aviation safety.

Definitions

In this consent and deemed planning permission:-

"the Application" means the Application and Environmental Statement submitted by the Company on 17 March 2010;

"Background Noise Level" means the ambient noise level already present within the environment of the Site (in the absence of noise generated by the Development) as measured and correlated with Wind Speeds, and defined in Table 10.3 of the Environmental Statement;

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

"the Company" means Galawhistle Wind Farm Limited, a company having its registered office at at First Floor, 500 Pavilion Drive, Northampton Business Park, Northampton, NN4 7YJ (registered company number 07715284) or such other person that from time to time has the benefit of the consent to construct and operate the Development granted under section 36 of the Electricity Act 1989. Infinis Pic, Company Number 5719060, First Floor, 500 Pavilion Drive, Northampton Business Park, Northampton, NN4 7YJ

"Construction Period" means the period from work commencing on the Development until the Site compounds have been reinstated in accordance with the conditions of this consent;

"the Development" means Galawhistle Wind Farm, west of Douglas in South Lanarkshire and east of Muirkirk in East Ayrshire

"Environmental Statement" means the environmental Statement submitted by the Company on 17 March 2010 as part of the Application as defined above;

"Final Commissioning of the Development" means the date on which all wind turbine generators forming the Development have supplied electricity on a commercial basis or such earlier date as the Scottish Ministers deem the Development to be complete;

"Mitigation Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to mitigate at all times the impact of the development on the Lowther Hill primary radar and air traffic management operations of the Operator.

"Operator" means NATS (En Route) Pic, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants, P015 7FL or such other organisation licensed from time to time under Sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

"Planning Authorities" means both South Lanarkshire Council and East Ayrshire Council

"Quiet Waking Hours" means 18:00 - 23:00 hours on all days, plus 07:00 - 18:00 on Sundays and 13:00 - 18:00 hours on Saturdays;

"Relevant Planning Authority" means the Planning Authority (either South Lanarkshire Council or East Ayrshire Council) within whose area that element of the Development is to be situated.

"Restoration" means the removal of all wind turbines, turbine pads, initial layers of foundation, and all buildings and ancillary development.

"SEPA" means the Scottish Environment Protection Agency;

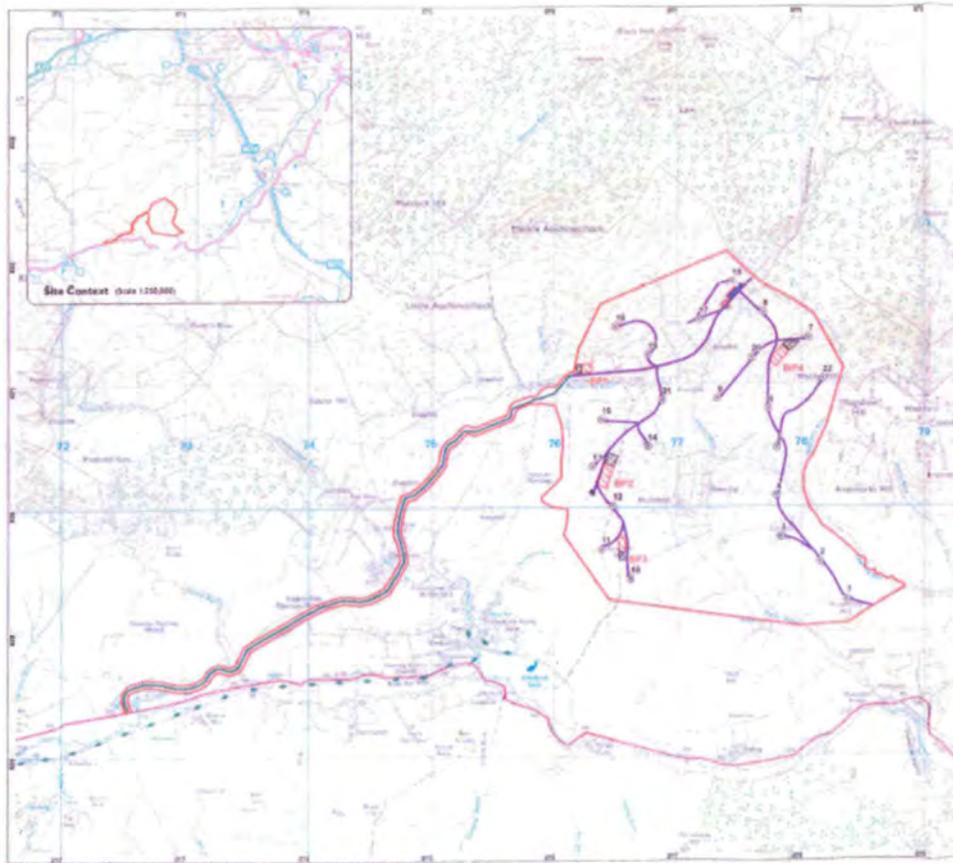
"SNH" means Scottish Natural Heritage;

"Site" means the area of land outlined in red on Figure [21a of the Supporting Statement](#), attached to this consent;

"Supporting Statement" means the Supporting Statement submitted by the Company on 23 September 2014 in connection with the application to vary this consent made on that date";

"Wind Speed" means Wind Speeds measured or calculated at a height of 10m above ground level on the Site at a specified Ordnance Survey national grid reference as agreed with the Planning Authority.

Annex 3 : Figure 1a - Site Map



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Legend

- Section 36 consent boundary
- Converted turbine locations
- Existing haul road
- Proposed access track
- ScottishPower Transmission (SPT) substation
- Gatawhatle Wind Farm Limited substation
- Station compound
- Gatawhatle Wind Farm Limited temporary construction compound
- SPT temporary construction compound
- Crane path
- Permanent inlet mast
- Borrow pit (BP)
- Borrow pit working/storage area

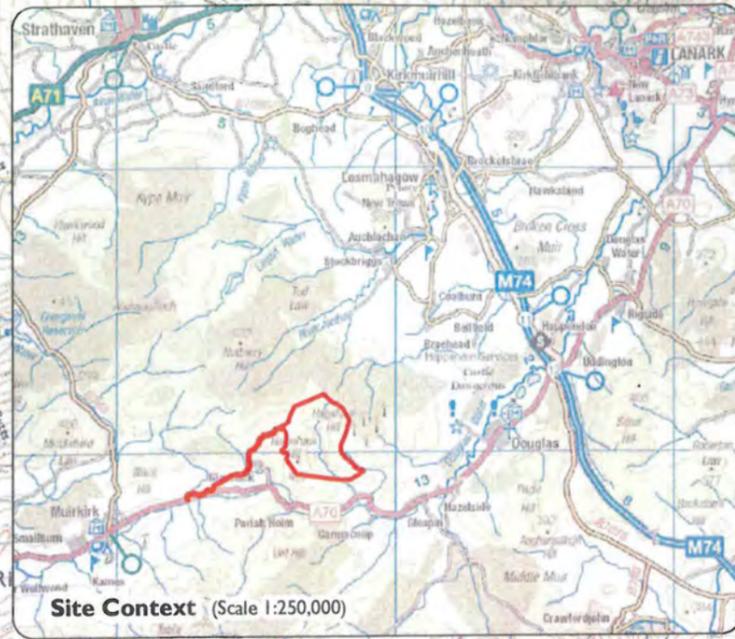
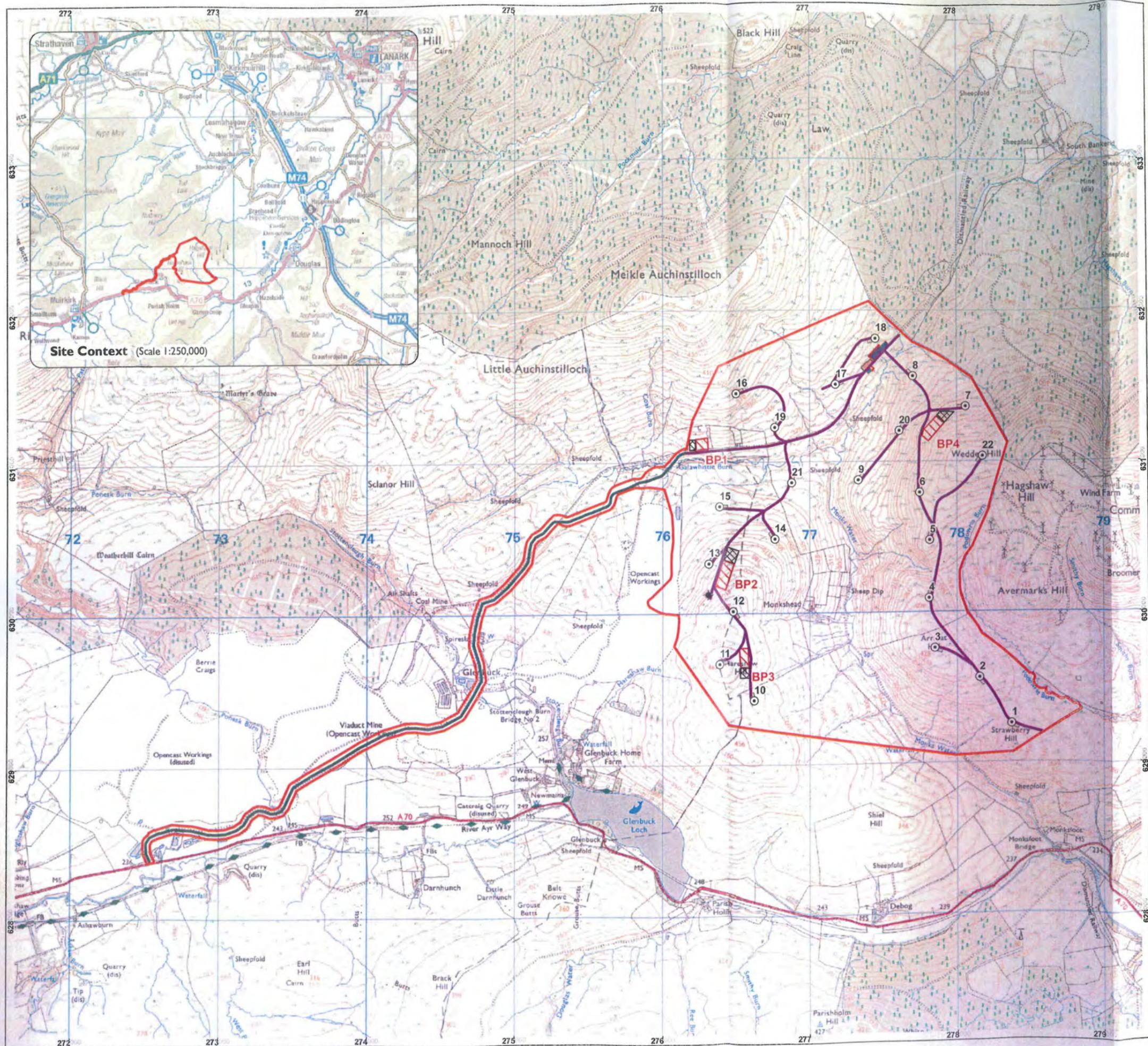
Notes

1. Turbine and inlet mast consent location has not changed
2. Turbines 17, 18, 19 and 21 have maximum permitted tip height of 121.2m. All other turbines have maximum consented tip height of 118.2m. The maximum consented tip height has not changed
3. The red line 536 consent boundary has not changed
4. Borrow pit locations have not changed. Working areas adjacent to borrow pits have been added

Scale 1:25,000 @A4

The Proposed Development
Figure No. 1a

Gatawhatle Wind Farm:
536 Variation Application 2014

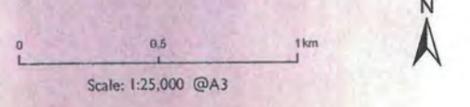


Legend

- Section 36 consent boundary
- Consented turbine locations
- Existing haul road
- Proposed access track
- ScottishPower Transmission (SPT) substation
- Galawhistle Wind Farm Limited substation
- Statcom compound
- Galawhistle Wind Farm Limited temporary construction compound
- SPT temporary construction compound
- Crane pads
- Permanent met mast
- Borrow pit (BP)
- Borrow pit working/storage area

Notes:

1. Turbines and met mast consented locations have not changed.
2. Turbines 17, 18, 19 and 21 have maximum consented tip height of 121.2m. All other turbines have maximum consented tip height of 110.2m. The maximum consented tip heights have not changed.
3. The red line S36 consented boundary has not changed.
4. Borrow pit locations have not changed. Working areas adjacent to borrow pits have been added.



Rev.	Date	Amendment	Drawn	Checked

Date: 02.09.14 Scale: 1:25,000 Ver: 1.0
 Job No: SEC7849 Drawn: KAG Checked: TT

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The Proposed Development

Figure No. 1a

**Galawhistle Wind Farm:
 S36 Variation Application 2014**

This is the map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of a WIND FARM powered electricity generating station at GALAWHISTLE confirmed by the Scottish Ministers.

