

**Energy and Climate Change Directorate  
Electricity Division**

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Rachael Macleod  
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26 September 2014

Dear Ms Macleod

**APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF THE MIDDLE MUIR WIND FARM ELECTRICITY GENERATING STATION IN THE SOUTH LANARKSHIRE PLANNING AUTHORITY AREA**

I refer to the Application made by you on behalf of Banks Renewables (Middle Muir Wind Farm) Ltd, dated 31 January 2012 and the subsequent SEI dated 30 November 2012 and SEI2 dated 3 May 2013 incorporating amendments to the Application for consent under section 36 of the Electricity Act 1989 for the construction and operation of the Middle Muir Wind Farm electricity generating station located in the South Lanarkshire Council area. **This letter contains the Scottish Ministers' decision to grant the Application subject to conditions but refuse consent for turbines 14 and 16.**

**Planning Permission**

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 Scottish Ministers may on granting consent under section 36 of the Electricity Act 1989 direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development. This letter contains a direction to that effect.

**Public Local Inquiry**

South Lanarkshire Council (a statutory consultee and the relevant Planning Authority) provided a consultee response following the submission of the SEI and SEI2. As the

relevant Planning Authority did not object, a Public Local Inquiry (PLI) is not a statutory requirement under paragraph 2 of Schedule 8 to the Electricity Act 1989.

Under paragraph 3(2) of said Schedule 8, where no PLI need be held under said paragraph 2 and objections are received the Scottish Ministers shall consider the objections together with all other material considerations with a view to determining whether a public inquiry should be held and if they think it is appropriate to do so shall cause a PLI to be held. Scottish Ministers have considered fully and carefully the Application, ES, SEI and SEI2 and all relevant responses from consultees, as well as all third party representations received. The Scottish Ministers have taken all material considerations into account and consider that there are no significant issues which have not been adequately considered in the ES, SEI, SEI2, consultation responses and third party representations and that they have sufficient information to be able to make an informed decision on the proposal without the need for a PLI.

### **Environmental Matters**

The Scottish Ministers are satisfied that environmental information, an ES, SEI and SEI2 has been produced in accordance with the EIA Regulations, and that the applicable procedures regarding publicity and consultation laid down in the EIA Regulations have been followed. A summary of consultee responses can be found at **Annex 3**. In total this proposal received 81 public representations, 77 of which were objections.

When formulating proposals for the construction of the proposed generating station the Company must comply with paragraph 3 of Schedule 9 to the Electricity Act 1989. Paragraph 3(1)(a) of Schedule 9 requires the Company in formulating such proposals to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Paragraph 3(1)(b) requires the Company to do what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. Under paragraph 3(3) of that Schedule the Company must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

Under paragraph 3(2) of that Schedule the Scottish Ministers must have regard to the desirability of the matters mentioned in paragraph 3(1)(a) of that Schedule and the extent to which the Company has complied with its duty under paragraph 3(1)(b). Under paragraph 3(3) the Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

In considering the Application, the Scottish Ministers have had regard to the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9 and the extent to which the Company has complied with its duty under paragraph 3(1)(b). Ministers consider that the Company has done what it reasonably can to mitigate the effect of the proposed

development on the matters mentioned in paragraph 3(1)(a). Ministers are satisfied that the requirements of paragraph 3 of Schedule 9 are satisfied.

The Scottish Ministers have considered the Application and supporting environmental information and all relevant responses from consultees. They have also considered the third party representations received. The Scottish Ministers are satisfied that environmental issues can be appropriately addressed by way of mitigation, and that any impacts which remain are outweighed by the benefits the development will bring.

SNH required that the proposal is made subject to a condition to avoid pollution to the Red Moss SAC and Muirkirk and Lowther Uplands SPA.

### **Determining Issues**

Scottish Ministers, having considered the Application, ES, SEI, SEI2 and the responses from consultees and third parties, consider that the main determining issues are:

- the extent to which the proposed Development accords with, and is supported by, Scottish Government policy and the terms of the local development plans;
- environmental impacts of the proposed development, in particular the landscape and visual impact of the proposed development
- the estimated economic benefits which the proposed development is likely to bring; and
- the renewable energy benefits of the proposed development.

These issues are explored in more detail below.

### **Habitats Regulations**

SNH advised that there is connectivity between the proposed development and the Red Moss Special Area of Conservation (SAC) and the Muirkirk and North Lowther Uplands Special Protection Area (SPA). The status of the SAC and the SPA means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 (the Habitats Regulations) apply and in SNH's view, the proposal will have a likely significant effect on the qualifying interests of the SAC and the SPA. Therefore, appropriate assessments (Annex 5 - Appropriate Assessments) were carried out which concluded that if the proposal is undertaken in strict accordance with SNH's mitigating conditions, as well as the design constraints detailed in the ES, then the proposal will not adversely affect the integrity of the SAC or the SPA.

### **Scottish Government Policy Context**

The Climate Change (Scotland) Act 2009, passed by the Scottish Parliament in 2009, sets out the targets for reducing greenhouse gas emissions as an interim 42% reduction target for 2020 and an 80% reduction target for 2050. The Scottish Government Renewables Action Plan then set out short term actions towards the delivery of 2020 targets for renewable energy. This Plan has been updated and extended by the 2020

Routemap for Renewable Energy in Scotland published in June 2011. This Routemap reflects the challenge of the Scottish Government's target to meet an equivalent of 100% demand for electricity from renewable energy by 2020. An interim target that renewable generation should account for the equivalent of 50% of Scottish demand by 2015 was set in November 2012 when the Routemap was updated. The Scottish Government is committed to the continued expansion of portfolio of onshore wind farms to help meet renewables targets.

The Government's ambition is that by 2020, onshore wind developments ranging from small and community-scale to large power utility scale should maximise engagement with communities, contribute electricity to renewables targets and, through displacement of fossil fuel generation, help to reduce fossil fuel consumption. Onshore wind also presents a prime opportunity for communities and the rural sector to generate local revenue and sustain local economies, and could be a key contributor to the target for 500 MW of renewables in community or local ownership by 2020.

Scottish Planning Policy (SPP) outlines Scottish Government planning policy on Renewable Energy Development. Whilst it makes clear that the criteria against which applications should be assessed will vary depending on the scale of the proposal and area characteristics, it states that these are likely to include impacts on: landscapes and visual (including wild land); natural heritage (including birds); carbon rich soils; public access (including long distance walking, cycling and scenic identified in NPF); historic environment; tourism and recreation; road traffic; adjacent trunk roads; the water environment (including flood risk); communities and individual dwellings; aviation; telecommunications; noise; shadow flicker; greenhouse gas emissions; and any cumulative impacts that are likely to arise. It also makes clear that, where relevant, the following should be a material consideration when considering an application: net economic benefit; the scale of contribution to renewable energy generation targets; opportunities for energy storage; the need for conditions relating to decommissioning and site restoration; and the need for robust planning obligations to ensure site restoration is achieved. The SPP notes that the most sensitive landscapes may have little or no capacity to accept new development but Ministers do not consider that this landscape falls into that category. Ministers note that this development has been supported by the local Planning Authority, South Lanarkshire Council.

Officials consider that this development is supported by policy, primarily in that it makes a noteworthy contribution towards meeting greenhouse gas emission and renewable electricity targets. Ministers note that the 60 MW Development would provide power equivalent to the needs of approximately 28,320 homes. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target for the equivalent of 100% of Scotland's electricity demand to be met from renewable sources by 2020.

## **Compatibility with Local Development Plans and Supplementary Guidance**

The proposal has been assessed against the following development plans and guidance of South Lanarkshire Council:

- Glasgow and Clyde Valley Strategic Development Plan (GCVSDP)
- The Spatial Development Strategy (SDS) of the GCVSDP
- Adopted South Lanarkshire Local Plan 2009
- South Lanarkshire Local Plan Supplementary Planning Guidance (SPG) 2010, the relevant policies being:
  - i) Policy REN 1: Areas of Significant Protection
  - ii) Policy REN 2: Constraints
  - iii) Policy REN 3: Broad Areas of Search for Wind Farms over 20MW
  - iv) Policy REN 6: Assessment Checklist for Renewable Energy Proposals
- South Lanarkshire Local Development Plan (SLLDP) and associated Supplementary Guidance (SG)
  - i) Policy 2: Climate Change
  - ii) Policy 3: Green Belt and Rural Areas
  - iii) Policy 19: Wind Energy

Officials agree with the South Lanarkshire Council's consultee response which assessed the Application against the above mentioned plans (point 18 above) and their assertion that the Application supports the broad principle of renewable energy development in this location. Officials consider that as the impacts of the development are not significantly detrimental, the proposal is compliant with the Plans mentioned at point 18 above.

## **Environmental Benefits and Carbon Payback**

The total annual CO<sub>2</sub> saving from the wind farm is estimated by the Company to be:

- 124268 tonnes of CO<sub>2</sub> per year saved per year over coal fired electricity, or
- 62613 tonnes of CO<sub>2</sub> per year saved per year over grid-mix supply.

The Company's calculation of the time required for the development to generate enough carbon-free electricity to offset its own carbon footprint (known as the "CO<sub>2</sub> payback period"), was calculated as between 1.2 to 2.4 years (expected value, using coal and UK grid supply mix CO<sub>2</sub> emission factors respectively.)

## **Economic and Renewable Energy Benefits**

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

The wind farm, with a generating capacity of 60MW is located adjacent to the B7078, north-west of Crawfordjohn and south-east of Douglas within South Lanarkshire Council area. It would provide power equivalent to the needs of approximately 28,320 homes. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target for the equivalent of 100% of Scotland's electricity demand to be met from renewable sources by 2020.

Officials agree with the Company's assessment that states the development is likely to have some positive socio-economic effects. With the total investment spend over the lifetime of the development projected in the region of £70.5 million, a proportion of this will filter down to the local community in employment.

The Company is committed to increasing direct economic benefits of wind farms within local communities, and therefore as part of the Connect to Renewables initiative will agree with South Lanarkshire Council a minimum percentage of the total capital construction value of the project which will be spent locally (within 30km of the site). To maximise local investment the Developer will work closely with South Lanarkshire Council as well as their main suppliers and contractors to ensure that where local companies with appropriate skills, experience and capability are available, these companies will be used ahead of non-local companies, subject only to them offering services at competitive market rates.

## **Landscape and Visual Impact**

Landscape and visual impacts are the key environmental considerations associated with this development. Through the consultation process the Planning Authority, SNH and the public representations received all raised concerns regarding the landscape and visual impact of the proposed wind farm on the village of Crawfordjohn and on the northern area of the Leadhills and Lowther Hills Special Landscape Area (SLA) as well as the cumulative effect of the proposal in relation to the Andershaw and Glentaggart wind farm cluster within the South Lanarkshire Council area.

It should be noted that SNH did not object to the proposal on landscape and visual grounds and further noted that the development was located within the Broad Area Of Search (BAOS) as advised in SPP6, under which this application was initially assessed. SNH recommended removal of 6 turbines and recommended certain design layout changes but this mitigation was framed as advice only.

Scottish Ministers note that SPP 2014 confirms that development up to 2 km is likely to be a significant feature in an open landscape and falls within Group 2 of the new Spatial Framework. The Scottish Ministers would support this as a separation distance between turbines and the edge of cities, towns and villages but note that the extent of the area will be determined by the planning authority based on landform and other features which restrict views from the settlement. As such, proposals will continue to be judged on a case-by-case basis.

To address the concerns raised the Company submitted a revised layout under Supplementary Environmental Information (SEI1) in November 2012. The revised layout removed two turbines, increased the tip height of 7 turbines and rationalised track layout to accommodate the changes.

SNH and the Planning Authority still expressed concerns about the visual impacts and the Company submitted further Supplementary Environmental Information (SEI2) to address these concerns.

The proposal was amended to relocate 4 turbines and the associated infrastructure and also removed 3 proposed borrow pits from layout.

SNH noted the changes made a slight improvement on the visual impact on Crawfordjohn and that the proposed wind farm now appeared to be “thinned out” with the balance of the scheme moved westwards.

Historic Scotland objected to 2 relocated turbines and officials recommend that consent is not granted for these turbines. (T14 and T16).

All statutory consultees have advised that they have no issues with the removal of these two turbines and that they would not result in any further comment.

Scottish Ministers note that the Planning Authority have assessed the amended layout and although the predicted effects on the Leadhills and Lowther Hills Special Landscape Area (SLA) including Duneaton Water Valley area are in the category of ‘significant’, development is still in adherence with the local development plans. The proposal will result in views of the already consented Andershaw wind farm in conjunction with this proposal. The two developments relate well to one another and would result in a cumulative impact categorised as ‘slight-moderate’ only.

The amended layout also addressed some of the visual effects on the village of Crawfordjohn where most public representations had been received by officials. In the original ES the closest part of the development located to Crawfordjohn was 770 meters. In the amended layout the closest part of the development is now just under 2 kilometres from Crawfordjohn. This adheres to SPP 2014 that as long as effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. Scottish Ministers are confident that the Company have adhered to the requirements of the new spatial framework.

The 3 borrow pits removed under the amended proposal also removes the visual impact on Crawfordjohn and the Planning Authority note that the increased height of 3 turbines can be accommodated as these are not visible from Crawfordjohn. The removal of the borrow pits also moves the construction works associated with the development further away from Crawfordjohn.

South Lanarkshire Council, the Planning Authority, have considered SNH advice and taken into account all public representations including objections from the Middle Muir Action Group and have assessed that the amended development can be accommodated. Scottish Ministers agree with this.

Scottish Ministers recognise that the Company has worked with the Planning Authority to amend the proposal to allow for less intrusive landscape and visual impacts from the proposal.

Officials are content that the Company has had regard to minimising impacts through the siting, design and layout of the proposed development and subsequent revisions of the design and final layout.

Overall, Scottish Ministers accept that landscape and visual impacts remain but recognise that these have been reduced and are of the opinion that these remaining impacts are outweighed by the benefits of renewable energy generation the development will bring.

All environmental impacts have been fully addressed in the ES, SEI, SEI2 and representations from the Company, consultees and other interested parties. There are no outstanding objections from statutory consultees, or issues raised that cannot be addressed by condition, or that we consider, on balance, to be acceptable.

Scottish Ministers have sufficient information to weigh the issues and note adequate opportunity was afforded for public representation. We are of the view that in considering the characteristics and location of the development and the potential impacts, Scottish Ministers are satisfied this proposal has had regard to the preservation of the environment, ecology and amenity. We consider that where any adverse environmental impacts cannot be prevented, adequate mitigation or compensation measures can be put in place. An obligation will be placed on the Company to give effect to all mitigation and compensatory measures outlined in the ES SEI and SEI2 through the conditions of consent.

Scottish Ministers are satisfied that while this development and its construction will bring environmental impacts, on balance these are acceptable and are outweighed by the benefits of the proposals. Scottish Ministers are also satisfied that all material issues have been considered in respect of the Application.

Scottish Ministers acknowledge the changes in the recently published Scottish Planning Policy and National Planning Framework 3 and conclude the changes do not alter this recommendation. It should be noted that when assessing the proposal in July 2013 South Lanarkshire Council took into account the draft NPF3 and Draft SPP available at that time.

### **General**

This 15 turbine wind farm is consistent with Renewable Energy Policy, offering a noteworthy contribution towards energy targets. All environmental impacts have been fully addressed in the ES, SEI, SEI2 and through discussion with the Company and the statutory consultees.

The Scottish Ministers have considered fully and carefully matters raised in representations, statutory and non-statutory consultee responses as well as the ES, SEI and SEI2 and have weighed the impacts of the development, and the degree to which these can be mitigated, against the economic and renewable energy benefits which would be realised. Ministers have undertaken that exercise in the context of national and local policies.

The Scottish Ministers are satisfied that environmental issues can be appropriately addressed by way of mitigation, and that any impacts which remain are outweighed by the benefits the development will bring.

Ministers consider that the balance is in favour of the development and that, subject to conditions, consent under section 36 of the Electricity Act 1989 should be granted and a direction be made under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission be deemed to be granted.

Scottish Ministers acknowledge the changes in the recently published Scottish Planning Policy and Scotland's Third National Planning Framework and conclude the changes do not alter their decision

### **Planning – section 58 of the Town and Country Planning (Scotland) Act 1997**

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing wind power developments above 50 MW, a 5 year time scale for the Commencement of the Development is appropriate. A direction by Scottish Ministers under section 58(2) of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

## **The Scottish Ministers' Determination**

Subject to the conditions set out in **part 1 of Annex 2**, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Middle Muir Wind Powered electricity generating station (as described in Annex 1), **but refuse consent for turbines T14 and T16.**

Subject to the conditions set out in **part 2 of Annex 2**, Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that **planning permission is deemed to be granted** for the development in respect of which consent under section 36 of the Electricity Act 1989 is granted under the preceding paragraph.

The Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction if the Development has not begun before the end of that period.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000, the Company must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

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

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine Applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts –

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

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

Yours sincerely



**SIMON COOTE**

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

## Annex 1

### DESCRIPTION OF THE DEVELOPMENT

The development comprises the Middle Muir wind powered electricity generating station with a nominal generating capacity of 60 MW, as described in the Application and Environmental Statement submitted on 31 January 2012, Supplementary Environmental Information submitted on 30 November 2012 and the Supplementary Environmental Information 2 submitted on 3 May 2013, excluding turbines T14 and T16 and any access tracks associated with those turbines. This is subject to compliance with the conditions in Annex 2.

It includes:

- 15 wind turbines: 8 wind turbines of up to 136m (height to tip) and 7 wind turbines of up to 152m (height to tip)
- A new vehicular access track and junction from the B7078
- 1 borrow pit
- Approximately 11.5 km of access track
- 5 watercrossings by access track
- A temporary laydown area and construction compound including hard standing and fences
- An anemometer mast
- A substation and control building; and
- Other associated infrastructure

## Annex 2

### Part 1: conditions applying to Section 36 consent

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

**Reason:** *To define the duration of the consent.*

- 2 The Commencement of the Development shall be no later than the date occurring 5 years after the date of this consent, or no later than such date as the Scottish Ministers may direct. If Commencement of the Development does not occur within the relevant period the site and the ground shall, within 6 months of expiry of the relevant period, be fully reinstated to the specification and satisfaction of the Scottish Ministers, following consultation with the Planning Authority.

**Reason:** *To make sure work is undertaken within a reasonable time period.*

- 3 The consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise assignment, with or without conditions, or refuse authorisation. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with this condition.

**Reason:** *To ensure the performance of obligations and responsibilities under the consent.*

- 4 In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 12 months, then, unless otherwise agreed in writing with the Scottish Ministers, after consultation with the Planning Authority and SNH, that wind turbine shall be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment shall be dismantled and removed from the site by no later than 12 months after the end of the said continuous 12 months period, and the ground fully reinstated to the agreed specification and satisfaction of the Scottish Ministers after consultation with the Planning Authority and SNH.

**Reason:** *To ensure the removal of non-functional equipment and plant, in the interests of amenity and environmental protection.*

- 5 Scottish Ministers must be notified of any serious health and safety, environmental or construction incident occurring on Site during the period of consent.

**Reason:** *To ensure Scottish Ministers are aware of such incidents and to ensure compliance with Health and Safety Legislation*

- 6 No development shall commence until a Primary Radar Mitigation Scheme to mitigate the impact of the development on the Primary Radar Installation at Lowther Hill has been agreed with NATS (En Route) plc and subsequently approved by Scottish Ministers in consultation with the Planning Authority.

**Reason:** *In the interests of public safety*

- 7 No turbine shall be erected until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated in accordance with the approved Scheme.

**Reason:** *In the interests of public safety*

## **Part 2: conditions applying to deemed planning permission**

- 8 The development shall be carried out in accordance with the terms of the application and the ES, SEI and SEI2, including all mitigation and monitoring measures referred to in those documents, subject to the requirements in these conditions.

**Reason:** *For the avoidance of doubt and to specify the documents upon which the decision was made*

- 9 At least one month prior to the Commencement of the Development, a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of the consent must be submitted for the written approval of the Planning Authority. Such guarantee must:

- i) be granted in favour of the Planning Authority
- ii) be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- iii) be for an amount which covers the value of all site restoration and aftercare liabilities as determined by the Planning Authority at the commencement of development
- iv) contain provisions so that all the site restoration and aftercare liabilities as determined at the Commencement of the Development shall be increased on each fifth anniversary of the date of this consent.

- v) come into effect on or before the date of Commencement of the Development, and expire no earlier than 24 months after the end of the aftercare period.

**Reason:** *To guarantee that the costs of site restoration will be met*

- 10 Prior to the Commencement of the Development, a monitoring plan shall be submitted to the Planning Authority setting out the steps that shall be taken to monitor the environmental effects of the development, including the effects on ground water, surface water, noise and dust, during the construction phase and the operational phase. The methodology of such monitoring, including locations frequency, gathering of information on background levels, shall be submitted to the Planning Authority for approval prior to the Commencement of the Development. Thereafter, the approved plan shall be implemented to the satisfaction of the Planning Authority and the results of such monitoring shall be submitted to the Planning Authority on a 6 monthly basis, or on request.

**Reason:** *To monitor the environmental effects of the development during construction and operation of the wind farm.*

- 11 Prior to the Commencement of the Development a Desk Study of the site, including the confirmed Borrow Pit location (BP01), shall be undertaken to confirm that there has been no previously potentially contaminating use of land. If any such previous usage is confirmed then a Phase 2 intrusive investigation and risk assessment is required. This shall detail any methods of proposed remediation required. This shall be submitted to the Planning Authority for prior approval and the approved measures must be implemented. All imported material that is required to be brought onto site shall be accompanied by certification from a suitably U.K.A.S accredited laboratory to confirm that it is free from contamination. If any off-site borrow pit(s) are proposed, information relating to the quantities, proposed vehicle trips and delivery routes between the proposed borrow pit site(s) and the wind farm site shall be submitted to the Planning Authority. Should these routes not be covered by the approved abnormal load route assessment referred to in condition 25 an amended abnormal load route assessment shall be submitted to the Planning Authority for approval and the approved amended abnormal load route assessment must be complied with.

**Reason:** *To minimise environmental impact and in order to retain effective planning control.*

- 12 i) In accordance with ETSU-R-97 the day time noise (7am to 11pm) from the wind turbines must not exceed a noise level of 35dB LA90 (10 min) or background LA90 (10 min) +5dB, whichever is the greater, at the boundary of the curtilage of any noise sensitive premises at all times at wind speeds of up to 12 metres per second at 10m height as measured within the site.

ii) In accordance with ETSU-R-97 the cumulative day time noise (7am to 11pm) from the wind turbines must not exceed a noise level of 40dB  $L_{A90}$  (10 min) or background  $L_{A90}$  (10 min) +5dB, whichever is the greater, at the boundary of the curtilage of any noise sensitive premises at all times at wind speeds of up to 12 metres per second at 10m height as measured within the site. This is based on Glentaggart and Andershaw Wind Farms operating at a consented level of 35dB  $L_{A90}$  (10 min) or background  $L_{A90}$  (10 min) +5dB, whichever is the greater

iii) The night time noise (11pm to 7am) from the wind turbines must not exceed a noise level of 43dB  $L_{A90}$  (10 min) or background  $L_{A90}$  (10 min) +5dB, whichever is the greater, at the boundary of the curtilage of any noise sensitive premises at all times at wind speeds of up to 12 metres per second at 10m height as measured within the site.

iv) The noise limits set out above are increased to 45 dB  $L_{A90}$ , or the relevant ETSU-R-97 derived “day time” or the “night time” noise limit based on the measured background noise levels plus 5dB(A), whichever is the greater, at any noise sensitive premises having a financial involvement with the wind farm. The location of any such premises must be confirmed to the Planning Authority prior to Commencement of the Development.

For the purposes of this condition background noise levels are defined as the levels presented in Tables 10.8 and 10.9 of the Environmental Statement submitted with the application.

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

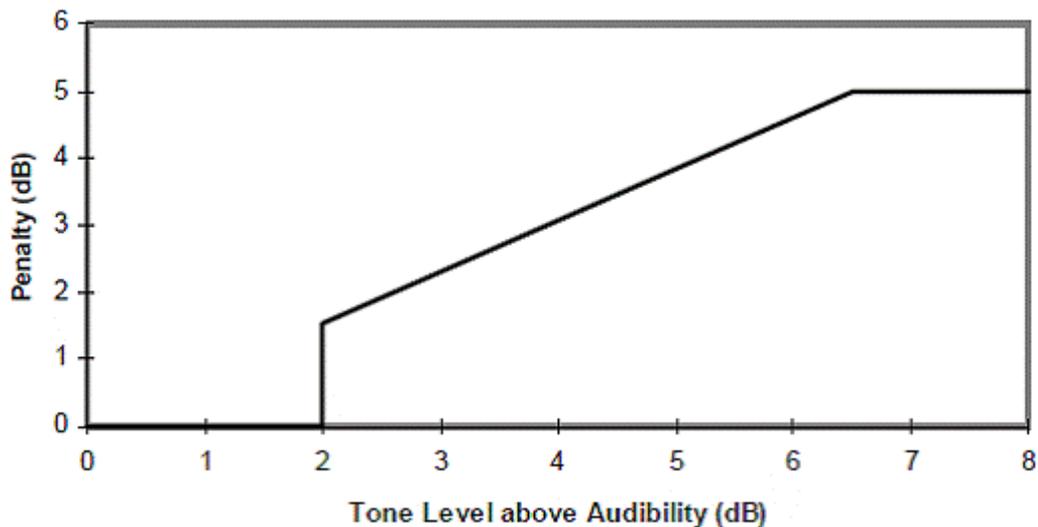
- 13 Prior to the Commencement of the Development a revised noise assessment based on the final choice of turbines for the Middle Muir wind farm, the Andershaw and Glentaggart wind farms (or, if this is not known, a range of likely candidate models as agreed with the Planning Authority) shall be submitted for the approval in writing of the Planning Authority and thereafter the approved plan shall be complied with. The assessment shall present total predicted cumulative wind farm noise levels arising from wind farms operating concurrently and compare them to noise limits established in accordance with ETSU-R-97 based on a daytime fixed limit of 40dB or background noise level plus 5dB [whichever is the greater] or a night time limit of 43dB or background plus 5dB [whichever is greater]. The limits shall be increased to a level of 45dB or background plus 5dB for both day time and night time for properties which are financially involved. An assumption shall be made that Andershaw and/or Glentaggart are operating at 35dB  $L_{A90}$  or background plus 5dB [whichever is greater] where no other information is available.

For the purposes of this condition background noise levels are defined as the levels presented in Tables 10.8 and 10.9 of the Environmental Statement submitted with the application.

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

14 Tonal Contribution

Where the tonal noise emitted by the development exceeds the threshold of audibility by between 2dB and 6.5dB or greater, then the acceptable noise specified in conditions 12 & 13 shall be reduced by the penalty level identified within section 28 of 'The Assessment and rating of Noise from Wind Farms-ETSU-R-97 (See figure below). The definition of audibility for the purposes of this condition shall be as described in ETSU-R-97. The penalty shall only apply at properties where the tonal noise is measured and shall only relate to the wind speeds at which the tonal noise occurs at.



**Reason:** *To safeguard the noise amenity of local residents in accordance with ETSU-R-07.*

- 15 i) All construction work associated with the development must be carried out in accordance with the current BS 5228, 'Noise control on construction and open sites' and all audible construction activities shall be limited to:

Monday to Friday 8.00am to 7.00pm, and

Saturday 8.00am to 1.00pm;

No audible activity shall take place on Sunday or local and national bank holidays.

Out-with the periods when construction activities are allowed, such activities are allowed if approved in writing by the Planning Authority or whether they are for the purpose of emergency works or dust suppression. The local Planning Authority shall be informed in writing of emergency works within three working days of their occurrence.

ii) Subject to condition 12 any noise solely attributable to construction noise (where borrow pits are not operational) should not exceed 65dB(A)  $L_{Aeq}$  to include both stationary and mobile plant as described within Annex F- Code of practice for noise and vibration control on construction and open sites – Part 1: Noise (BS 5228-1:2009).

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

16 No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the Planning Authority. The method statement shall include details of measures required to minimise the impact of blasting on residential and other noise-sensitive properties in the vicinity of the site.

Thereafter:

i) blasting shall be carried out using the best practicable means of ensuring that the resultant noise, vibration and air overpressure are minimised;

ii) blasting techniques and instantaneous charge levels shall be employed such that the predicted peak particle velocity shall not exceed 6 mm/s in any plane in 95% of all blasts, and no individual blast shall exceed a peak particle velocity of 12 mm/s as would be measured on the ground adjacent to any vibration-sensitive building;

iii) under normal atmospheric conditions, the peak linear overpressure level shall not exceed 120dB as measured from any neighbouring noise sensitive premises;

iv) within the constraints of safe practice, blasting shall be avoided under weather conditions which are likely to direct or focus the blast air overpressure towards neighbouring noise sensitive properties

v) blasting shall be carried out in accordance with the approved method statement, unless otherwise agreed in writing with the Planning Authority.

No blasting shall take place except between the following times:-  
10.00 to 12.00 and 14.00 to 16.00 on Monday to Friday, and

10.00 to 12.00 on Saturday.

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

- 17 At times during which the borrow pit is operational, the noise levels at the nearest noise sensitive properties shall be restricted to 65dB  $L_{A_{\text{Aeg}}}$  (1hr) or background  $L_{A90}$  (1hr) + 10dBA, whichever is the greater, and any general construction noise, which is ongoing simultaneously with the borrow pit operation, shall be considered as borrow pit noise. ES Chapter 10 mitigation measures require to be implemented as necessary to reduce cumulative construction noise levels.

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

- 18 In the event of a complaint of noise emissions relating to the operation of the wind farm, an independent noise consultant, whose appointment has been approved by the Planning Authority, shall be appointed to measure the level of noise emissions from the wind farm at the property to which the complaint relates. A noise report shall be prepared in a timescale agreed with the Planning Authority. The measurement and calculation of noise levels for the report shall be undertaken in accordance with ETSU-R-97. The report, including any mitigation measures and timescales for implementation, shall be submitted to the Planning Authority for approval, and approved mitigation measures shall be implemented.

**Reason:** *To minimise disturbance at properties in the vicinity of the wind farm*

- 19 Prior to Commencement of the Development the applicant shall submit a site access layout for the approval by the Planning Authority in consultation with the Roads Authority and shall thereafter implement the approved drawings prior to any other development being carried out on site. All public road works must be implemented and completed prior to Commencement of the Development

i) Details of the site access hard standing area onto the B7078 including details of road markings, traffic signs, wheel washing facilities, boundary treatments/gates and drainage to control surface water run-off into the public road.

ii) At the junction of the proposed access onto the B7078 the developer shall provide a 4.5 m x 215 m visibility splay in both directions. The visibility splay shall be maintained free of all obstructions greater than 900 mm in height above the adjacent road channel level for the duration of the wind farm construction, operation and decommissioning phases.

iii) Details of the specialist delivery run-off area at the site access. All over run areas formed adjacent to the public road shall be formed, maintained for the duration of the wind farm construction and then reinstated following completion of

the wind farm construction. All such works shall be undertaken to the satisfaction of the Council as Roads Authority.

iv) Details of proposed crossing of the site access over the National Cycle Route (NCR 74) cycle path. Priority for cyclists shall be implemented and maintained for the duration of the wind farm construction, operation and decommissioning phases. There should be no cyclists dismount signs. Instead cyclist Give Way signs must be installed. Details to maintain the NCR 74 at the new junction require to be submitted to the Planning Authority and following approval require to be implemented and maintained.

v) Details of the reinstatement proposals for items i) to iv) above.

**Reason:** *In the interests of road safety*

- 20 Sole access to the site shall be from the B7078, no vehicles are to access the site from the B740 or C15 Andershaw Road. The proposed site access and alterations to the public road to facilitate construction of the access shall be designed in accordance with the Design Manual for Roads and Bridges.

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

- 21 Development cannot commence until a Baseline Road Survey of any proposed haul route on the B7078 between Junctions 12 and 13 of the M74 public road network has been carried out. On completion of construction of the development a Final Road Survey shall be carried out.

**Reason:** *In the interests of road safety*

- 22 Prior to Commencement of the Development a detailed Traffic Management Plan (TMP) shall be submitted for the written approval of the Roads Authority, and the approved TMP shall be implemented. The TMP shall be produced in consultation with Roads and Transportation Services and Police Scotland and include a programme indicating phasing of construction of the project and details of the proposed road traffic signage directing all construction traffic to the proposed site access on B7078.

No works shall commence on site until the TMP has been approved in writing by the Roads Authority.

**Reason:** *In the interests of road safety*

- 23 The developer shall notify the Council in writing, as soon as reasonably practical, of any changes in construction and decommissioning related activities where these will have an impact on the approved TMP. The developer will consult with the Planning Authority and the relevant Police Authority to agree in writing any

changes to the TMP and submit these for approval of the Roads Authority for agreement, thereafter the updated changes will be adhered to and shall be implemented.

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

- 24 The TMP shall contain a Travel Plan to encourage less reliance on individual private car trips to the site for those personnel involved in construction activities on a routine basis and those attending in connection with site inspections and site meetings. Any changes to the Travel Plan must be submitted for the written approval of the Planning Authority and the approved plan must be implemented.

**Reason:** *In the interests of road safety*

- 25 At least 3 months prior to the delivery of abnormal loads an Abnormal Load Route Assessment must be carried out and a report together with any recommendations shall be submitted for the written approval of the Roads Authority. The approved recommendations shall thereafter be implemented in accordance with a programme approved by the Planning Authority prior to the delivery of the abnormal loads.

**Reason:** *In the interest of road safety*

- 26 A full Safety Audit, carried out in accordance with the Institute of Highways and Transportation Guidelines, shall be submitted for all infrastructure to be constructed and adopted, or altered, on the public road and submitted to the Roads Authority prior to Commencement of the Development.

**Reason:** *In the interest of road safety*

- 27 No development shall commence until a Construction Environmental Management Plan (CEMP), including a Waste Management Plan and Peat Management Plan, has been submitted to and approved by the Planning Authority in consultation with SEPA and SNH. The CEMP, which shall incorporate "good practice" methods from the Scottish UK wind farm industry to ensure that environmental impacts are reduced and incorporate all the mitigation measures identified in the ES, SEI1 and SEI2, shall be submitted no less than 2 months prior to the proposed commencement of the development unless the Planning Authority agrees otherwise. The CEMP shall be in accordance with SEPA's letters dated 17 January 2013 and 6 June 2013, and Marine Scotland Science's letters dated 13 March 2012 and 29 May 2013. Thereafter, all the

measures described in the approved CEMP, shall be implemented. The plans shall include the following:

- i) A plan of the construction operations at an appropriate scale;
- ii) A plan to an appropriate scale showing the location of any contractor's site compound and laydown areas required temporarily in connection with the construction of the development.
- iii) Method of defining track route and location (track corridors should be pegged out 500 to 1000 metres in advance of Commencement of the Development);
- iv) Track design approach
- v) Maps of tracks indicating double and single tracks and position of passing places.
- vi) The full extent of anticipated track 'footprint(s)' including extent of supporting 'geogrid' below roadstone and cabling at the edges of the track
- vii) Procedures to be followed when, during track construction, it becomes apparent that the chosen route is more unstable or sensitive than was previously concluded, including ceasing work until a solution is identified, informed with reference to advice from the ecological clerk of works.
- viii) Details of peat/soil stripping, storage and re-use.
- ix) A management plan for minimising the emission of dust from the construction and operation of the development.
- x) Specification of the means by which material to be used for the development is to be brought on site unless it has certification from a suitably UKAS accredited laboratory to confirm that the material is not contaminated.
- xi) A scheme of working for the borrow pit including method of works, drainage, implementation, and restoration and aftercare.
- xii) Compliance with the Council's Sustainable Drainage Systems (SuDs) design criteria guidance and inclusive sign off by the relevant parties carrying out the elements of work associated with the design criteria appendices 1 to 4.
- xiii) A coloured plan showing the sustainable drainage apparatus serving the site together with the contact name and emergency telephone number of the party responsible for its future maintenance. Details of the future maintenance

regime in accordance with the latest Construction Design and Management Regulations is to be provided on this plan.

xiv) The Peat Management Plan shall be in accordance with Halcrow's report dated March 2012 and include measures to ensure stability during construction of turbines and infrastructure on peat.

xv) A description of and measures to mitigate impact on surface water courses and the hydrology.

xvi) Measures to be taken to ensure that the work does not cause mud, silt, or concrete to be washed away either during the construction stage or as a result of subsequent erosion. Where possible construction works shall avoid road construction during high periods of high rainfall.

xvii) Timing and extent of any necessary re-instatement.

xviii) All work associated with construction of the access gate, access bell mouth (with associated abnormal load over run area) and wheel wash facility shall be implemented on site prior to commencement of development. Details for wheel wash facility to maintain the public road network clear of any mineral/soils throughout the construction period.

xix) The Waste Management Plan shall be in accordance with SEPA's letter dated 17 January 2013.

xx) Best practice mitigation for pollution prevention.

**Reason:** *To ensure compliance with all commitments made in the Environmental Statement and Supplementary Environmental Information 1 and 2 and in order to retain effective planning control.*

28 Each turbine shall be erected in the position indicated in the map at annex 6 of this consent unless a variation is approved in either of the circumstances described below. At least 1 month prior to the start of construction of turbine foundations a variation of the indicated position of any turbine on the approved drawing shall be notified on the following basis: (a) if the variation from the approved drawing is less than 25 metres it shall only be permitted with the approval of the Ecological Clerk of Works (ECoW) in consultation with SEPA and West of Scotland Archaeology Service, and (b) if the variation from the approved drawing is between 25 metres and 50 metres it shall only be permitted with the written approval of the Planning Authority in consultation with SEPA and West of Scotland Archaeology Service. A variation shall not be allowed if it would:

i) bring a turbine within 1000 m of a residential property.

ii) bring a turbine out-with the site.

iii) breach the 50 m water buffer zones

**Reason:** *In order to retain effective planning control*

29 Within 3 months of the final commissioning of the development an "as built plan" at an appropriate scale indicating the location of any track, turbine, crane pad and borrow pit within the development shall be submitted to the Planning Authority.

**Reason:** *In order to retain effective planning control*

30 During the construction of the development:

i) No work shall be undertaken within a 20 m buffer zone surrounding all watercourses and known functioning drains, with the exception of access route crossings, unless otherwise agreed in writing with the Planning Authority.

ii) Track layout shall minimise disruption to water courses.

iii) Existing drainage routes shall be maintained through sensitive placement of soil heaps and where necessary temporary drains.

iv) Silt traps shall be provided on all existing drainage routes affected by site works.

v) With regard to watercourses, a suitable design shall be submitted for the written approval of the Planning Authority.

vi) Any disturbance of watercourses shall be minimised utilising cofferdam temporary works.

vii) Cable trenches shall only be constructed in limited sections to reduce drainage of groundwater and prevent additional drainage routes being created.

viii) Cable trenches shall be plugged to prevent the creation of new drainage paths.

ix) The scheduling of works shall minimise disruption and working during wet weather.

x) Temporary works interception drains shall be constructed to prevent potential contamination of runoff and groundwater.

xi) Stockpiling of materials on wet ground and near drainage channels shall not take place, unless agreed in writing with the Planning Authority.

xii) Backfilled trenches shall be re-vegetated.

xiii) Temporary silt traps shall be constructed to treat runoff.

xiv) Sulphate resistant concrete shall be used to prevent leaching of chemical.

**Reason:** *To minimise environmental impact and in order to retain effective planning control.*

- 31 Prior to the Commencement of the details of the confirmed turbine layout height and manufacture, including illustrations as well as details of size, shall be submitted for the written approval of the Planning Authority. Only the approved type shall be installed.

The turbines:

- i) Shall have a light grey colour with a semi matt finish as stated in the ES.
- ii) Shall have blades that rotate in the same direction.
- iii) Shall have no large 'logos' or other symbols or writing unless for reasons of health and safety or as agreed in writing by the Planning Authority.

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

- 32 The site shall not be illuminated by lighting unless:

- i) the Planning Authority has given prior written approval
- ii) lighting is required during working hours which have been approved by the Planning Authority; or
- iii) an emergency requires the provision of lighting

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

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

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

- 34 Bird deflectors shall be attached to supporting guy lines in order to reduce the collision risk to birds, including both Annex 1 and Schedule 1 raptor species to the satisfaction of the Planning Authority in consultation with SNH.

**Reason:** *To minimise adverse impacts on habitats*

- 35 Three months prior to the Commencement of the Development, an Ecological Clerk of Works (ECoW) whose appointment is approved by the planning authority

shall be appointed and remain in place until final commissioning of the development. The scope of work of the ECoW shall include:

- i) Monitoring compliance with the ecological mitigation works that have been approved in the consent, including the mitigation measures identified in the ES and SEI 1 and 2 and the Habitat Management Plan;
- ii) Advising on adequate protection of nature conservation interests on the site;
- iii) Directing the micro-siting and placement of the turbines, borrow pits, bridges compounds and tracks, and
- iv) Monitoring compliance with the Construction Environmental Management Plan required by condition 27

**Reason:** *To safeguard environmental impacts, ecology, species and habitats, to ensure development conforms to requirements and maintain effective planning control.*

- 36 Three months prior to the commencement of decommissioning an Ecological Clerk of Works (ECoW) whose appointment has been approved by the Planning Authority after consultation with SNH shall be appointed and the appointment shall last until the completion of aftercare or such earlier date as may be agreed in writing by the Planning Authority. The scope of work of the ECoW shall include

- i) Monitoring compliance with the ecological mitigation works that have been approved in the consent, including the mitigation measures identified in the ES and SEI 1 and 2 and the Habitat Management Plan;
- ii) Advising on adequate protection of nature conservation interests on the site;
- iii) Monitor the carrying out of the decommissioning and restoration plan.

**Reason:** *To safeguard environmental impacts, ecology, species and habitats, to ensure decommissioning and restoration conforms to requirements and maintain effective planning control.*

- 37 No later than 24 months prior to, the expiry of the period within which the turbines and ancillary development have to be removed in accordance with condition 1 or by such later date as may be agreed in writing by the Planning Authority, a method statement for the decommissioning of the wind farm and the restoration of the site shall be submitted for the approval of the Planning Authority. Decommissioning in accordance with the approved method statement shall be completed within 24 months of the end of the period of this planning permission or such other date as may be agreed by the Planning Authority in writing and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development. The approved Decommissioning Method Statement shall be implemented. Implementation of the approved method statement shall be overseen by the ECoW.

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

- 38 No fixed or mobile plant used within the site during the construction period shall incorporate bleeping type warning devices that are audible at any noise sensitive receptor. Development shall not commence until details of alternative warning devices have been approved in writing by the Planning Authority. Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the site.

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

- 39 At least 1 month prior to commencement of the development, a programme of archaeological works, in accordance with a written scheme of investigation, which has been agreed by the West of Scotland Archaeology Service shall be submitted for the approval of the Planning Authority. Thereafter the programme of archaeological works shall be implemented and all recording and recovery of archaeological resources within the development site shall be undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

**Reason:** *To minimise adverse impacts on archaeology on site and to ensure development conforms to Environmental Statement*

- 40 At least 3 months prior to Commencement of the Development:

i) The outline Habitat Management Plan (HMP) for the site shall be prepared in consultation with the Planning Authority's Local Biodiversity Officer, SNH and RSPB and thereafter submitted to the Planning Authority for approval. The HMP shall address the points made in SNH's letter dated 14 June 2013.

ii) The approved HMP must be implemented in full unless it is amended by the HMG, in which case the amended HMG must be implemented in full.

iii) The results of surveillance and monitoring of species and habitat shall be submitted to the HMG.

iv) The HMP will operate until the decommissioning and restoration plan referred to in condition 37 has been implemented subject to any changes approved by the Planning Authority, in consultation with SNH, shall review the retention of pads, foundations, cable/ducts and access tracks within the context of the restoration strategy to identify any elements to be retained on site or requiring alternative reinstatement.

v) Site clearance activities and, where possible, construction shall take place out-with the bird breeding season of March to July inclusive.

In this condition “HMG” means the Habitat Management Group, whose members include the Planning Authority, SNH and RSPB, established to oversee the preparation and delivery of the HMP, to review and assess the results from on-going monitoring and to make any changes to the HMP which are necessary for the purpose of achieving its aims.

**Reason:** *To ensure development conforms to Environmental Statement and maintain effective planning control*

- 41 Prior Commencement of the Development details of materials, external finishes and colours for all ancillary elements (including access tracks, transformers, switchgear/metering building, compound, and fencing) shall be submitted for the written approval of the Planning Authority. If required by the Planning Authority, samples of materials shall be provided. Materials, external finishes and colours shall comply with the approved details and any approved samples.

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

- 42 Prior to Commencement of the Development, or at such other time as is agreed by the Planning Authority, detailed plans and a method statement for restoration of the borrow pit and construction compound shall be submitted for the approval of the Planning Authority, in consultation with SNH. The approved plans and method statement shall be implemented to the satisfaction of the Planning Authority within 6 months of final commissioning of the development or within such other period as is agreed by the Planning Authority.

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

- 43 Prior to Commencement of the Development any impacts on the Scottish Water Radio and Communication Links from turbines T2, T3, T4, T5, T7, T8 and T14 shall be identified and a mitigation solution shall be submitted for the written approval of the Planning Authority, in consultation with Scottish Water. Thereafter the approved mitigation solution shall be implemented prior to turbines T2, T3, T4, T5, T7, T8 and T14 becoming operational. If the technical solution requires the re-positioning of turbine(s), these details require to be submitted to for the written approval of the Planning Authority prior to works being carried out to implement the mitigation solution. The turbines shall be re-positioned in accordance with the approved details.

**Reason:** *In order to maintain a secure radio and communication link and retain effective control over Scottish Water’s assets*

- 44 Prior to Commencement of the Development any impacts on the Scottish Power Radio and Communication Links from turbines T3, T7, T11 and T19 shall be

identified and a mitigation solution shall be submitted to and approved by the Planning Authority, in consultation with Scottish Power. Thereafter the agreed mitigation solution shall be implemented prior to turbines T3, T7, T11 and T19 becoming operational. If the technical solution requires the re-positioning of turbine(s), these details require to be submitted to and approved in writing by the Planning Authority prior to works being carried out to implement the mitigation solution. This may result in the requirement for a planning application to be made.

**Reason:** *In order to maintain a secure radio and communication link and retain effective control over Scottish Power's assets*

- 45 The base of any wind turbine shall be sited a minimum distance of 100m from the public right of way SL 123 which shall remain open during construction and decommissioning unless otherwise agreed with the Planning Authority. Any diversions required for a temporary period for health and safety reasons require to be submitted for the written approval of the Planning Authority and the approved diversions shall be implemented to the Planning Authority's satisfaction. When construction of the development is complete the right of way SL 123 shall be reinstated to the original route and to the Planning Authority's satisfaction and shall remain open.

**Reason:** *In the interests of amenity and in order to retain Right of Way*

## Definitions

In the letter of consent and annexes 1 and 2, unless the context requires otherwise:

“Application” means the Application submitted by the Company on 31 January 2012;

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

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

“The Company” means Banks Renewables (Middle Muir Wind Farm) Limited, **Company No. 07376956 having its registered office at Inkerman House, St Johns Road, Meadowfield, Durham, County Durham, England, DH7 8XL** or the person for the time being entitled to the benefit of the consent;

“The consent” means the consent granted under section 36 of the Electricity Act 1989 for the construction and operation of the development described in Annex 1;

“Construction Period” means the period from Commencement of the Development until the Site compounds have been reinstated in accordance with the conditions of this consent;

"dB" means the measurement in decibels of the emitted sound power level of a wind turbine;

"dB(A)" means the measurement in decibels of the emitted sound power level of a wind turbine using the A-weighting network as referred to in ETSU-R-97;

“the Development” means the development described in Annex 1;

“the EIA Regulations” means the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000

“Environmental Statement” means the Environmental Statement submitted by the Company on 31 January 2012 with the Application;

“ETSU-R-97” means the ETSU Report number ETSU-R-97 ‘The Assessment and Rating of Noise from Wind Farms’ published in September 1996;

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

“HMP” means Habitat Management Plan;

“Noise Sensitive Premises” means any building, structure or other development that, on the date of this planning permission exists or is yet to exist but for which extant planning permission exists, the lawful use of which falls within Classes 7 (hotels and hostels), 8 (residential institutions) or 9 (houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or is a flat or static residential caravan. For the purposes of this definition, ‘premises’ includes any relevant curtilage;

“Planning Authority” means South Lanarkshire Council;

“SEI” means the Supplementary Environmental Information submitted by the Company on 30 November 2012 subsequent to the Application and ES;

“SEI2” means the Supplementary Environmental Information submitted by the Company on 3 May 2013 subsequent to the Application, ES and SEI;

“SEPA” means the Scottish Environment Protection Agency;

“Site” means the area of land outlined in red attached to this consent;

“SLA” means Special Landscaped Area;

“SLC” means South Lanarkshire Council;

“SNH” means Scottish Natural Heritage;

“Wind Speeds” means wind speeds measured or calculated at a height of 10 metres above ground level on the site at a specified Ordnance Survey grid reference agreed in writing by the Planning Authority

## Annex 3

### Statutory Consultees

**SEPA** initially objected to the development due to proposed creation of 6 metre peat embankments along the access tracks. Following submission of further clarification direct to SEPA by the Company in June 2012, they removed their objection to the proposal in their response to the SEI in January 2013, subject to conditions.

**SNH** provided their consultee response on 30 April 2012. SNH objected to the proposal due to the likelihood of significant effects on the qualifying interests of the Red Moss Special Area of Conservation (SAC) and the Muirkirk and North Lowther Uplands Special Protection Area (SPA). They advised if the proposal was undertaken in strict accordance with advised mitigation conditions to ensure the integrity of the SAC and SPA, then they would remove their objection. SNH further advised that an Appropriate Assessment under the Habitats Regulations was required for the Red Moss SAC and the Muirkirk and Lowther Uplands SPA.

**South Lanarkshire Council (SLC)** were consulted following submission of the initial Application and (ES). Following discussion between South Lanarkshire Council and the Company it was agreed that they would provide a consultation response following submission of the SEI and subsequently the SEI2. They advised in October 2013 that they held no objection to the amended proposal subject to mitigating conditions being applied to any consent.

### Non-Statutory Consultees

**Defence Estate Organisation (MoD)** – **objected** to the proposal which could generate seismic noise and interfere with the operational functionality of the array at Eskdalemuir Seismological Recording Station. A technical solution was subsequently identified and implemented. The MoD **withdrew their objection** on 23 June 2014.

**National Air Traffic Services Ltd (NERL Safeguarding)** – **objected** as the proposed development has been examined from a technical and operational safeguarding aspect and conflicted with NATS (En Route) Plc's safeguarding criteria. A solution was agreed with the Company and the **objection was withdrawn** on 5 June 2014.

**Halcrow** – the Energy Consents and Deployment Unit requested Halcrow to review and comment on the Peat Stability Assessment submitted with the application and the subsequent SEI and SEI2 submissions. They confirmed that they had **no objection** subject to mitigation measures as per condition 27 xiv) of Annex 2 attached.

**RSPB Scotland** – raised **no objection** to the proposal. However, they raised concerns relating to the impact on upland birds and on blanket bog, the extent of the Habitat

Management Plan, the proximity to Red Moss SAC and the impact on pink footed geese. Condition 40 of Annex 2 attached will mitigate their concerns.

**Historic Scotland** – has been consulted regarding the proposals at various stages in the design and application process, throughout which their position is that although a wind farm in this location would have an impact on the setting of Scheduled Monument, Auchensaugh Hill, Cairn, they considered that such a development could be accommodated in the proposed location subject to mitigation of impacts on the monument with careful siting of turbines. Consequently, Historic Scotland considered that the overall impacts on 2 key monuments (Auchensaugh Hill, cairn and Thirstone, Stone Circle) would be of moderate significance and therefore had no objection. When SE11 was submitted Historic Scotland remained of the view that although the proposal would be likely to have adverse impacts upon the setting of Auchensaugh Hill, cairn, the overall impacts were not sufficient to warrant an Objection. **Historic Scotland objected to the SE12**, in particular the relocation of T14 and T16 as they would have a significant impact on the cairn and likely to become the single most dominant features in views southwards from the Scheduled Monument, Auchensaugh Hill, Cairn. Following consideration of the objection, the Company has removed T14 and T16 from the development scheme. Consequently **Historic Scotland have withdrawn their objection since T14 and T16 are removed from the proposal.**

**West of Scotland Archaeology Service (WOSAS) – no objection** subject to condition 39 of Annex 2 being implemented. This requires a programme of archaeological works, supervised on site by an Archaeological Clerk of Work.

**Scottish Government – Marine Scotland Science – Freshwater Laboratory – no objection.** Additional points raised in relation to water quality and monitoring, fish and hydrochemistry monitoring are included in the condition 27 at Annex 2 attached to any consent.

**Visit Scotland – no objection.** They recommended any potential detrimental impact of the proposed development on tourism be considered in full.

**Scotways – objected** and raised concerns regarding the proximity of turbines and a borrow pit to the right of way SL 123 and the cumulative impact with other wind farm developments in the area. Scotways requests the right of way to remain open and free from obstruction during both construction and operation of the proposed wind farm.

**Duneaton Community Council – objected** and raised the following points:

- i) Visual impact of proposal – proximity of turbines to Crawfordjohn and the increase in height of 7 turbines from 136m to 152m which could set a precedent for other wind farms in the vicinity.
- ii) Two turbines are within 2km buffer from Crawfordjohn, T11 and T16 – the

developer states that no turbines are within 2km buffer.

iii) The SEI1 visual effects images produced by the applicant are not reliable and the visual impact remains significant despite a very marginal reduction in turbine density. Proposal will dominate Crawfordjohn which is contrary to SNH guidance on the siting and design of windfarms.

iv) The design options have no clarification as to the agreed parameters with South Lanarkshire Council.

**South Lanarkshire Council considered these points within their consultation committee report**

**Scottish Water – have no objection** to the proposal. The site does not fall within a catchment used for public water supply. However, there is a water distribution main in the vicinity of the B7078 and the entrance to the site that could be affected by the proposed development. In addition there was **an objection from Water Infrastructure Assets** as the proposal will impact on the collection of Telemetry data which provides accurate remote monitoring of the operation and status of Scottish Water assets. Condition 43 of conditions at Annex 2 of the consent will mitigate this objection.

**Atkins (Acting for Scottish Water) – objected** as there is a risk that several turbines would cause interference to communications between outstations and a Scanning Base Station. A mitigating solution was reached with the Company the **objection was removed.** (See conditions 33 and 34)

**JRC (Acting for Scottish Power) – objected** as there was potential to cause interference to radio systems operated by Scottish Power in support of their operational requirements for safety management of critical infrastructure. An agreement was reached and mitigation conditions included in any consent allowed for the **removal of the objection.**

The following consultees had **no objection** and/or no comments to the proposed development:

BT  
Civil Aviation Authority (CAA)  
The Crown Estate  
Transport Scotland  
Scottish Wildlife Trust (SWT)  
Glasgow Prestwick Airport  
BAA  
Ofcom  
Mountaineering Council of Scotland

The following consultees provided **no response** to the proposed development:

Salmon Fisheries Board  
Clyde River Association

## **Public Representations**

This development received 77 objections and 4 representations of support in total.

The reasons outlined for objection included the landscape and visual impacts of the proposed development, particularly on the settlement of Crawfordjohn, the cumulative and noise effects of the wind farm, the effect on the Red Moss SAC, the perceived threats to ornithological species and to the environment in general as well as the impact on the road network and tourism.

Reasons for support include the need for renewable energy sources, economic benefit for local projects and ensuring the continued sustainability of jobs in the area relating to the renewables sector. **Details can be found at Annex 4 – Summary of Public Representations**

## ANNEX 4

### Middle Muir Representation Summary

A total of 81 public representations were received for the proposed Middle Muir Wind Farm.

Number of Objections - 77

Number of Support - 4

<b>Objection</b>	
Location	26
Designated, protected, Archaeological and Heritage Sites	18
Visual Impact	65
Cumulative Impact	64
Local Economy	7
Environmental	25
Wildlife	7
Pollution	31
Other Disruptions	19
Against Local Planning Policy	16
Inadequate Public Consultation	30
Health and Safety	4

<b>Support</b>	
Good Location	2
Good for Local Economy	3
Contributes towards Scotland's Climate Change Targets	2
Cleaner Form of Energy	2

# MAP – ANNEX 5 SITE AMENDED CONSENTED DEVELOPMENT

