

Energy and Climate Change Directorate  
Energy Consents Unit

T: 0131 244 1197  
E: Ruth.Findlay2@gov.scot



Rod Wood  
Community Windpower Limited  
Godscroft Lane  
Frodsham  
Cheshire  
WA6 6XU

31 August 2023

Dear Rod,

**CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF SANQUHAR II COMMUNITY WIND FARM IN THE PLANNING AUTHORITY AREAS OF DUMFRIES AND GALLOWAY COUNCIL AND EAST AYRSHIRE COUNCIL**

### **Application**

I refer to the application made on 21 March 2019 (“the Application”) under section 36 of the Electricity Act 1989 (“the Electricity Act”) by Community Windpower Limited, incorporated under the Companies Acts with company number 04588923 (“the Company”), and having its registered office at Godscroft House, Godscroft Lane Frodsham, Warrington, Cheshire, WA6 6XU, for the construction and operation of Sanquhar II Community Wind Farm, an electricity generating station, including associated ancillary infrastructure (“the proposed Development”).

The proposed Development consists of 42 wind turbines of a maximum blade tip height of 200 metres, 2 wind turbines of a maximum blade tip height of 149 metres, and with a total generating capacity greater than 50 megawatts (MW).

**This letter contains the Scottish Ministers’ decision to grant consent for Sanquhar II Community Wind Farm, as more particularly described at Annex 1.**

### **Planning Permission**

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) the Scottish Ministers may, on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station, direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development.

**This letter contains the Scottish Ministers’ direction that planning permission is deemed to be granted.**

## **Background**

The Application, submitted on 21 March 2019, proposed the construction and operation of 50 turbines. This would have put the site boundary within the Thornhill Uplands Regional Scenic Area. Following consultation, the Company submitted Additional Environmental Information in July 2020 (“AEI 2020”) and the Application was revised to propose 44 turbines. This resulted in 3 turbines being located in East Ayrshire Council area and 41 turbines in Dumfries and Galloway Council area. It also meant that no turbines would be located within the regional scenic area boundary. As well as a reduction in the number of turbines, there were amendments to turbine positioning.

The proposed Development would supersede the consented but unbuilt ‘Sanquhar Six’ Wind Farm, granted planning permission by Dumfries and Galloway Council in November 2017 (under reference 15/P/3/0166). Sanquhar Six Wind Farm consisted of 6 turbines, 130m in height to blade tip. Turbine numbers 1 to 6 in the proposed Development would approximately align with the positions of the previously consented turbines, at an increased height of 200m to blade tip.

The proposed Development would be located on the border of Dumfries and Galloway and East Ayrshire, approximately 6.5 kilometres (km) south-west of Sanquhar, 4km south of Kelloholm and 14km northwest of Thornhill. The area is predominately open upland landscape, comprising of agricultural ground and commercial forestry, including Eucharhead Forestry. It traverses across three main valleys and several water bodies and tributaries. These feed into the River Nith catchment. The Company considered 30 operational/ consented wind farms as part of the Cumulative Landscape and Visual Impact Assessment submitted under section 6 of AEI 2020. This includes Lorg Wind Farm, granted planning permission by Dumfries and Galloway Council (under reference 15/P/2/0337) and East Ayrshire Council (under reference 15/0935/PP) in July 2019, however a revised scheme is at application stage under section 36 of the Electricity Act 1989 and is yet to be determined at the time of writing.

## **Consultation**

Under paragraph 2(1) of Schedule 8 to the Electricity Act, the relevant Planning Authority is required to be notified in respect of a section 36 consent application.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the EIA Regulations”) the Company submitted an Environmental Impact Assessment report (“the EIA report”) dated March 2019 in support of the Application describing the proposed Development and giving an analysis of its environmental effects. Additional environmental information was submitted by the Company in July 2020 (“AEI 2020”) in accordance with the EIA Regulations.

In addition, to comply with the EIA Regulations, Scottish Ministers are required to consult the planning authority, as well as NatureScot (previously known as Scottish Natural Heritage), Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES) as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.

In accordance with requirements of both the Electricity (Applications for Consent) Regulations 1990 (“the Consents Regulations”) and the EIA Regulations, a notice of the proposed Development and the subsequent AEI 2020 was published on the Company’s website and advertised in local and national press. The Application and AEI 2020 were made available in the public domain, and the opportunity given for those wishing to make representations to do so. Notifications were sent to the planning authorities, Dumfries and Galloway Council and East Ayrshire Council, as well as to NatureScot, SEPA, HES, and other persons that are likely to be

concerned by the proposed Development by reason of their specific environmental responsibilities.

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

### **Public Inquiry**

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

As set out below, Dumfries and Galloway Council, as one of the relevant planning authorities, objected to the Application and did not withdraw that objection. The Scottish Ministers did not consider it possible to overcome the objection, by way of applying conditions to give effect to the objection and caused a public inquiry to be held.

### **Public Inquiry and its Report**

The public inquiry Reporter held a pre-inquiry meeting on 20 April 2021, two inquiry sessions, 04 - 08 October 2021 and 18 - 20 October 2021. In addition to the inquiry sessions, two hearing sessions were held on 21 and 22 October 2021 respectively. The Reporters conducted unaccompanied site inspections on 16-18 June 2021, 24-25 August 2021 and 13 January 2022, and an accompanied site visit on 28 October 2021. The report of that inquiry was received by the Scottish Ministers on 1 March 2022. On 13 February 2023 National Planning Framework 4 (“NPF4”) was adopted by Scottish Ministers. The implications of NPF4 were considered by the Reporter during a hearing on 23 January 2023 and a supplementary report was received by the Scottish Ministers on 20 February 2023. The reports received by Scottish Ministers on 1 March 2022 and 20 February 2023 should be read in conjunction and hereafter considered as the PI Report.

The pre-inquiry meeting of 20 April 2021 requested supplementary information be submitted to ensure sufficient evidence was available to verify the EIA report’s findings, under regulation 19 of EIA Regulations. Subsequently, the Company submitted Supplementary Information in June 2021 (“SI 2021”). SI 2021 provided updated figures on the cumulative landscape and visual impact between the submission of AEI 2020 and 31 May 2021; additional visualisations as requested by Dumfries and Galloway Council; and a revised aviation lighting strategy to reduce the number of turbines which were required to be lit.

The Reporter did not consider SI 2021 to contain substantive information nor have any effect on the overall environmental outcome of the proposed Development. The Reporter also assessed that there was no risk that an individual or organisation not part of the inquiry process would be prejudiced by a lack of awareness of this evidence, given it would reduce the number of lit turbines. Therefore, they considered that SI 2021 did not meet the publicity requirements of the EIA Regulations.

In each chapter of the PI Report the Reporter has summarised the arguments for each party, taking account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the oral evidence at the inquiry and hearing sessions. The

Reporter also considered the Environmental Impact Assessment, AEI 2020, SI 2021, consultation responses, representations and all of the other information supplied for the inquiry and hearing sessions. The chapters of the PI Report provide the following:

- Chapter 1 – Background, consultation and representation
- Chapter 2 – Legislative and policy context
- Chapter 3 – Landscape and visual effects
- Chapter 4 – Aviation and radar systems
- Chapter 5 – Other environmental effects and relevant matters
- Chapter 6 – Benefits of the development and socio-economic considerations
- Chapter 7 – Conditions
- Chapter 8 – Policy assessment, overall conclusions and recommendations

**The Reporter’s recommendation is that the Scottish Ministers grant consent under section 36 of the Electricity Act 1989 and direct that planning permission is deemed to be granted, both subject to conditions.**

### **Summary of the Consultation Responses and Representations**

The following summary of consultation responses, unless otherwise stated, reflects the final position of consultees in response to the proposed Development.

#### **Statutory Consultees**

**Dumfries and Galloway Council object** on the basis that:

- The proposed Development would create an unacceptable level of significant and detrimental landscape and visual impacts due to the design and scale of the development.
- There would be significant adverse direct and indirect individual and cumulative landscape impacts.
- The significant adverse visual and cumulative visual effects of the proposed Development, in itself and in combination with other approved or built wind farms, on a number of sensitive visual receptors including residents, walking and cycling routes, recreational road users and other recreational facilities.
- It would adversely impact the north-western section of the Thornhill Uplands Regional Scenic Area.
- The aviation lighting would detract from the local landscape character and visual amenity by introducing red aviation lighting to an area largely unaffected by artificial light.
- The residential amenity of Polskeoch and Shinnelhead would be significantly adversely affected.

**East Ayrshire Council** do not object, following AEI 2020, subject to the appointment of a planning monitoring officer, and provision of a suitable decommissioning, restoration and aftercare guarantee. The Scottish Ministers confirm that appropriately worded conditions have been set out in Appendix 2 Annex 2 (Part 2) in relation to East Ayrshire Council’s recommendations.

**HES** do not object.

**NatureScot** do not object. They advise that there would be significant adverse effects on the landscape character of the area, however they are satisfied that wider ecological impacts can be largely dealt with through the proposed mitigation measures.

They also advise that, despite errors in the ornithological collision risk modelling and cumulative impact assessment, the impact of the proposed Development would be unlikely to raise matters of national interest. They support SEPA's response regarding peatland management.

**SEPA** do not object, subject to a condition regarding the scope of the peat management plan. This should address matters which affect the excavation, storage and re-use of peat including the width of verges, quantities of peat to be placed in each area, and micro-siting. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in Appendix 2 Annex 2 (Part 2).

#### Internal Scottish Government advisors

**Marine Scotland Science (MSS)** commented on the initial application, consisting of 50 turbines. The proposed Development would be within the River Nith catchment and the Company has proposed measures to avoid and/or reduce significant impacts on the fish populations as a result of the proposed Development. MSS recommend a condition for a robust integrated water quality (hydrochemical and macroinvertebrate) and fish population monitoring programme. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in Appendix 2 Annex 2 (Part 2).

**Scottish Forestry** found that there would be no significant permanent tree or woodland removal, and no further work is required to ensure compliance with the Scottish Government's Control of Woodland Removal Policy. Scottish Forestry propose the planting of some new riparian woodland using native species and the Habitat Management Plan should clearly show the areas to be planted, tree spacing, describe tree species mixture, and the proposed method of protection from browsing animals. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in Appendix 2 Annex 2 (Part 2).

**Transport Scotland**, following AEI 2020, confirm that they are satisfied that there would be no significant environmental impacts on the trunk road network associated with the construction traffic. A construction traffic management plan requires approval through a technical approval process and should be included as a condition. An abnormal load management plan, particularly relating to pinch points at New Cumnock and Sanquhar Tolbooth, should also be a condition of any consent. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in Appendix 2 Annex 2 (Part 2).

#### Other consultees

**Atkins Global** do not object in relation to UHF radio scanning telemetry communications.

**BT** do not object as it would not cause interference to BT's current and presently planned radio network.

**The Coal Authority** have no comments as the proposed Development site is outside of the defined coalfield.

**The Defence Infrastructure Organisation, on behalf of the Ministry of Defence**, do not object but confirm the need for aviation lighting and to be informed of the final details of the turbines and their locations, including construction start and end dates. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in Appendix 2 Annex 2 (Part 2).

**Glasgow Airport** have no comment to make as the site is out with their consultation zone.

**Glasgow Prestwick Airport object** as a number of turbines would be visible to the airport's primary radar and a mitigation solution is required. They state that the Company should undertake an assessment to establish if the proposed Development would affect Instrument Flight Procedures ("IFPs"). Glasgow Prestwick Airport also have concerns that the proposed Development may have an impact on the Runway 30 Instrument Landing System ("ILS"). The Scottish Ministers confirm that they have taken the response from Glasgow Prestwick Airport into account, and subsequent IFP stage 1 assessment, and have imposed appropriately worded conditions, as set out in the consent and planning permission in annex 2.

**JRC** do not object with respect to radio link infrastructure.

**NATS Safeguarding** do not object, subject to conditions which the Company have provisionally agreed to. The Company will be required to implement an identified and defined mitigation solution to mitigate otherwise unacceptable impacts on operations. This will require works to be carried out to radar infrastructure and comprises a radar coverage suppression zone along with the use of infill radar coverage from another primary radar. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in the consent and planning permission in annex 2.

**Nith District Salmon Fishery Board** do not object. A fisheries audit has been undertaken to support the proposed Development's environmental monitoring program.

**RSPB Scotland** do not object, following the AEI 2020 and supplementary information provided by the Company. This is subject to conditions requiring a Habitat Management Plan and habitat management group. The Scottish Ministers confirm that these recommendations have been taken into account and addressed, as set out in Appendix 2 Annex 2 (Part 2).

**Scottish Water** do not object. However, as it would be within a drinking water catchment, Scottish Water request further involvement to determine the most appropriate proposals and mitigation to protect water quality and quantity.

**ScotWays object** due to the impact on the views from the Southern Upland Way, as well as the cumulative impact. ScotWays also note that the Company have not clearly identified all rights of way within 10km of the site.

**The Stop Sanquhar II objection group** was formed to collectively represent the interests of a number of local residents and the community councils of Carsphairn, Glencairn, Keir Mill and The Royal Burgh of Sanquhar at the inquiry. They object due to the loss of residential visual amenity; impacts from noise; shadow flicker; risk to private water supplies; landscape and visual impacts, including cumulative; adverse night-time effects from aviation warning lighting; the disproportionate size and scale of the proposed Development; adverse long-term impacts on communities, businesses, ecology and heritage; exacerbation of rural depopulation and the lack of adequate community consultation.

**Visit Scotland** do not object however recommend that any potential detrimental impact of the proposed Development on tourism (visually, environmentally and/or economically) should be identified and considered in full, including decisions over turbine height and number. Visit Scotland state that for each proposed Development, an independent tourism impact assessment should be carried out. This assessment should be geographically sensitive and should consider the potential impact of the proposed Development, as well as any cumulative impact, on local tourism and therefore the local economy. Visit Scotland consider it is important to highlight the

global status of the Galloway and Ayrshire Biosphere based on the outstanding level of biodiversity in the community.

### Community Councils

**Carsphairn Community Council object** due to the landscape and visual impact, including the cumulative impact, the proposed Development would have on the area. Of particular concern is the impact on the western section of the Southern Upland Way and the area between the Glenkens and Nithsdale.

**Kirkconnel and Kelloholm Community Council** support the proposed Development, and the opportunity of private investment to develop a 3G pitch facility in Sanquhar.

**Penpont Community Council object** due to the visual impact, including cumulative impact, impact from the access roads and night-time lighting; the proximity of turbines to residents of Scaur Glen; disturbance from construction traffic; the potential impact on private water supplies; threat to ecology; failure to consult effectively on what may be appropriate community benefits; and threat to community way of life due to the purchase of three nearby properties to leave vacant despite a key area of local concern being affordable housing and sustaining local services.

**Royal Burgh of Sanquhar and District Community Council** objected to the initial 50 turbine proposal due to the landscape and visual impact and lack of community consultation but did not comment on the AEI 2020 whereby the turbines were reduced to 44.

**Tynron Community Council object** due to impact on homes (for example the reduction in housing stock due to the Company purchasing properties in Scaur Glen); health and wellbeing of residents; private water supplies; visual impact, including cumulative visual impact, particularly regarding Thornhill Uplands Regional Scenic Area, Tynron Doon, Glenwhargen Craggs, Cairnkinna, the hills of the Southern Uplands, Blacklorg Hill, and the Shinnel, Scaur, Echan and Afton waters; noise; shadow flicker; peat ecosystems and biodiversity; and effects on cultural and historical heritage. Tynron Community Council state that the material provided by the Company is insufficient, either in quantity or quality and, at times, misleading.

**Full details of the consultation responses are available on the Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot)**

### Summary of Public Representations

The Scottish Ministers have received 995 representations regarding this application. 220 of which are objections and 775 are in support. The main issues raised in the objections are: -

- It would be contrary to national and local planning policy;
- Significant adverse landscape and visual impacts, both individually and cumulatively, inappropriate and harmful to the area;
- It would be detrimental to the adjacent Thornhill Uplands Regional Scenic Area;
- Scaur Glen is one of the last unspoiled valleys where wind turbines are not in view;
- The turbines are excessive in size and number in this location;
- Environmental impacts outweigh the benefits;
- Loss of residential visual amenity;
- Impacts from noise, shadow flicker and shadow throw, and associated health concerns including epilepsy;

- Threat to private water supplies;
- The scheme would provide few jobs whilst damaging the local visitor economy;
- Impact upon Southern Upland Way and other recreational routes and hill summits;
- Other renewable technologies should be favoured over onshore wind power;
- Harmful to wildlife including protected species, and would damage habitats and ecosystems;
- The Scaur and its tributaries are important salmon spawning grounds for the Nith;
- The ecological clerk of works should not be an employee of the developer;
- Onshore wind energy is too expensive, inefficient and not green;
- The area already has its fair share of wind farms;
- Aviation lighting would impact on dark skies;
- Substantial constraint payments to wind farm operators are already being made to turn off wind turbines;
- Loss of peat;
- Concrete may leach into soil and water table, changing pH of peat;
- Risk of bird strikes;
- Increased potential for flooding from increased run-off;
- Traffic impacts;
- Impact on the setting of cultural and historic assets such as Allan's Cairn, Striding Arches, Crawick Multiverse;
- Rural depopulation;
- Lack of community consultation;
- Disturbance and nuisance caused during construction;
- Reduced property values;
- Impact on horses and cattle;
- The name of the proposal is misleading as it affects a much wider area beyond Sanquhar;
- It would set a precedent for 200m turbines onshore;
- Contrary to human rights.

The representations in support of the proposal relate to the following:

- The development will deliver jobs in construction, engineering and associated industries;
- A substantial investment to the local, regional and Scottish economy with contracts allocated to local and Scottish businesses and suppliers;
- Contribution to meeting renewable energy and carbon reduction targets;
- Supports addressing the climate emergency;
- Energy stability with battery storage, reducing need to import electricity;
- It would be appropriately sited in an area with a high wind resource and distant from settlements;
- The development would provide opportunities to local communities, including educational, environmental and community initiatives;
- Local economic benefit, including sustaining and growing existing businesses;
- It is a long-term, sustainable investment;
- It would bring prosperity to an area that has struggled with social standards since the demise of the coal industry;
- The turbines can be taken down in the future.

**Details of the representations are available on the Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot)**



The Scottish Ministers have considered the matters raised in the consultation responses and public representations and are satisfied, having taken into account the EIA Report, AEI 2020, SI 2021, and the PI Report, that the significant environmental impacts of the proposed Development have been appropriately assessed and largely mitigated by design. Further environmental mitigation has been secured by the Scottish Ministers through the imposition of conditions attached to the planning permission.

## **The Scottish Ministers' Considerations**

### **Legislation and Environmental Matters**

The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Electricity Act in respect of 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. The Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

SEPA's advice has been obtained and considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

SEPA have no objection, subject to a condition regarding the scope of the peat management plan. SEPA is satisfied that any ongoing issues relating to peat management would be capable of being resolved in consultation with SEPA.

The Scottish Ministers are satisfied that the EIA Report and AEI 2020 have been produced in accordance with the EIA Regulations and The Electricity Works (Miscellaneous) (Coronavirus) (Scotland) Regulations 2020, as appropriate. In reaching their decision, the Scottish Ministers have assessed the environmental impacts of the proposed Development and taken into consideration the EIA Report, AEI 2020, SI 2021, representations, consultation responses including those from Dumfries and Galloway Council, East Ayrshire Council, NatureScot, SEPA, HES and the PI Report.

The Scottish Ministers consider that there is sufficient information to be satisfied that the Company have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest.

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

The Scottish Ministers are satisfied that the proposed Development would not have any adverse effect on fisheries or to stock of fish in any waters.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations 1990, the EIA Regulations 2017 and The Electricity Works (Miscellaneous) (Coronavirus) (Scotland) Regulations 2020, as required, and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development.

### **Main Determining Issues**

Having considered the Application, the EIA report, AEI 2020, SI 2021, responses from consultees, representations, PI Report and Scottish Government policies, the Scottish Ministers consider, in line with the Reporters, that the main determining issues in respect of the proposed Development are:

- the nature and extent of landscape and visual effects, including residential visual amenity and aviation lighting;
- the proposed Development's effects on aviation radar and systems, and the adequacy of proposed mitigation;
- the impact of the proposed Development on residential amenity (non-visual);
- environmental effects of the proposed Development on ornithology, ecology, peat and cultural heritage;
- the benefits of the proposed Development, including its renewable energy generation and net economic impact; and
- the extent to which the proposed Development aligns with Scottish Government policies, the local development plan and other relevant guidance.

### **Assessment of the Main Determining Issues**

#### **Landscape and visual effects, including residential visual amenity and aviation lighting**

The Reporter has considered the consultation responses of Dumfries and Galloway Council, Stop Sanquhar II objection group, Scotways, Oliver Mundell MSP and NatureScot as well as comments of third parties. The Reporter's findings on landscape and visual impacts are detailed in Chapter 3 of the PI Report (pages 33 – 57, paragraphs 3.71 - 3.208 for landscape and visual; pages 57 – 63, paragraphs 3.209 – 3.243 for residential amenity) with their overall conclusions set out at paragraph 3.244 of Chapter 3. Their assessment of the visual impacts of the proposed Development includes aviation lighting effects.

#### **Landscape and visual effects**

Dumfries and Galloway Council object to the proposed Development due to the significant landscape and visual impacts as a result of the design and scale of the proposed Development. This is in relation to this proposed Development as well as the cumulative impact with existing and consented wind farms. A summary of their position at inquiry is set out in Chapter 3, paragraphs 3.18 – 3.31 of the PI Report.

The Stop Sanquhar II Group object due to the significant detrimental impact on the character of the landscape, particularly on important valleys, including the Thornhill Uplands Regional scenic Area; and due to the impact on the residences in the area. A summary of their position at inquiry is set out in Chapter 3, paragraphs 3.32 – 3.41 of the PI Report.

Four Community Councils (Carsphairn, Penpont, Royal Burgh of Sanquhar and District, and Tynron) object and support Stop Sanquhar II Group. The objection is due to the landscape and visual impact, including the cumulative impact, the proposed Development would have on the area. Of particular concern is the impact on the Thornhill Uplands Regional Scenic Area, Southern Upland Way, Tynron Doon, Glenwhargen Crags, Cairnkinna, Blacklorg Hill, the area between the Glenkens and Nithsdale, and the impact on Scaur Glen, Shinnel Glen, Euchan Glen and Afton Glen.

Oliver Mundell MSP objects due to the significant cumulative impact with existing and consented wind farms. A summary of their position at inquiry is set out in Chapter 3, paragraphs 3.64 – 3.70 of the PI Report.

A number of representations also cite the effects on the landscape due to the size and scale of the proposed Development, as well as the cumulative landscape and visual impacts with existing and consented wind farms as the reasons for objecting.

NatureScot acknowledge that there would be significant adverse effects on the landscape character of the area however do not object to the proposed Development.

The Reporter states that there would be significant adverse landscape and visual effects, direct and indirect, however is of the opinion that the proposed Development would not overwhelm the area and the significant effects would be localised and not detract from the overall landscape character.

It is acknowledged within paragraph 3.150 of the PI Report that one of the most significant impacts, particularly regarding visual amenity and scenic quality, would be at Scaur Glen, with the most considerable effects localised to the area around Hallscaur.

The PI Report states that visual amenity towards the head of Shinnel Glen and in the middle/upper areas of the Glen would also be significantly adversely affected by the proposed Development. However, the PI Report further states that the proposed Development would not diminish the overall levels of visual amenity of Afton Glen, despite there being significant visual effects. The Reporter assessed that the proposed Development would detract from the visual amenity provided at local hill summits, although it was found that it would not overpower the views entirely and would not affect views in all directions.

The Reporter covered the cumulative impact of the proposed Development in paragraph 3.186 of the PI Report and noted that the impression of the area becoming a windfarm landscape would be limited to areas of higher ground and summits, and generally in medium to longer range views. The conclusion of the PI Report is that the addition of the proposed Development to the area would not “...*overwhelm the view or fundamentally alter the experience of the landscape.*” (paragraph 3.186).

The PI Report makes it clear that the introduction of this proposed Development would reinforce the presence of wind farms in the area, made more apparent by the height of the turbines being larger than the turbines of the closest windfarms - Whiteside Hill, Sanquhar and Lorg (not consented). This would also lead to differences in rotational speed, which would be most noticeable in shorter range views and would have a relatively localised effect, being most apparent within around 5 km, and potentially perceptible up to 10 km from open, elevated locations (paragraph 3.192).

Paragraph 8.81 of the PI Report concludes that the presence of the proposed Development would enhance the overall pattern of windfarms in the wider landscape, in longer range views.

However, the PI Report notes at closer range, the cumulative impact of the windfarms would be less intrusive, with the exception of a small number of locations. The Reporter therefore assessed that, overall, the proposed Development could be introduced without a significant adverse visual impact on the area.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding the landscape and visual impacts of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions and adopt them for the purpose of their own decision.

### Residential visual amenity

Dumfries and Galloway Council object due the significant adverse effect the proposed Development would have on residential visual amenity, particularly the properties of Polskeoch and Shinnelhead. A summary of their position at inquiry regarding residential visual amenity is set out in Chapter 3, paragraphs 3.23– 3.26 of the PI Report.

The Stop Sanquhar II Group support Dumfries and Galloway Council's objection, but also object in regard to the significant adverse effect the proposed Development would have on residential visual amenity at Craigs Farm Cottage and Craig Steading. A summary of their position at inquiry is set out in Chapter 3, paragraphs 3.42- 3.62, of the PI Report.

Two Community Councils (Penpont and Tynron) object due to the proposed Development's proximity to residences in Scaur glen and the impact on health and wellbeing of residents.

The PI Report discusses six properties which would encounter significant visual effects from the proposed Development - Polskeoch, Shinnelhead, Craighbranoach, Corbiehill, Craigs Farm Cottage and Craig Steading. Out of these properties, Polskeoch and Shinnelhead would potentially be affected to a more notable extent. The other properties would be affected visually, although this would not be deemed to be overbearing, compromise living conditions or effect other aspects of residential amenity.

The residential amenity of both Polskeoch and Shinnelhead can partly be attributed to their remoteness and landscape setting, and these qualities would be adversely affected by the proposed Development, principally during the day but also at night due to the visual impact of aviation warning lighting in an area otherwise largely devoid of sources of artificial light. At paragraph 3.244 the Reporter states that the *"...effect upon Polskeoch would be close to becoming overbearing."*

In the final conclusions it is noted that, on balance, the proposed Development would not be considered as physically overbearing but there was a concern regarding the impact it would have on the sense of remoteness and solitude at Polskeoch and Shinnelhead, Despite this, it was found that the overall sense of place and remoteness should be sufficient to endure the presence of the proposed Development (paragraph 8.85).

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding residential visual amenity. The Scottish Ministers agree with the Reporter's conclusions and adopt them for the purpose of their own decision.

### Aviation lighting

Dumfries and Galloway Council object to the permanent visible red aviation lighting to 42 turbines as detailed in the EIA report. They state that it would introduce lighting with an industrial appearance which would be visible for a considerable distance from the proposed Development. This would significantly impact the local landscape character and visual amenity by extending the effects of the proposed Development into low light periods such as dawn and dusk in a dark rural environment largely unaffected by artificial light.

At the pre-inquiry meeting of 20 April 2021, the Company outlined their intention to submit a revised aviation lighting strategy. The Company proposed a revised aviation lighting strategy in the supplementary information (SI 2021) submitted to the inquiry in June 2021.

The main elements of the revised aviation lighting strategy are as follows:

- 19 of the 42 200m turbines – marking the corners and every second turbine on the perimeter of the wind farm – would be lit with 2000 candela steady red lights and infra-red lights on the nacelle;
- the red lights will be programmed to switch on at 30 minutes after sunset and switch off at 30 minutes before sunrise;
- The red lights will be dimmed to 10% of their peak intensity when a visibility sensor at the windfarm records the meteorological visibility as exceeding 5km;
- all other perimeter turbines (17 in total, including the two 149m blade tip height turbines at the north end of the wind farm), would be lit with infra-red lights only; and
- no mid-tower lighting would be fitted.

Following the revised aviation lighting strategy, Dumfries and Galloway Council upheld their objection due to the continued extent and significance of night-time effects, however they did acknowledge that the objection to the lighting impacts should be amended to reflect that the revised strategy would reduce the extent and significance of daytime significant effects (in low-light conditions but with good visibility) from lighting.

The Stop Sanquhar II Group also upheld their objection of the revised aviation lighting strategy on the basis of the significant impact on residential visual amenity, particularly at Shinnelhead, and the impact on the Dark Sky Park.

The Reporter addresses aviation lighting in paragraphs 3.196 to 3.208 of the PI Report.

The revised aviation lighting strategy reduces the number of turbines with visible lights from 42 turbines to 19 turbines with visible lights on the nacelle of the turbine only. This has been approved by the Civil Aviation Authority (CAA) and the Ministry of Defence. The Reporter notes that this would reduce the potential for significant effects on landscape character or visual amenity during low-light levels, when compared with the proposal for all turbines to be lit.

This would ensure that the proposed Development would have “...no discernible effect upon the night-time environment and character of the Dark Sky Park” (paragraph 3.203). However, there would remain to be a significant adverse effect on those areas where the highest magnitude landscape and visual effects would occur during the daytime.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter’s considerations and subsequent conclusions regarding aviation lighting. The Scottish Ministers agree with the Reporter’s conclusions and adopt them for the purpose of their own decision.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding the landscape and visual effects, including residential visual amenity and aviation lighting, of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on the landscape and visual effects and adopt them for the purpose of their own decision.

### **Aviation radar and systems**

The Reporter has considered the consultation response of Glasgow Prestwick Airport (GPA). The Reporter's findings on landscape and visual impacts are detailed in Chapter 4 of the PI Report (pages 66 – 82) with their overall conclusions set out at paragraphs 4.92 to 4.99 of Chapter 4.

GPA object to the proposed Development as a number of turbines would be visible to the airport's primary radar; there would be a reduction in the probability of detection; there would be potential impacts upon secondary surveillance radar coverage; it would affect Instrument Flight Procedures (IFPs); it may impact VHF communications; and it may also have an impact on the Runway 30 Instrument Landing System (ILS). GPA also state that the proposed Development would result in degradation of the surveillance capability in the airspace and that the overlap in the buffer zones around each of the turbines visible to the radar would create "a wall" or "no-go" area to the south-east of the airport. GPA have therefore requested mitigation measures to be put in place by way of suitable conditions. Due to the costs and risks of any mitigation measure, GPA has requested that any consent would include a condition requiring the Company and GPA to enter into a Radar Mitigation Agreement and a Radar Mitigation Scheme.

GPA have procured a 'windfarm tolerant' replacement radar system ('Terma') which would be fully operational before this proposed Development would be constructed, if it is consented, which would help mitigate some of the effects from the proposed Development. This radar system has been designed with a functionality which can be optimised so that a windfarm does not appear on the screens used by the airport's air traffic controllers as clutter or tracks. The probability of detection of a wind farm on the radar should be at least 90%. GPA provided the results from Terma flight trials conducted in respect of operational windfarms within the line of sight of its Terma radar, which confirmed that the probability of detection in these real-life tests were between >95% and 99.7% and thereby highlighting the effectiveness of the Terma radar in maintaining a high probability of detection. However, GPA state that the Electricity Actual figure could only be determined by a flight test and therefore suggest this as a planning condition should consent be granted.

NATS completed a stage 1 assessment of the proposed Development's impact on Instrument Flight Procedures (IFPs). This identified that the approach flight chart and associated procedures for the required navigation procedure for runway 30 at the airport would be required to be updated as mitigation. GPA therefore request that this should be included as a part of a suitably worded planning condition should consent be granted.

The Reporter has concluded, in paragraphs 4.67 to 4.69, that a VHF assessment is unnecessary and that the proposed Development does not create a specific impact requiring mitigation in relation to the secondary radar or the cumulative impact on buffer zones as a result of the proposed Development.

The Company conducted two assessments regarding the potential impact the proposed Development would have on the Instrument Landing System (ILS) for runway 30 of GPA. The

Company concluded that the proposed Development would not have any impact on the use of the ILS in practice, however also stated that the precise impacts on the ILS could only be established by undertaking test flights once the development is complete, if consented. GPA also propose a flight trial to verify that the proposed Development has no adverse effect on the ILS. However, the Reporter disputes in paragraphs 4.62 to 4.64 of the PI report the need for flight trials given the available evidence and concludes that no mitigation is required regarding the ILS in relation to the proposed Development.

GPA showed the potential effects of the proposed Development in a scenario of no mitigation, including in the absence of the Terma radar, however they confirmed that there would be no such scenario. It was also confirmed that the proposed Development would not lead to air safety being compromised and GPA would continue to ensure that safe air traffic control services would be capable of being provided. The objection is therefore not a safety concern.

There has been a dispute between GPA and the Company regarding what mitigation measures are required and which party should be responsible for the costs involved. GPA submits that if consent is granted for the proposed Development, it will have an adverse effect upon the airport. In order to remedy that impact, the airport will have to put, and thereafter keep appropriate mitigation measures in place for the lifetime of the proposed Development. GPA therefore requested the Company to agree to enter a windfarm mitigation agreement after signing a non-disclosure agreement (NDA). The mitigation agreement would require annual payments to be made by the Company to GPA for the duration of the 40-year operational life of the proposed Development to compensate GPA for potential costs and risks of residual degradation identified by the airport as a result of a windfarm. GPA justifies this as they state mitigation, and associated costs and risks, would be required at the outset, for which they should be compensated.

The Company have agreed to meet the costs of required mitigation measures, however, strongly contends that there are no ongoing costs and risks that would be reasonably attributable to the proposed Development and consider a mitigation agreement to be unnecessary. The Company therefore declined to enter into a windfarm mitigation agreement and sign an NDA.

The Reporter found, as set out in paragraphs 4.77 to 4.83 of the PI Report, that the costs and risks identified by GPA were not necessarily related to this particular proposed Development and disputed the need for ongoing costs regarding the mitigation measures required. The Reporter further stated in paragraph 4.82 that *“the planning system does not contain any provisions which could be used to require payments to be made to third parties as ‘compensation’ for the residual effects of a development which they may experience or need to take account of in the future.”* Consequently, in paragraph 4.87 of the PI Report the Reporter found no justification for compensatory payments to be made to GPA.

In paragraphs 4.84 to 4.91 of the PI Report, the Reporter considers details provided on the windfarm mitigation agreement used by GPA. The terms of the windfarm mitigation agreement were not included as part of the inquiry so as not to prejudice existing confidentiality commitments between GPA and other windfarm developers. However it is understood that these windfarm mitigation agreements typically require annual compensatory payments for the duration of a windfarm’s operational life and that the charging structure currently used by GPA is calculated on a per megawatt basis.

The Reporter set out their view in paragraph 4.86 of the PI report that this methodology for calculating charges is illogical if such payments were to cover costs in relation to specific identifiable mitigation measures required as a result of impacts from the proposed Development and further states that *“it would be the size and position of turbines which would influence the need for mitigation and the associated costs, rather than their electrical output”*.

Specific mitigation measures and activities have been identified in order to address the operational impacts the proposed Development would have on GPA. These measures would be the optimisation and testing of the airport's Terma primary surveillance radar, and the updating of charts and procedures used in Instrument Flight Procedures. Suitably worded planning conditions would seek to address these mitigation measures, with the costs being met by the Company.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the position of Glasgow Prestwick Airport at the inquiry and the Reporter's considerations and subsequent conclusions regarding the impact of the proposed Development on aviation radar and systems.

The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on aviation radar and systems and adopt them for the purpose of their own decision. As such, appropriately worded planning conditions have been adopted as set out as set out in the consent and planning permission in annex 2.

The Scottish Ministers further agree with the Reporter's conclusions in respect of the costs associated with specific mitigation measures identified to address the evident impacts of the proposed Development, acknowledging that the sums of these costs should be demonstrably incurred by Glasgow Prestwick Airport, and that there is no basis for ongoing compensatory payments to be made.

### **Residential amenity (non-visual)**

The Reporter considered the consultation responses of The Stop Sanquhar II Group, Tynron Community Council and Penpont Community Council, as well as comments of third parties. The Reporter's findings on residential amenity are detailed in Chapter 5 of the PI Report between pages 83 – 86. This is considered in paragraphs 5.4 – 5.14 for noise effects; paragraphs 5.15-5.18 for shadow flicker; and paragraphs 5.19 to 5.26 for private water supplies; with their overall conclusions set out at paragraphs 5.27 – 5.53. These conclusions include the Reporter's assessment of residential amenity of vacant properties owned by the Company. The Reporter establishes that there would be no need to have these properties unoccupied on a long-term basis due to effects from the proposed Development.

### Noise effects

The Stop Sanquhar II Group and Tynron Community Council object due to the impact from noise. There are also representations which object on this basis. No other consultee objects to the proposed Development on the basis of noise effects, including the two Planning Authorities.

The levels of noise which may be experienced during construction, operation and decommissioning were assessed within the EIA report and AEI 2020. This included any cumulative noise, and the findings were that the predicted noise levels would fall below the relevant noise limits at each receptor location. This conclusion was verified and accepted by East Ayrshire Councils independent noise consultants. East Ayrshire Council request cumulative noise limits be set, as a condition, in addition to site specific limits.

The Reporter found that individual and cumulative noise limits were justified and appropriate in this case in order to maintain consistency (following the condition imposed for Pencloe Wind Farm and given the proximity of Pencloe Wind Farm to the proposed Development) and to provide necessary safeguards against the potential for unacceptable noise levels to occur at the nearest residential properties. Subject to such a condition being imposed and the specified noise



limits being met, the Reporter is satisfied that there would be no significant noise effects which would weigh against the proposal as part of the overall planning balance.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding the impact of noise of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions and adopt them for the purpose of their own decision.

### Shadow flicker

The Stop Sanquhar II Group and Tynron Community Council object due to the impact from shadow flicker. There are also representations which object on this basis. No other consultee objects to the proposed Development on the basis of shadow flicker, including the two Planning Authorities.

The EIA report and AEI 2020 identified that shadow flicker would potentially occur at three properties, two of which are intended to be unoccupied. These state that the 'likely' total annual period of shadow flicker within these properties was identified as in the region of 10.5 and 16 hours respectively, which would not have a significant effect upon residential amenity if these properties were occupied. The EIA report and AEI 2020 calculated the third property, Polskeoch, as likely to have an annual occurrence of 3 hours and 38 minutes, which would have a negligible effect on residential amenity. According to the PI Report, at worst-case maximum scenario, which takes no account of periods of likely cloud cover, the total annual shadow flicker time at Polskeoch would be just over 13.5 hours, which would not be considered a significant effect.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding the impact of shadow flicker of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions and adopt them for the purpose of their own decision.

### Private water supplies

The Stop Sanquhar II Group, Tynron Community Council and Penpont Community Council object due to the risk to private water supply. There are also representations which object on this basis. No other consultee objects to the proposed Development on the basis of private water supplies, including the two Planning Authorities, SEPA and Scottish Water.

The EIA report identifies properties within 3 km of the proposed Development with private water supplies, with an additional property identified in the AEI 2020. The PI report supports the conclusions of the EIA Report that the private water supply of the properties identified as hydrologically connected, or potentially hydrologically connected, to the proposed Development site, would be highly unlikely to be affected by the proposed Development.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding the impact of the proposed Development on private water supplies. The Scottish Ministers subsequently agree with the Reporter's conclusions and adopt them for the purpose of their own decision.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent

conclusions regarding the residential amenity of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on residential amenity and adopt them for the purpose of their own decision. As such, appropriately worded planning conditions have been adopted as set out in Annex 2, Part 2.

## **Ornithology**

The Reporter's findings on ornithology are detailed in Chapter 5 of the PI Report (page 90, paragraphs 5.54 – 5.59). NatureScot and RSPB Scotland initially had objections to the proposed Development regarding the adequacy of survey information and collision risk assessments, cumulative impacts, errors in the assessment, and the impact of lighting.

Following the Additional Information submitted by the Company in July 2020 and the pre-inquiry meeting of 20 April 2021 which included further ornithological information from the Company, none of the consultees have objections to the proposed Development. This is subject to the condition of a Habitat Management Plan and the establishment of a group to oversee the preparation and delivery of that plan.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses, particularly from NatureScot and RSPB Scotland, and public representations alongside the Reporter's considerations and subsequent conclusions regarding the ornithology of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on ornithology and adopt them for the purpose of their own decision. As such, appropriately worded planning conditions have been adopted as set out in Annex 2, Part 2.

## **Ecology**

The Stop Sanquhar II Group and Penpont Community Council object due to the impact on ecology. Representations were also received regarding this. No other consultees object to the proposed Development on the basis of ecology, including NatureScot, SEPA, Marine Scotland and Nith District Salmon Fishery Board.

The Company address ecology in Section 8 of the EIA Report and subsequent Additional Information, July 2020. The Reporter's findings on ecology are detailed in Chapter 5 of the PI Report (Pages 90-91, paragraphs 5.60 – 5.63). Concerns raised in consultation responses could be sufficiently addressed by the mitigation measures proposed by the Company and appropriate conditions being imposed.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses, particularly from NatureScot, SEPA, Marine Scotland and Nith District Salmon Fishery Board, and public representations alongside the Reporter's considerations and subsequent conclusions regarding the ecology of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on ecology and adopt them for the purpose of their own decision. As such, appropriately worded planning conditions have been adopted as set out in Annex 2, Part 2.

## **Peat**

The EIA Report, Section 10, assesses the proposed Development's effects upon hydrology, geology and hydrogeology, including consideration of peatlands. AEI 2020 clarified information regarding the management of peat and included a revised peat management plan and stage II

peat stability assessment. The Reporter's findings on peat are detailed in Chapter 5 of the PI Report (pages 91-92, paragraphs 5.64 – 5.72). There are no outstanding objections regarding loss of peat although there are representations regarding the impact on peat.

SEPA has some ongoing concerns over the proposed approach to managing and reinstating peat on the site, however, is satisfied that these can be satisfactorily addressed by a finalised peat management plan. A detailed peat management plan, in consultation with SEPA, would therefore be a required condition to any consent. This approach is supported by RSPB Scotland.

Due to the variable peat depths, another required condition of any consent, as detailed in the PI Report, is a specific micro-siting allowance to be agreed by the environmental clerk of works due to the risk even slight adjustments may have on the volume of affected peat.

A final condition of any consent is the preparation of a construction and environmental management plan with explicit reference to peat slide risk management.

The Scottish Ministers have taken account the EIA report, AEI 2020, SI 2021, consultation responses, particularly from SEPA and RSPB Scotland, and public representations alongside the Reporter's considerations and subsequent conclusions regarding the impact on peat of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on peat and adopt them for the purpose of their own decision. As such, appropriately worded planning conditions have been adopted as set out in Annex 2, Part 2.

## **Cultural Heritage**

Section 9 of the EIA report assesses the proposed Development's potential effects upon cultural heritage assets. The Reporter's findings on cultural heritage are detailed in Chapter 5 of the PI Report (page 94, paragraphs 5.82-5.84).

Tynron Community Council object due to the impact of the proposed Development on cultural heritage in the area. There were also representations received on this basis. However, of significant note is that Historic Environment Scotland (HES) do not object.

There is an area of archaeological interest in the vicinity of turbine T15, which requires further investigation to mitigate any direct impact which might occur. Dumfries and Galloway Council propose a condition, should consent be granted, whereby a programme of archaeological investigation is developed. No other significant effects upon any assets are predicted, directly or indirectly.

The Scottish Ministers have taken account the EIA report, AEI 2020, SI 2021, consultation responses, particularly from HES, Dumfries and Galloway Council, East Ayrshire Council, and public representations alongside the Reporter's considerations and subsequent conclusions regarding the impact on cultural heritage of the proposed Development. The Scottish Ministers agree with the Reporter's conclusions in respect of the impact of the proposed Development on cultural heritage and adopt them for the purpose of their own decision. As such, appropriately worded planning conditions have been adopted as set out in Annex 2, Part 2.

## **Scottish Government Policies and Local Development Plans**

Chapter 2 of the PI Report sets out the policy context against which the proposed Development should be considered, and Chapter 8 of the PI Report sets out the Reporter's consideration and

assessment of the proposed Development in the context of relevant national climate change and energy policy, national planning policy and other relevant local planning policy and guidance.

### Contribution to Renewable Energy Policy Objectives

The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 introduced a target of net zero greenhouse gas emissions by 2045 at the latest. Scotland will also have to reduce emissions by at least 75% by 2030 and 90% by 2040.

The Onshore Wind Policy Statement (“OWPS”), published in December 2022, reaffirms the vital role for onshore wind in meeting Scotland’s energy targets within the context of the Scottish Government’s 2045 net zero emissions commitment. The statement sets out the Scottish Government’s position for the ongoing need for additional onshore wind development and capacity in locations across Scotland where it can be accommodated in appropriate locations.

The proposed Development would make a significant contribution towards meeting greenhouse gas emission and renewable electricity targets. The exact figures proposed by the Company of a generating capacity upto 308 MW may be considered a best-case scenario and therefore potentially overstated. However, the Company has agreed to a minimum estimated generating capacity of 250 MW in terms of grid connection, which remains to be substantial.

The carbon payback figures for the proposed Development have been presented in appendix 2.2 of the Additional Information (AEI 2020) submitted in July 2020, using the approved Scottish Government carbon calculator. Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format. This shows that the proposed Development, if built, would be expected to have a payback period of 6 months if it replaces the coal-fired mix, 1.1 years if it replaces the fossil fuel mix and 1.9 years if it replaces a grid mix of electricity generation. The latter would be considered as the most realistic scenario. If the installed capacity was lower than predicted, i.e., lower than 308 MW, the carbon payback period would increase, however the Reporter notes that there would still be a very substantial net carbon savings overall, across its 40-year operation.

Despite the uncertainty over the specific generating capacity, electrical output and the carbon payback period the Reporter concludes that the minimum estimations would be substantial and “...should count strongly in the proposed development’s favour.” (Paragraph 6.55).

### Accordance with Scottish Government National Planning Policies

On 13 February 2023 National Planning Framework 4 (“NPF4”) was adopted by Scottish Ministers. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of sustainable places, liveable places, productive places. The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must contribute to making Scotland a more sustainable place.

NPF4’s energy policy (“policy 11”) sets out its intent to support proposals for all forms of renewable technologies, including wind farms. Matters that are to be addressed in the design and mitigation of a development which include impacts (including cumulative) on communities and individual dwellings; significant landscape and visual impacts; historic environment;

biodiversity; trees and woodlands; public access; aviation and defence interests; telecommunications and broadcasting; road traffic; water environment; decommissioning of developments and site restoration. Policy 11 requires that in considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets but is clear that wind farms will not be supported in National Parks and National Scenic Areas.

The policies within NPF4 require to be read as a whole and considered and balanced when reaching a decision on applications for wind energy development.

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

In making planning decisions, NPF4 states that significant weight will be given to the global climate and nature crises (Policy 1) and, within Policy 11, that wind farms would be supported by Scottish Ministers. This would be on the basis that they maximise net economic impact and specific environmental impacts are addressed via project design and mitigation.

Chapter 2 of the Supplementary Report, which overall forms part of the PI Report, specifically considers the other relevant provisions of NPF4 for the proposed Development in paragraphs 2.40 – 2.73. The Reporters concludes that the provisions of NPF4 add further weight to the case of support for the proposed Development.

### Local Development Plans

Dumfries and Galloway Council assess proposed developments in relation to Dumfries and Galloway Local Development Plan 2 (2019) and policies associated with the plan - OP1 – Development Considerations; OP2 – Design Quality and Placemaking; NE2 – Regional Scenic Areas; IN1 – Renewable Energy; IN2 – Wind Energy; and ED11 – Dark Skies. There is also supplementary guidance, the ‘Wind Energy Development: Development Management Considerations’ (February 2020) and ‘Dark Skies Friendly Lighting’ (February 2020).

East Ayrshire assess proposed developments in relation to Local Development Plan (volumes 1 and 2) (2017) and the associated policies - Overarching policy OP1; RE3 – Wind energy proposals over 50 metres in height; RE5 – Financial guarantees; ENV7 – Wild land and sensitive landscape areas; ENV8 – Protecting and enhancing the landscape; RES11 – Residential amenity.

Chapter 2 of the Supplementary Report, which overall forms part of the PI Report, specifically considers the compatibility of NPF4 with the relevant development plans in paragraphs 2.74 – 2.84. The Reporters concludes that, whilst a development plan does not have primacy in decision-making for applications made under the Electricity Act, the differences between the relevant development plan and NPF4 lie in the “*matter of emphasis and weight than deeper routed incompatibility.*”

Scotland’s renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development. NPF4, the Energy Strategy, and the OWPS make it clear that renewable energy deployment remains a priority of

the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

Therefore, Scottish Ministers are satisfied that the proposed Development would provide a contribution to renewable energy targets and carbon savings that it is consistent with NPF4 and other Scottish Government Policies on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045.

The Scottish Ministers have taken into account the EIA report, AEI 2020, SI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions regarding the proposed Development's accordance with national energy and planning policies. The Scottish Ministers subsequently agree with the Reporter's conclusions and adopt them for the purpose of their own decision.

### **Socio-Economic Benefits**

The Reporter has set out their considerations and conclusions on the socio-economic effects, including effects on recreation/tourism, of the proposed Development at Chapter 6, paragraph 6.49 – 6.55 of the PI Report.

NPF4 supports the planning and delivery of sustainable places, liveable places and productive places, and that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include, as well as a number of other considerations, net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs.

Scottish Ministers note the conclusions of the Reporter at paragraphs 6.55 and 8.86 of the PI Report in which it is stated that the proposed Development would generate considerable direct and indirect socio-economic benefits due to the number of jobs created, albeit temporarily, and the scale of investment, with capital expenditure estimated at £337 million. There were no significant adverse effects identified in relation to the local or wider economy.

Scottish Ministers are therefore satisfied that the proposed Development would create economic benefits in the area.

### **Conclusions of PI Report**

At Chapter 8 of the PI Report the Reporter has taken account of the proposed Development in relation to Schedule 9, paragraph 3(2) of the Electricity Act 1989 as well as the provisions of NPF4 and the LDP's of Dumfries and Galloway Council and East Ayrshire Council. They conclude that the proposed Development:

- will support local and national planning policies;
- will generate renewable energy which clearly supports climate change mitigation;
- will provide socio-economic benefits;
- will cause significant, localised, landscape and visual impacts;
- will cause significant visual impact of the residential amenity of two properties, one of which is owned by the Company.

The Reporter subsequently concludes in paragraph 8.92 that, overall, the benefits of the proposed Development would outweigh the effects upon the interests listed in schedule 9 of the Electricity Act, subject to mitigation measures secured by appropriately worded conditions.

The Scottish Ministers have taken account of the Reporter's considerations and agree the proposed Development is supported by both national and local planning policies and adopt this reasoning for the purposes of their own decision.

The Scottish Ministers are satisfied that although the proposed Development will have significant localised landscape and visual impacts, as well as significant localised impact on residential amenity, these do not outweigh the overall benefits of the proposed Development.

## **The Scottish Ministers' Conclusions**

### **Reasoned Conclusions on the Environment**

The Scottish Ministers are satisfied that the EIA Report and the AEI 2020 have been produced and followed appropriate publicity and consultation procedures in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations"), and the Electricity (Applications for Consent) Regulations 1990 ("the Consents Regulations").

The Scottish Ministers have fully considered the EIA Report and the AEI 2020, SI 2021, consultation responses, representations, the findings, conclusions and recommendations of the PI Report and all other material information and are satisfied that the environmental impacts of the proposed Development have been sufficiently assessed and have taken the environmental information into account when reaching their decision.

Taking into account the above assessment, subject to conditions to secure environmental mitigation, the Scottish Ministers consider the environmental effects of the proposed Development are mostly overcome with the exception of significant local landscape and visual effects.

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

### **Acceptability of the proposed Development**

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

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

Benefits to the Scottish economy are anticipated alongside short- and longer-term benefits to the Planning Authority areas of Dumfries and Galloway and East Ayrshire.

The Scottish Ministers are satisfied that the issues regarding aviation radar and systems, as well as the other environmental issues, would be appropriately addressed by the mitigation measures secured by relevant conditions attached to the planning permission deemed to be granted by the Scottish Ministers.

However, the Scottish Ministers acknowledge that there would be significant localised landscape and visual impacts.

The benefits of the proposed Development must therefore be considered carefully in the context of the negative impacts on the natural environment that would result and whether or not, on balance, they are acceptable. The Scottish Ministers are satisfied that the negative impacts are acceptable in accordance with NPF4 and in the context of the net economic benefits and significant renewable energy benefits that the proposed Development would bring.

The Scottish Ministers consider that these are significant considerations which strongly support the decision to grant consent under section 36 of the Electricity Act and deem planning permission to be granted.

### **The Scottish Ministers' Determination**

As set out above the Scottish Ministers have considered fully the Reporter's findings and their reasoned conclusions, including their reasoned conclusion on the likely significant effects of the proposed Development on the landscape, environment, aviation radar and systems, and residential visual amenity and adopt them for the purposes of their own decision.

The Scottish Ministers agree with the Reporter's recommendation that section 36 consent should be granted for the construction and operation of Sanquhar II Community Wind Farm, and that a direction deeming planning permission to be granted should be given for the Development.

Subject to the conditions set out in **Annex 2, Part 1**, the Scottish Ministers grant consent under section 36 of the Electricity Act 1989 for the construction and operation of the Sanquhar II Community Wind Farm, a wind powered electricity generating station in the Dumfries and Galloway and East Ayrshire Council areas, as described at **Annex 1**.

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

### **Section 36 consent and expiry of Planning Permission**

The consent hereby granted will last for a period of 40 years, subject to condition 34, from the earlier of:

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



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

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

The Scottish Ministers consider that 3 years is not to apply with regard to the planning permission granted above, and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction, unless the development to which the permission relates is begun before the expiry of that period. A condition has been imposed stating that development must be begun within 5 years beginning with the date on which the permission is deemed to be granted and if development has not begun at the expiration of that period, the planning permission will lapse in terms of section 58(3) of the 1997 Act.

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

Copies of this letter have been sent to the public bodies consulted on the Application including the Dumfries and Galloway Council, East Ayrshire Council, NatureScot, SEPA and HES. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent.

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

<https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=20>

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

Yours sincerely,

PP. *Temeeġa Dawson*

Ruth Findlay  
A member of the staff of the Scottish Government

[Annex 1 Description of Development](#)  
[Annex 2 Part 1 Conditions Attached to Section 36 Consent](#)  
[Annex 2 Part 2 Conditions Attached to Deemed Planning Permission](#)  
[Annex 3 Site Layout Plan](#)  
[Annex 4 Public Inquiry Report and Supplementary Public Inquiry Report](#)

## Annex 1

### **Description of the Development**

The Development comprises a wind powered electricity generating station known as Sanquhar II Community Wind Farm on the border of Dumfries and Galloway and East Ayrshire, approximately 6.5 km south-west of Sanquhar, 4km south of Kelloholm and 14km northwest of Thornhill. All as specified in the Application and accompanying EIA Report made on 21 March 2019, the AEI 2020 and SI 2021, and shown on the site layout plan at Annex 3.

The principal components and ancillary development comprise:

- 42 wind turbines with up to 200 m to tip height in Dumfries and Galloway Council Area;
- 2 wind turbines with up to 149 m to tip height in East Ayrshire Council Area;
- Associated turbine foundations and crane hard standings;
- on-site access tracks;
- substation/control room buildings and compounds;
- one satellite substation;
- one 125m meteorological mast;
- underground electrical and fibre optical cables to each turbine;
- an energy storage facility;
- 33/132 kilovolt connection to a grid supply point;
- temporary construction and storage compound;
- substation construction compound;
- up to six temporary borrow pits with associated screening or crushing plant;
- a temporary concrete batching plant.

**Annex 2**  
**Part 1**

**Conditions Attached to Section 36 Consent**

**1. Duration of Consent**

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

*Reason: To allow the Planning Authority and the Scottish Ministers to calculate the date of expiry of the consent.*

**2. Commencement of Development**

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

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

**3. Non-assignment**

- (3) This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation 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.
- (4) The Developer shall notify the Planning Authorities 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 permitted.

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

**4. Serious Incident Reporting**

- (1) In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Developer 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 or first becoming known to the Developer.

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

## **5. NATS (En Route) Aviation Radar**

- (1) No part of any turbine shall be erected unless the Developer has agreed a Primary Radar Mitigation Scheme (PRMS) with the Operator which has been submitted to and agreed in writing by the Scottish Ministers and Dumfries and Galloway Council in order to mitigate the impact of the Development on the Primary Radar Installation at Lowther Hill.
- (2) No turbine shall be erected unless the approved PRMS has been implemented and the Development shall thereafter be operated fully in accordance with such approved PRMS.

For the purpose of this condition 5:

"Operator" means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 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).

"Primary Radar Mitigation Scheme" or "PRMS" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the Development on the surveillance infrastructure and air traffic management operations of the Operator at Lowther Hill.

**Reason:** In the interests of aviation safety.

## **6. Aviation - Instrument Flight Procedures (IFP's)**

- (1) No turbine tower of any turbine may be erected, unless and until such time as the Scottish Ministers receive confirmation from the Airport Operator in writing that none of the turbines have an impact on the instrument flight procedures of Glasgow Prestwick Airport, and the associated procedures have been updated, or alternatively confirmation in writing that:
  - (a) an IFP Scheme has been approved by the Airport Operator;
  - (b) the Civil Aviation Authority has evidenced its approval to the Airport Operator of the IFP Scheme (if such approval is required); and
  - (c) the IFP Scheme is accepted by NATS AIS for implementation through the AIRAC Cycle (or any successor publication) (where applicable) and is available for use by aircraft.
- (2) The Developer shall not commence development until the Scottish Ministers have confirmed in writing that they are satisfied that the Developer has put in place a binding undertaking to pay the Airport Operator such sums as are demonstrably and reasonably incurred by the Airport Operator:
  - (i) in updating the RNP RWY 30 chart in relation to the AMSEK TAA to take account of the

Development; and

- (ii) in the event of a wind turbine forming part of the Development being permanently removed, in undertaking step (2)(i) above, if necessitated by the removal of such a turbine.

**Reason:** *In the interests of aviation safety and to ensure the Airport Operator is reimbursed for the actual costs it incurs in updating the instrument flight procedures as a result of the Development.*

For the purpose of this condition 6:

"Airport Operator" means Glasgow Prestwick Airport Limited or any successor as holder of a licence under the Commission Regulation (EU) No. 139/2014 (or any successor regulation) from the Civil Aviation Authority to operate Glasgow Prestwick Airport.

"IFP Scheme" means a scheme to address the potential impact of the turbines on the instrument flight procedures of Glasgow Prestwick Airport.

## **7. Glasgow Prestwick Airport**

- (1) The Developer shall not commence development until the Scottish Ministers are satisfied that the Developer has agreed a Windfarm Mitigation Scheme with the Airport Operator which has been submitted to and agreed in writing by the Scottish Ministers in order to mitigate the demonstrable impact of the Development upon:
  - (i) the Airport Operator's Terma Scanter 4002 primary surveillance radar ("Terma PSR") radar; and
  - (ii) the Airport Operator's other installed Communications, Navigation, Surveillance (CNS) systems and/or navigational aids and/or the efficiency of air traffic services provided by the Airport Operator.
- (2) The Development shall be constructed, commissioned and operated fully in accordance with the approved Windfarm Mitigation Scheme.
- (3) The Developer shall not commence development until the Scottish Ministers have confirmed in writing that they are satisfied that the Developer has put in place a binding undertaking to pay the Airport Operator such sums as are demonstrably and reasonably incurred by the Airport Operator:
  - (i) in procuring Terma A/S (or its duly appointed representative in the United Kingdom) to undertake a Terma Radar Modelling Assessment to determine the Terma Probability of Detection Reduction Factor in connection with the Development;
  - (ii) in optimising the Airport Operator's operational Terma PSR to accommodate the Development;
  - (iii) in validating the optimisation of the Terma PSR undertaken in respect of the Development by way of flight trial over the Development, if such validation is reasonably required; and
  - (iv) in the event of a wind turbine forming part of the Development being permanently

removed, in undertaking steps (3)(ii) and (3)(iii) above, if necessitated by the removal of such a turbine;

- (4) The Developer shall not commence development until the Scottish Ministers have confirmed in writing that they are satisfied that the Developer has put in place a binding undertaking to pay the Airport Operator such sums as are demonstrably and reasonably incurred by the Airport Operator in re-optimising the Terma PSR to accommodate the Development and in validating the re-optimisation by way of flight trial over the Development, if such validation is reasonably required, in the event that no later than three months after the Date of Final Commissioning the Airport Operator has provided to the Developer and the Scottish Ministers evidence in respect of optimisation under step (3)(ii) and/or validation under step (3)(iii) which demonstrates that the Terma PSR Probability of Detection for the Development would be less than 90 per cent; and
- (5) The Developer shall not commence development until the Scottish Ministers have confirmed in writing that they are satisfied that the Developer has put in place a binding undertaking to pay the Airport Operator such sums as are demonstrably and reasonably incurred by the Airport Operator in providing to the Developer and the Scottish Ministers the results of all modelling, optimisation and/or flight trial(s) in respect of each of (3) and (4) above.

For the purpose of this condition 7:

“Airport Operator” means Glasgow Prestwick Airport Limited or any successor as holder of a licence under Article 205 of the Air Navigation Order 2016 from the Civil Aviation Authority to operate air traffic service equipment at Glasgow Prestwick Airport.

“Windfarm Mitigation Scheme” means such services and resources including equipment, software, procedural or technological measures and technical and professional services, as the Airport Operator demonstrably identifies as necessary and sufficient to prevent the operation of the development or of any turbines forming part of the development impacting adversely on:

- (a) radar performance; or
- (b) the performance of other Communication, Navigation, Surveillance (CNS) systems installed at Glasgow Prestwick Airport; or
- (c) the Airport Operator being able to maintain safe and efficient air traffic control services or procedures or airspace;

and which the Airport Operator is able to implement and maintain for the lifetime of the development or for such shorter period as may be agreed in consultation with the Airport Operator as is demonstrably and reasonably necessary to mitigate any such adverse impact(s).

**Reason:** *To ensure the Airport Operator is reimbursed for the actual costs it incurs in optimising its primary surveillance radar as a result of the Development and to ensure that the impacts of the Development on the Airport Operator’s radar and other installed Communications, Navigation, Surveillance (CNS) systems are acceptable in the interests of aviation safety.*

## **8. Aviation Lighting**

- (1) Aviation lighting shall be installed in accordance with the aviation lighting scheme described in the document “Sanquhar II Wind Farm, Dumfries and Galloway: Proposal for Alternative Lighting Scheme” (Report No. 20/869A/CWP/4) dated April 2021 as approved by the CAA on 25 June 2021 (the Aviation Lighting Scheme).
- (2) The Aviation Lighting Scheme shall be fully implemented throughout the lifetime of the Development, unless any change to the Aviation Lighting Scheme is approved in writing by the Scottish Ministers.

***Reason: In the interest of air safety.***

**Annex 2**  
**Part 2**

**Conditions Attached to Deemed Planning Permission**

**9. Commencement of Development**

- (1) The Development must be begun not later than the expiration of 5 years beginning with the date of permission.
- (2) Written confirmation of the intended date of commencement of Development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

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

**10. Implementation in accordance with approved plans and requirements**

- (1) Except as otherwise required by the terms of this section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application (including the EIAR as amended or supplemented by the AEI 2020 and the SI 2021) and shall be set out in accordance with Figure 2.1a of the AEI 2020.

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

**11. Design and operation of turbines**

- (1) There shall be no Commencement of Development unless full details of the proposed wind turbines (including, but not limited to, the size, type, external finish and colour), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authorities. The turbines and blades shall be painted in non- reflective pale grey semi-matt paint of a colour and tone to be approved by the Planning Authorities.
- (2) The turbines shall be consistent with the turbine range assessed in the EIAR as amended or supplemented by the AEI 2020 and the SI 2021 and the tip height shall not exceed 200 metres above ground level, with the exception of turbines 49 and 50 where the tip height which shall not exceed 149 metres above ground level.
- (3) 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 discoloration, until such time as the wind farm is decommissioned.
- (4) All wind turbine blades shall rotate in the same direction.
- (5) No part of the Development 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 Authorities or required by law.

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



## 12. Design of substation and ancillary development

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

**Reason:** *To ensure that the environmental impacts of the substation and ancillary development forming part of the Development conform to the impacts assessed in the EIAR and AEI and in the interests of the visual amenity of the area.*

## 13. Micro-siting

- (1) Notwithstanding the provisions of the EIAR and AEI 2020, no wind turbines, access tracks or ancillary structures shall be constructed except:
  - (a) in the positions indicated on Figure 2.1a of the AEI 2020; or
  - (b) with the written approval of the ECoW, in a position up to 50 metres from the relevant position(s) indicated on Figure 2.1a; or
  - (c) with written approval of the relevant Planning Authority, in a position greater than 50 metres from the relevant position indicated on Figure 2.1a.
- (2) No access track (except in the vicinity of water crossings) shall be micro-sited under paragraph (1) sub-paragraph (b) or (c) if its new position would bring it within 20 metres of a water course.
- (3) No turbine shall be micro-sited under paragraph (1) sub-paragraph (b) or (c) if its new position would bring it within 50 metres of a water course, within 250 metres of a private water supply, or its foundation would be positioned higher when measured in metres Above Ordinance Datum (Newlyn) than the position shown on Figure 2.1a.
- (4) No turbine identified in column 2 of the Table below shall be micro-sited under paragraph (1) sub-paragraph (b) or (c) to a new position which would be nearer to the residential property identified in column 1 of the Table.

(1) Residential Property	(2) Turbines (as identified on Figure 2.1a of the AEI 2020)
Polskeoch	T17, T18, T20 and T22-26
Shinnelhead	T26-29 and T31-34
Craig Cottage	T7-10

Craig Steading	T7-10
----------------	-------

- (5) No later than one month after the Date of First Commissioning, an updated site plan shall be submitted to the Planning Authorities and Glasgow Prestwick Airport 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 approval by the ECoW or Planning Authority, as applicable. This information shall be supplied in hard copy and in an electronic format to be agreed with the Planning Authorities.

**Reason:** *To ensure that an appropriate level of control is exercised over the visual and environmental impact of any micro-siting, to ensure that environmental assets on the site are protected; and to maintain an accurate record of development in the area.*

#### **14. Borrow Pits – Scheme of Works**

- (1) There shall be no Commencement of Development unless a site specific scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authorities 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 and storage 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 Ecosystems (GWDTE) from drying out;
  - (d) A programme of implementation of the works described in the scheme;
  - (e) Details of the need for blasting and a scheme for publicising the times and dates of such blasting; and
  - (f) Full details of the reinstatement, restoration and aftercare of the borrow pits 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.
- (2) Thereafter the scheme approved under 14(1) shall thereafter be implemented in full.
- (3) Work to excavate the borrow pits shall be undertaken in accordance with the EIAR as amended or supplemented by the AEI 2020 and the SI 2021 unless otherwise agreed in writing by the Planning Authorities.

**Reason:** *To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Application (including the EIAR as amended or supplemented by the AEI 2020 and the SI 2021), or as otherwise agreed, are fully implemented. To secure the restoration of borrow pits at the end of the construction period.*

## **15. Borrow Pits – Blasting**

- (1) No blasting shall take place until a scheme specifying blasting monitoring locations is submitted to and approved in writing by the relevant Planning Authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at the blasting monitoring locations approved in the scheme. The measurement is to be the maximum of three mutually perpendicular directions taken at the ground surface. The scheme shall be implemented as approved.
- (2) Unless otherwise approved in writing in advance by the relevant Planning Authority, blasting shall only take place 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 Bank Holidays or Public Holidays.

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

## **16. Aviation Safety**

- (1) There shall be no Commencement of Development unless the Developer has provided the Planning Authorities, the Ministry of Defence, Defence Geographic Centre, NATS, Glasgow Prestwick Airport and the Civil Aviation Authority with the following information:
  - (a) the date of the expected commencement of each stage of construction including dates of blade installation and first rotation;
  - (b) the height above ground level of the tallest structure forming part of the Development;
  - (c) the maximum extension height of any construction equipment above 50 metres in height; and
  - (d) the position of the turbines and masts in latitude and longitude.
- (2) The parties listed in paragraph 1 shall be notified of any changes in the information provided and of the completion of construction of the Development within 7 days of such changes or completion occurring.

**Reason:** *In the interests of aviation safety.*

## **17. Redundant Turbines**

- (1) If one or more turbines fail to generate electricity for a continuous period of 12 months then, unless otherwise agreed in writing by the relevant Planning Authority, the Developer shall:
  - (a) by no later than 3 months from the date of expiration of the 12 month period, submit a scheme to the relevant Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
  - (b) implement the approved scheme within six months of the date of its approval, all to the satisfaction of the relevant Planning Authority.
- (2) The Developer shall provide Glasgow Prestwick Airport with written notification of the

removal of any turbine within 28 days of any such removal.

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

## **18. Environmental Clerk of Works**

- (1) There shall be no Commencement of Development unless the Planning Authorities have approved in writing the terms of appointment by the Developer of an independent and suitably qualified Environmental Clerk of Works (ECoW). For the avoidance of doubt, a single ECoW may be appointed in relation to both Planning Authorities.
- (2) The terms of appointment shall:
  - (a) impose a duty on the ECoW to monitor compliance with the ecological and hydrological commitments provided in the EIAR, AEI 2020 and SI 2021, in other information lodged in support of the Application, and in any relevant conditions of this deemed planning permission (the ECoW works);
  - (b) require the ECoW to report to the Planning Authorities and the Developer'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 Authorities summarising ECoW works undertaken on site;
  - (d) require the ECoW to provide training to the contractors on their responsibilities to ensure that work is carried out in accordance with environmental protection requirements; and
  - (e) require the ECoW to review and provide written agreement to proposed micro-siting of infrastructure in accordance with Condition 13
- (3) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout the period of construction activity, and during any period of post-construction restoration and aftercare works.

**Reason:** *To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.*

## **19. Planning Monitoring Officer**

- (1) There shall be no Commencement of Development unless the Planning Authorities have approved in writing the terms of appointment by the Developer of an independent and suitably qualified environmental consultant to assist the Planning Authorities in monitoring compliance with the terms of this deemed planning permission (the Planning Monitoring Officer or PMO).

The terms of appointment shall:

- (a) impose a duty on the PMO to monitor compliance with the terms of this deemed planning permission;

- (b) require the PMO to submit a monthly report to the Planning Authorities summarising works undertaken on site; and
  - (c) require the PMO to report to the Planning Authorities any incidences of non-compliance with the terms of this deemed planning permission at the earliest practical opportunity.
- (2) The PMO shall be appointed on the approved terms throughout the period from the date of 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.*

## **20. Construction and Environmental Management Plan**

- (1) 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 Authorities. The CEMP shall be submitted for approval at least two months in advance of the proposed date of Commencement of Development.
- (2) The CEMP shall include (but shall not be limited to):
- (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
  - (b) details of the formation of any construction compound, welfare facilities, 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) details of soil storage and management;
  - (h) details of sewage disposal and treatment;
  - (i) details of temporary site illumination;
  - (j) the method of construction of the crane pads and turbine foundations;

- (k) the method of working cable trenches;
  - (l) the method of construction and erection of the wind turbines and meteorological masts;
  - (m) details of watercourse crossings;
  - (n) post-construction restoration / reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits 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; and
  - (o) a peat-slide risk management plan.
- (3) The Development shall be implemented in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authorities.

**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 Impact Assessment accompanying the application, or as otherwise agreed, are fully implemented.*

## **21. Construction Hours**

- (1) 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 Bank Holidays or Public Holidays. Out with these specified hours, development which is audible from any noise sensitive property shall be limited to turbine foundation construction and turbine installation where such works commenced prior to the expiring of that working hours period, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the relevant Planning Authority.

**Reason:** *In the interests of local amenity.*

## **22. Programme of Archaeological Works**

- (1) There shall be no Commencement of Development unless:
- (a) A programme of archaeological works, informed by a written scheme of investigation, has been submitted to and approved in writing by the Planning Authorities. The programme shall 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;
  - (b) The approved scheme of archaeological works shall thereafter be implemented in full; and
  - (c) Robust fencing, to a design approved by the relevant Planning Authority, has been erected around the areas agreed with the relevant Planning Authority. Erection of

the fencing will be carried out under archaeological supervision and no works shall take place within the areas enclosed unless approved in writing by the relevant Planning Authority. The fencing will remain in place until removal is approved by the relevant Planning Authority.

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

### **23. Peat Management Plan**

- (1) There shall be no Commencement of Development until an updated Peat Management Plan (PMP), updating the peat management plan submitted as Appendix 10.3 of the AEI 2020, is submitted to and approved in writing by the Planning Authorities.
- (2) The approved PMP shall thereafter be implemented in full.

**Reason:** *To ensure that peat is extracted, stored, reinstated or restored in a manner which minimises waste and maximises peat restoration on site.*

### **24. Habitat Management Plan**

- (1) Prior to Commencement of Development, a Habitat Management Plan (HMP) shall be submitted to and approved in writing by the Planning Authorities, in consultation with Nature Scot, and SEPA.
- (2) The HMP shall set out proposals for the habitat management within the site during the periods of construction, operation and decommissioning of the development and during the restoration and aftercare of the site. The HMP shall include:
  - (i) the measures described in the document “Sanquhar II Community Wind Farm Habitat Management Plan” dated June 2020 including the bird monitoring proposals;
  - (ii) habitat management proposals for the benefit of species to include red kite, peregrine, black grouse and golden plover within the areas of the Afton Reservoir and Chanlock Burn each area being a minimum of 75ha;
  - (iii) proposal for bog restoration to compensate for loss of peatland and associated habitats; and
  - (iv) the areas of new riparian woodland to be planted, including tree spacing, details of tree species mixture, and the proposed method of protection from browsing animals as described in the document “Sanquhar II Community Wind Farm Habitat Management Plan” dated June 2020 and Habitat Management Plan: Figure 1 dated June 2020.
- (3) The approved HMP will include provision for regular monitoring and review of its objectives.
- (4) Unless otherwise approved in advance in writing with the Planning Authorities, the approved HMP (or an amended HMP as approved under condition 24 (1)) shall be implemented in full.

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

### **25. Habitat Management Group**

- (1) Prior to Commencement of Development, the Developer shall establish a Habitat Management Group (HMG) to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring. The HMG shall include a representative of the Developer, each of the Planning Authorities, NatureScot and RSPB Scotland and such other representatives as may be agreed to by these representatives. The HMG shall have the powers to make reasonable amendments to the HMP necessary to better deliver its agreed objectives. Any agreed amendments shall be submitted for the written approval of the Planning Authorities.

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

## **26. Water quality and fish-population monitoring**

- (1) Prior to Commencement of Development, a Water Quality and Fish Monitoring Plan shall be submitted to and approved in writing by the Planning Authorities.
- (2) The plan shall provide for water quality and fish monitoring during the pre-construction phase (at least one year prior to commencement of construction), during the construction phase and post-construction (at least one year after completion of construction) and shall be undertaken by a person experienced in monitoring developments such as windfarms.
- (3) The plan shall include monitoring of key hydrochemical parameters, macroinvertebrate sampling and analysis, and quantitative electrofishing at sites to be identified in the plan and shall provide for the reporting of findings to Marine Scotland.

**Reason:** *To ensure that construction activities are monitored in relation to their impacts on water quality and fish.*

## **27. Construction Traffic Management Plan**

- (1) There shall be no Commencement of Development unless a Traffic Management Plan (TMP) in relation to general construction traffic has been submitted to and approved in writing by the Planning Authorities. The TMP shall include:
  - (a) the routing of all traffic associated with the Development on the local road network and the trunk road network;
  - (b) a detailed breakdown of vehicle movements by type and month;
  - (c) measures to ensure that the specified routes are adhered to, including monitoring procedures;
  - (d) the design and layout of site accesses;
  - (e) details of all signage and lining arrangements to be put in place;
  - (f) provisions for emergency vehicle access; and
  - (g) a list of contacts and identification of a nominated person to whom any road safety



issues can be referred.

- (2) The approved TMP shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authorities.

**Reason:** *In the interests of the sale and efficient management of local and trunk roads.*

## **28. Abnormal Load Traffic Management Plan**

- (1) Prior to the commencement of any abnormal load deliveries to the site, an Abnormal Loads Traffic Management Plan (ALTMP) shall be submitted to and approved in writing by the Planning Authorities. The ALTMP shall include:
  - (a) the routing of all abnormal load vehicles associated with the Development on the local road network and the trunk road network;
  - (b) a detailed breakdown of abnormal load vehicle movements by type (including length, width and axle configuration of vehicles) and month;
  - (c) swept path analysis;
  - (d) measures to ensure that the specified routes are adhered to, including monitoring procedures;
  - (e) details of all signage and lining arrangements to be put in place;
  - (f) details of a test run of the route (based upon the largest expected component and transporter) to be arranged in conjunction with the Roads Authority and Police Scotland;
  - (g) provisions for emergency vehicle access; and
  - (h) a list of contacts and identification of a nominated person to whom any road safety issues can be referred.
- (2) During the construction delivery period any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be approved by the Planning Authorities and Transport Scotland.
- (3) The approved ALTMP shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authorities.

**Reason:** *In the interests of the sale and efficient management of local and trunk roads.*

## **29. Construction Traffic Accommodation Works**

- (1) There shall be no Commencement of Development until detailed plans identifying all off-site accommodation works (including access junctions, passing places, strengthening and carriageway widening and associated works, all supported by swept path analysis) required for the safe access and egress of general construction traffic to and from the site

has been submitted to and approved in writing by the relevant Planning Authority.

- (2) All accommodation works identified in the approved plan shall be completed at the Developer's expense to the specification and satisfaction of the relevant Planning Authority.

**Reason:** *In the interests of the sale and efficient management of local and trunk roads.*

### **30. Abnormal Load Accommodation Works**

- (1) There shall be no commencement of the delivery of abnormal loads until detailed plans identifying all off-site accommodation works (including passing places, strengthening and carriageway widening and associated works, all supported by swept path analysis) required for the safe access and egress of abnormal loads to and from the site has been submitted to and approved in writing by the relevant Planning Authority.
- (2) All accommodation works identified in the approved plan, shall be completed at the Developer's expense to the specification and satisfaction of the relevant Planning Authority.

**Reason:** *In the interests of the sale and efficient management of local and trunk roads.*

### **31. Heavy Goods Vehicles**

- (1) Heavy Goods Vehicle (HGV) movements to and from the site (excluding abnormal loads and delivery of concrete where required) during construction of the wind farm shall only take place between the hours of 07.00 to 19.00 Monday to Friday and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on Bank Holidays or Public Holidays.

**Reason:** *To protect the amenity of the area.*

### **32. Post-Construction Road Works**

- (1) There shall be no Commencement of Development unless details of any post- construction reinstatement and restoration works within the boundary of the local road network are agreed in writing with the Planning Authorities.
- (2) The works identified in paragraph 1 above shall be implemented to the satisfaction of the relevant Planning Authority within 6 months of the completion of construction activities.

**Reason:** *In the interests of the safe and efficient management of local roads.*

### **33. Operational noise**

- a) **The turbines shall be designed to permit individually controlled operation, or cut-out, at specified wind speeds in order to enable, and ensure, compliance with the noise level criteria stated in these conditions.**
- (b) Details from the turbine supplier and/or manufacturer regarding the tonality assessment carried out on the turbine require to be provided. A copy of the standard detailing the

assessment method shall be submitted for approval by the relevant Planning Authority. Where the tone level above audibility is 2dB or greater then a tonal penalty shall be applied to the permitted noise levels in accordance with figure 16 in the document “The Assessment and Rating of Noise from Wind Farms” (ETSU-R-97).

- (c) The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty and any amplitude modulation penalty) when determined in accordance with the accompanying Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the Tables 1 and 2 below at any dwelling which is lawfully existing or has planning permission at the date of this permission.
- (d) The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty and any amplitude modulation penalty), operating in conjunction with any other operational turbines consented for the wind farms or single turbines given in the list of developments given in Table 11.4 of Sanquhar II Community Wind Farm, Environmental Statement, Section 11: Noise (April 2019), when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out in Tables 3 and 4 at any dwelling which is lawfully existing or has planning permission at the date of this permission. Following complaint, in the event that the level of noise immissions (including the application of any tonal penalty and any amplitude modulation penalty) exceeds the values in Table 3 or Table 4, the operator of Sanquhar 2 Wind Farm shall undertake appropriate mitigation to reduce turbine noise immissions such that the limits in Table 3 or Table 4 are met, or such that noise from the turbines hereby permitted (including the application of any tonal penalty and any amplitude modulation penalty) meets the levels set out in Tables 1 and 2.

**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 ten metres height as determined within the site averaged over 10 minute periods**

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min									
Property Name	Map Ref	3	4	5	6	7	8	9	10	11	12
Craig An Dhu / Lynn View	262729, 605695	30	30	30	32	33	35	40	44	46	49
Craig	263442, 606454	31	31	31	31	31	31	36	38	43	48
Hillend	268201, 608890	36	36	36	36	36	36	37	43	46	48
Polskeoch	268688, 602320	38	38	38	38	38	38	40	43	45	48
Polgown	271866, 603844	38	38	38	38	38	41	44	46	48	49
Shiel	274502, 604056	39	39	39	39	39	41	43	44	45	46

Dalgonar	270038, 603129	38	38	38	38	38	38	38	40	42	43
Shinnelhead	272959, 599186	40	40	40	40	40	40	40	42	45	47
Craigdarroch	263308, 606510	43	43	43	43	43	43	43	43	43	48
Craigbraneoch / Corbie Hill	263158, 606402	30	30	30	30	30	30	30	37	43	48

**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 ten metres height as determined within the site averaged over 10 minute periods**

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min									
Property Name	Map Ref	3	4	5	6	7	8	9	10	11	12
Craig An Dhu / Lynn View	262729, 605695	33	33	33	33	33	33	34	40	44	46
Craig	263442, 606454	40	40	40	40	40	40	40	42	46	50

Hillend	268201, 608890	36	36	36	36	36	36	36	38	43	46
Polskeoch	268688, 602320	42	42	42	42	42	42	42	42	44	48
Polgown	271866, 603844	41	41	41	41	41	41	41	43	44	46
Shiel	274502, 604056	43	43	43	43	43	43	43	44	46	48
Dalgonar	270038, 603129	42	42	42	42	42	42	42	42	42	42
Shinnelhead	272959, 599186	43	43	43	43	43	43	43	43	43	46
Craigdarroch	263308, 606510	43	43	43	43	43	43	43	43	46	50
Craigbraneoch /Corbie Hill	263158, 606402	40	40	40	40	40	40	40	42	46	49

**Table 3 - 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 ten metres height as determined within the site averaged over 10 minute periods**

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min									
Property Name	Map Ref	3	4	5	6	7	8	9	10	11	12
Craig An Dhu / Lynn View	262729, 605695	40	40	40	42	43	44	45	47	48	50
Craig	263442, 606454	40	40	40	40	40	40	41	42	45	49
Hillend	268201, 608890	45	45	45	45	45	45	45	47	48	50
Polskeoch	268688, 602320	40	40	40	40	40	40	41	43	46	48
Polgown	271866, 603844	40	40	40	40	41	43	45	47	48	50
Shiel	274502, 604056	40	40	40	40	40	41	43	44	45	46
Dalgonar	270038, 603129	40	40	40	40	40	40	40	41	42	44
Shinnelhead	272959, 599186	40	40	40	40	40	40	40	42	45	47
Craigdarroch	263308, 606510	45	45	45	45	45	45	45	45	45	49
Craigbraneoch / Corbie Hill	263158, 606402	40	40	40	40	40	40	41	42	45	49

**Table 4 - 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 ten metres height as determined within the site averaged over 10 minute periods**

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min									
Property Name	Map Ref	3	4	5	6	7	8	9	10	11	12
Craig An Dhu / Lynn View	262729, 605695	43	43	43	43	43	43	44	45	47	48
Craig	263442, 606454	43	43	43	43	43	43	43	44	47	50
Hillend	268201, 608890	45	45	45	45	45	45	45	45	47	48
Polskeoch	268688, 602320	43	43	43	43	43	43	43	43	45	48

Polgown	271866, 603844	43	43	43	43	43	43	43	43	44	46	47
Shiel	274502, 604056	43	43	43	43	43	43	43	43	45	46	48
Dalgonar	270038, 603129	43	43	43	43	43	43	43	43	43	43	43
Shinnelhead	272959, 599186	43	43	43	43	43	43	43	43	43	43	46
Craigdarroch	263308, 606510	45	45	45	45	45	45	45	45	45	47	50
Craigbraneoch / Corbie Hill	263158, 606402	43	43	43	43	43	43	43	43	44	47	50

- (e) Where any rating levels determined in accordance with paragraph (c) above is found to exceed the relevant limit in either Table 3 or Table 4 and it is necessary to correct the rating level for background noise following the method set out in Guidance Note 4, the background noise levels given in Tables 5 and 6 may be used instead of carrying out further background noise measurements.

**Table 5 – Background Noise Levels for Quiet Daytime expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at ten metres height**

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min										
		3	4	5	6	7	8	9	10	11	12	
Property Name	Map Ref											
Craig An Dhu / Lynn View	262729, 605695	33.4	33.4	34.3	35.4	36.8	38.5	40.3	42.2	44.3	46.5	
Craig	263442, 606454	27.3	27.3	27.8	29.1	31.0	33.5	36.4	39.6	43.0	46.4	
Hillend	268201, 608890	35.1	35.2	35.7	36.5	37.6	36.8	40.2	41.6	43.1	44.5	
Polskeoch	268688, 602320	25.4	26.8	28.4	30.1	31.9	33.9	36.1	38.4	40.8	43.3	
Polgown	271866, 603844	29	31	33	35	36	38	40	42	43	45	
Shiel	274502, 604056	24	27	30	32	35	36	38	39	40	41	
Dalgonar	270038, 603129	23	25	27	29	31	32	34	36	37	39	
Shinnelhead	272959, 599186	27	28	29	30	31	33	35	37	40	42	

Craigdarroch	263308, 606510	27.3	27.3	27.8	29.1	31.0	33.5	36.4	39.6	43.0	46.4
Craigbraneoch / Corbie Hill	263158, 606402	27.3	27.3	27.8	29.1	31.0	33.5	36.4	39.6	43.0	46.4

**Table 6 – Background Noise Levels for Night-time expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at ten metres height**

Location		Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, LA90 10min									
Property Name	Map Ref	3	4	5	6	7	8	9	10	11	12
Craig An Dhu / Lynn View	262729, 605695	33.1	33.1	34.3	35.3	36.3	37.2	38.1	39.0	39.9	40.9
Craig	263442, 606454	28.4	28.4	28.9	30.0	31.7	33.9	36.4	39.2	42.0	44.9
Hillend	268201, 608890	34.0	34.5	35.1	35.8	36.8	37.8	39.0	40.3	41.8	43.4
Polskeoch	268688, 602320	23.3	24.1	25.2	26.8	28.6	30.8	33.4	36.4	39.7	43.3
Polgown	271866, 603844	31	32	33	35	36	37	38	39	41	42
Shiel	274502, 604056	24	26	29	31	33	36	38	40	41	43
Dalgonar	270038, 603129	23	25	27	29	31	32	34	35	36	37
Shinnelhead	272959, 599186	24	25	26	27	28	30	32	35	38	41
Craigdarroch	263308, 606510	28.4	28.4	28.9	30.0	31.7	33.9	36.4	39.2	42.0	44.9
Craigbraneoch / Corbie Hill	263158, 606402	28.4	28.4	28.9	30.0	31.7	33.9	36.4	39.2	42.0	44.9

- (f) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
- (g) No electricity shall be exported until the wind farm operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the

Local Planning Authority.

- (h) The wind turbine operator shall employ an independent consultant, approved by the relevant Planning Authority, to measure, at the operator's own expense, the level of noise emissions from the wind turbines within the first year of the operation of the turbines, and every two years thereafter, unless and until the relevant Planning Authority extend the period or determine that continued compliance monitoring is no longer required. The measurement procedures, which may include filtering data according to wind direction, shall be agreed in writing with the relevant Planning Authority prior to commencement of the noise measurements. The results of any measurement exercise shall be forwarded to the relevant Planning Authority as soon as practicable after the completion of the monitoring exercise. Background noise levels shall be determined by one of the following methods:
1. Turbines shall be switched off during part of the monitoring period to permit reliable background noise level data to be determined at the range of wind speeds from 3m/s to 12m/s; or
  2. Using background noise levels provided within Tables 5 and 6; or
  3. In accordance with a methodology submitted to and agreed in advance by the relevant Planning Authority.

**The method used shall be determined by the appointed independent consultant and shall be agreed in writing with the relevant Planning Authority prior to measurements being undertaken.**

- (i) Within 21 days from receipt of a written request from the relevant Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the relevant Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the relevant Planning Authority shall set out at least the date, time and location that the complaint relates to and, as far as practicable, any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the relevant Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (j) No turbine shall be erected unless a protocol for the assessment of the rating level of noise immissions has been submitted to and approved in writing by the relevant Planning Authority. The protocol shall include the proposed measurement location(s) identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether the noise 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 protocol shall also include details of the method of any required assessment of amplitude modulation of noise. The assessment shall be undertaken in accordance with the protocol approved. For a complaint investigation, the proposed range of conditions shall be those which prevailed during times with the complainant alleges there was disturbance due to noise, having regard to the written request of the relevant Planning Authority under paragraph (i) and such others as the independent consultant considers likely to result in a breach of the noise



limits.

- (k) The independent consultant appointed under (h) shall determine the need for an assessment of amplitude modulation and this shall be agreed in writing with the relevant Planning Authority. This assessment will require to be carried out in accordance with the terms approved under (j) and shall be carried out at the expense of the Wind Turbine Operator.
- (l) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.
- (m) The independent consultant appointed under (h) shall provide to the relevant Planning Authority and Operator, the assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the relevant Planning Authority for compliance measurements to be made under paragraph (i), unless the time limit is extended in writing by the relevant Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the relevant Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (n) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Local Planning Authority.

**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.*

#### **34. Site Inspection Strategy**

- (1) Prior to the Date of Final Commissioning, the Company shall submit an outline Site Inspection Strategy (Outline SIS) for the written approval of the Planning Authorities. The Outline SIS shall set out a strategy for the provision of site inspections and accompanying Site Inspection Reports (SIR) to be carried out at 25 years of operation from the Date of Final Commissioning and every five years thereafter.
- (2) No later than 24 years after the Date of Final Commissioning, the Company shall submit a final detailed Site Inspection Strategy (Final SIS), based on the principles of the approved Outline SIS for the written approval of the Planning Authorities. The Final SIS shall set out

updated details for the provision of site inspections and accompanying Site Inspection Reports (SIR), in accordance with relevant guidance at that time, to be carried out at 25 years of operation from the Date of Final Commissioning and every five years thereafter.

- (3) At least one month in advance of submitting each SIR to the Planning Authorities, the scope of the SIR shall be agreed with the Planning Authorities.
- (4) The SIR shall include, but not be limited to:
  - (a) Details to demonstrate that the infrastructure components of the Development are still operating in accordance with conditions 11, 12 and 33; and
  - (b) An engineering report which details the condition of tracks, turbine foundations and the wind turbines and sets out the requirements and the programme for the implementation for any remedial measures which may be required.
- (5) The SIS and each SIR shall be implemented in full unless otherwise agreed in advance in writing by the Planning Authority.

**Reason:** *To ensure the Development is being monitored at regular intervals throughout after the first 25 years of operation.*

### **35. Decommissioning, Restoration and Aftercare Method Statement**

- (1) The Development will be decommissioned and will cease to generate electricity by no later than the date falling 40 years from the Date of Final Commissioning. The total period for restoration of the site shall not exceed three years after the Date of Final Decommissioning without prior written approval of the Planning Authorities.
- (2) There shall be no Commencement of Development unless a decommissioning, restoration and aftercare method statement has been submitted to and approved in writing by the Planning Authorities. The method statement shall include measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

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

### **36. Environmental Clerk of Works – Decommissioning, Restoration and Aftercare**

- (1) No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Developer shall submit details of the terms of appointment by the Developer of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authorities for their approval.
- (2) 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 during decommissioning of the Development and the restoration and aftercare periods.*

### **37. Site Decommissioning, Restoration and Aftercare**

- (1) No later than three years prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare method statement, based upon the principles of the approved decommissioning, restoration and aftercare method statement, shall be submitted to the Planning Authorities for written approval. The detailed decommissioning, restoration and aftercare method statement will provide updated and detailed proposals for the removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions. It should include (but shall not be limited to):**
- (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 new features required to facilitate the decommissioning and restoration including but not limited to 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; and
  - (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 decommissioning, restoration and

aftercare method statement).

- (2) The Development shall be decommissioned, the site restored and aftercare thereafter undertaken in accordance with the detailed decommissioning, restoration and aftercare method statement as approved, unless otherwise agreed in writing in advance with the Planning Authorities.
- (3) The Developer shall provide Glasgow Prestwick Airport with written notification of the planned removal of any turbine at least 28 days prior to any such removal.

**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.*

### **38. Financial Guarantee**

- (1) There shall be no Commencement of Development unless the Developer has delivered to the Planning Authorities a bond or other form of financial guarantee (“the financial guarantee”) in favour of and in terms acceptable to the Planning Authorities. The financial guarantee shall secure the cost of performance of all decommissioning, restoration and aftercare obligations contained in and approved under conditions 34, 35 and 36.
- (2) The financial guarantee shall thereafter be maintained in favour of the Planning Authorities until the date of completion of all restoration and aftercare obligations contained in and approved under conditions 34, 35 and 36.
- (3) 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 and approved under conditions 34, 35 and 36.
- (4) 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 compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.
- (5) Following each review and at least 28 days prior to the expiry of the existing financial guarantee, the Developer shall submit for the written approval of the Planning Authorities, a replacement guarantee in favour of and in terms acceptable to the Planning Authorities and for the value agreed under part (4).

**Reason:** *To ensure that plans are in place to facilitate site restoration and ensure that appropriate financial guarantees are in place to implement this.*

### **39. Radio reception**

- (1) **There shall be no Commencement of Development unless a Radio Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authorities. The Radio Reception Mitigation Plan shall provide for a baseline radio 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 Authorities.**

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

**Any claim by any individual person regarding radio reception 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 Authorities. Should any impairment to the radio 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 radio reception.**

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

### **Guidance Notes for Noise Conditions**

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

#### **1. Guidance Note 1**

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

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

(c) The LA90,10 minute measurements should be synchronised with measurements of the

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

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

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

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

## 2. Guidance Note 2

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

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

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

## 3. Guidance Note 3

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

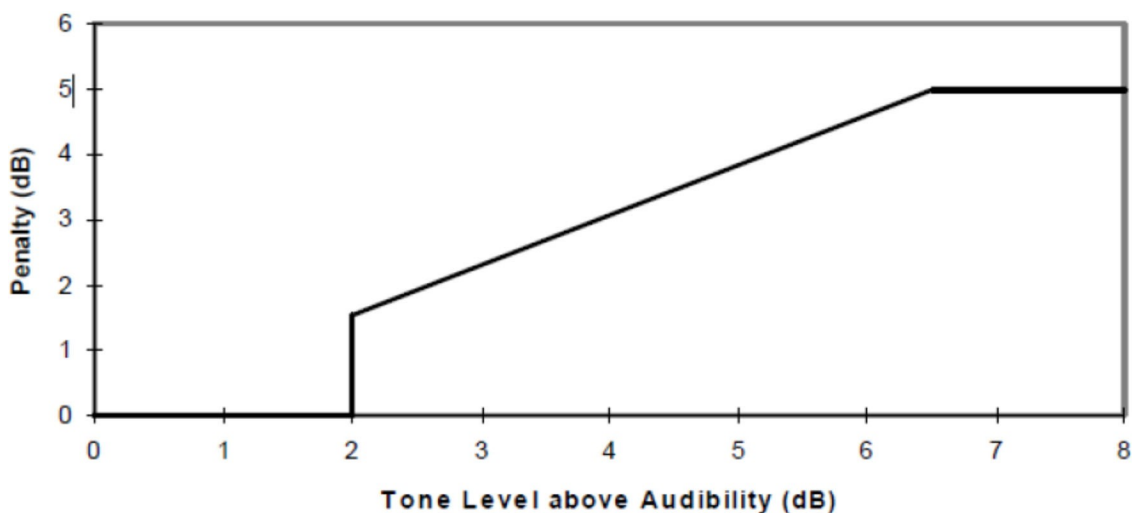
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that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

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

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

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

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



#### 4. Guidance Note 4

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

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

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

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

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

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

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

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

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

## 5. Guidance Note 5

**The level of amplitude modulation shall be measured in accordance with the reference method detailed in IOA Noise Working Group (Wind Turbine Noise) document “A Method for Rating Amplitude Modulation in Wind Turbine Noise”, Final Report dated 9th August 2016.**

<b>Definitions</b>	
<b>AEI</b>	The Additional Environmental Information submitted in July 2020.



<b>Application</b>	The application submitted by the Company on 21 March 2019.
<b>CAA</b>	Civil Aviation Authority.
<b>Commencement of Development</b>	The initiation of the Development (or part thereof) by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997 (as amended).
<b>Company</b>	Community Windpower Limited, incorporated under the Companies Acts (company number 04588923) and having its registered office at Godscroft House, Godscroft Lane Frodsham, Warrington, Cheshire, WA6 6XU.
<b>Date of First Commissioning</b>	The date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines constructed as part of the Development, excluding any generation exported for testing purposes.
<b>Date of Final Commissioning</b>	The earlier of (i) date when electricity is first exported to the electricity grid network on a commercial basis from the last of the wind turbines being constructed as part of the Development; or (ii) the date falling eighteen months from the Date of First Commissioning.
<b>Date of Final Generation</b>	The date that the Development ceases to generate electricity to the grid network.
<b>Developer</b>	The Company and in substitution therefor any other party who at the time has the benefit of this section 36 consent.
<b>Development</b>	The development to which this consent and deemed planning permission relates, as described at Annex 1.
<b>EIAR</b>	The Environmental Impact Assessment Report submitted in March 2019.
<b>PI</b>	Public Inquiry
<b>Planning Authorities</b>	Dumfries and Galloway Council and East Ayrshire Council.
<b>Public Holiday</b>	Means <ul style="list-style-type: none"> <li>• New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.</li> <li>• 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.</li> <li>• Good Friday.</li> <li>• Easter Monday.</li> <li>• The first Monday in May.</li> <li>• The first Monday in August.</li> <li>• The third Monday in September.</li> <li>• 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.</li> <li>• Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.</li> <li>• Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.</li> </ul>

<b>Relevant Planning Authority</b>	Dumfries and Galloway Council or East Ayrshire Council.
<b>SI</b>	The Supplementary Information submitted in June 2021.