

ANNEX C DECISION LETTER AND CONDITIONS

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Energy Division

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16 September 2016

Dear Ms Macleod,

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 EXTENSION TO THE KYPE MUIR WIND FARM IN THE COUNCIL AREA OF SOUTH LANARKSHIRE.

Application

I refer to the application for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") made by Banks Renewables (Harting Rig Wind Farm) Limited a company incorporated under the Companies Acts with company number 8791006 and having its registered office at Inkerman House, St John's Road, Meadowfield, Durham, DH7 8XL ("the Company") dated 2 October 2014 for the construction and operation of an extension to the Kype Muir Wind Farm of eighteen wind turbines, with a nominal generating capacity of 72MW.

This letter contains the Scottish Ministers' decision to grant consent in favour of the Company, subject to conditions, but to refuse consent for turbines T1, T2 and T3.

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, 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' decision on such a direction.

Consultation

The Application was lodged on 2 October 2014. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the EIA Regulations") the Company submitted an Environmental Statement ("the ES") in support of the Application describing the development and giving an analysis of its environmental effects. In accordance with requirements of the Electricity (Applications for Consent) Regulations 1990 and the EIA Regulations, advertisement of the Application and the ES was made in the local and national press, copies were placed in the public domain, and the opportunity given for those wishing to make representations to do so.

Under Schedule 8 to the Electricity Act and Regulations made under the Act the relevant Planning Authority is required to be notified in respect of a section 36 consent application. In addition, to comply with the EIA Regulations, Scottish Ministers have to consult the relevant Planning Authority, Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and such other persons that are likely to be concerned by the proposed development by reason of their specific environmental responsibilities. Notifications were sent to South Lanarkshire Council as the relevant Planning Authority, as well as to SNH and SEPA.

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

- obtain SEPA advice on matters relating to 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 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 has been consulted regarding a CAR licence in respect of the Development proposal. SEPA has confirmed a CAR licence is required and the proposal accords with Water Framework Directive objectives. SEPA noted that a number of water crossings proposed at the site have been identified as requiring authorisation under CAR. They advised there are no significant concerns raised by the information submitted in respect of issues that could potentially impact on the water environment.

Public Local Inquiry

In terms of paragraph 2 of Schedule 8 to the Act if the Planning Authority make an objection 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 of the Planning Authority. South Lanarkshire Council (a statutory consultee and the relevant Planning Authority) **objected** to the **18 turbine** wind farm extension. This was set out as a conditioned objection which could be **overcome** on the basis that turbines numbered **T1, T2, T3** and their associated infrastructure **are refused consent**.

The Scottish Ministers accede to the Application subject to modifications and conditions which give effect to the objection of South Lanarkshire Council and therefore paragraph 2(2) of Schedule 8 to the Electricity Act does not apply. Accordingly a PLI is not a statutory requirement under paragraph 2(2) of Schedule 8 to the Electricity Act.

The Scottish Ministers have considered fully and carefully the Application and accompanying documents and all relevant responses from consultees and third party representations received. Ministers have also considered the 6 objections raised within the 256 public representations received. They have taken the objections and all other material considerations into account and consider that they have sufficient information to be able to make an informed decision on the Application without the need for a PLI and that it is not appropriate to cause a PLI to be held.

Environmental Matters

Ministers are satisfied that an Environmental Statement 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.

Ministers have assessed the environmental impacts of the proposed development and have taken into consideration the environmental information, including the Environmental Statement and representations from consultative bodies, including SNH, SEPA and South Lanarkshire Council.

Ministers have, in accordance with paragraph 3 of Schedule 9 to the Electricity Act 1989, in their consideration of the proposed development, had 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 and the extent to which the Company has done what it reasonably can to mitigate any effect which the proposal 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 Schedule 8 the Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters. Ministers are satisfied that this is the case and more generally that the requirements of paragraph 3 have been met.

Main determining issues

Ministers, having considered the Application, Environmental Statement, and the responses from consultees, consider that the main determining issues are:

- the extent to which the proposed development accords with and is supported by Scottish Government policy;
- 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.

The Policy Context

Climate Change and Renewables Targets

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's 2020 Routemap for Renewable Energy in Scotland published in June 2011 and most recently updated in September 2015 confirms that our target for renewable electricity generation is for renewables to generate at least the equivalent of 100% of gross annual consumption by 2020. The 2020 100% electricity target equates to approximately 16GW of installed renewables capacity.

The Scottish Government's ambitions for renewables and the delivery of clean electricity in Scotland go beyond the current 2020 targets. The Scottish Government has set a 2030 decarbonisation target, to achieve a carbon intensity of 50 gCO₂/kWh of electricity generation in Scotland.

In 2014, the equivalent of 49.8% of gross electricity consumption was from renewable sources. Using 2014's gross consumption as a proxy for 2015, around 56.9% of Scotland's consumption came from renewables in 2015. This demonstrates the progress required in deployment of further renewable and low carbon generation which is necessary to meet the targets.

The '2020 Routemap for Renewable Energy in Scotland – Update' published on 17 September 2015 provided an update on Scotland's progress against renewable energy and electricity targets. This was supplemented by the publication of updated statistics in June 2016. As of March 2016, Scotland had 7.9 GW of installed renewable electricity generation capacity, with an additional 1.9 GW of capacity under construction. Not all consented schemes will progress to implementation for a variety of reasons. The Scottish Government remains committed to overcoming barriers to deployment to support the growth in onshore wind where possible to help meet climate change and renewables targets.

Scotland's Third National Planning Framework (NPF3)

NPF3 is the spatial expression of the Scottish Government's economic strategy. It brings together plans and strategies across sectors to provide a coherent vision of how Scotland should evolve over the next 20 to 30 years. It establishes the Scottish Government's commitment to ascertaining Scotland as a leading location for the development of renewable energy technology. It sets out that onshore wind will continue to make a significant contribution to the diversification of energy supplies. In Scotland there has been significant progress towards low carbon objectives whilst continuing to protect our special places from significant adverse impacts.

NPF3 together with SPP further sets out what is expected of the planning system, including a spatial strategy for a low carbon place where an 80% reduction in greenhouse gas emissions is achieved by 2050.

In NPF3 and the Electricity Generation Policy Statement, the Scottish Government commits to achieving at least 500 megawatts of renewable energy in community and local ownership by 2020. While the Scottish Government's 500 MW target for community and locally owned renewables has recently been met, support for community and local ownership remains undiminished.

Ministers note that this development makes a considerable contribution towards meeting greenhouse gas emission and renewable electricity targets, as well as the diversification of energy supplies. However the proposed development does not support the Scottish Government's ambitions for community and local ownership of renewables as expressed in the Community Energy Policy Statement.

Scottish Planning Policy (SPP)

The Scottish Government supports onshore wind energy development in appropriate locations. The Scottish Planning Policy 2014 (SPP) introduces a presumption in favour of development that contributes to sustainable development.

It sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

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 also introduces a new spatial framework for onshore wind projects. The Kype Muir Extension development has been identified as falling into Group 3 of Table 1. These are areas with potential for wind farm development, where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

Scottish Ministers consider the proposed development is supported by SPP and wider policy, it makes a noteworthy contribution towards meeting greenhouse gas emissions and renewable energy targets. It is consistent with Scottish Government's policy on the promotion of renewable energy and its ambitious targets for the equivalent of 100% of Scotland's energy demand to be met by from renewable energy sources.

Compatibility with Local Development Plan and Supplementary Guidance

South Lanarkshire Council, as the relevant Planning Authority, assessed the proposed development against their local development plans and policies, namely;

- Glasgow and the Clyde Valley Strategic Development Plan (2012)
- South Lanarkshire Local Plan (adopted 2009)
- SLLP Supplementary Planning Guidance: Renewable Energy (December 2010)
- South Lanarkshire Local Development Plan – SLLDP (adopted 29 June 2015)

Scottish Ministers note that on 20 October 2014 the Directorate for Planning and Environmental Appeals (DPEA) issued its report of the Examination of the SLLDP which made a number of amendments to be carried through to adoption stage by the Council.

Whilst the Reporter's amendments, at the point the report was written, had yet to be ratified by South Lanarkshire Council they are nevertheless a material consideration. In this case, Policy 2: Climate Change, Policy 3: Green Belt and Rural Areas, Policy 15: Natural and Historic Environment and Policy 19: Wind Energy of the proposed SLLDP are to be revised.

As a consequence, the Planning Authority considered this Application alongside the Reporter's amendments, taking into account that interim renewable energy proposals should be assessed against the bullet points in paragraph 169 of SPP and the revised spatial framework set out in Table 1 of SPP, until such times as the Supplementary Guidance on Renewable Energy had been revised.

All the aforementioned plans, policies and guidance were examined in the Planning Authority's consideration of this proposal.

The South Lanarkshire Local Development Plan (SLLDP), officially adopted on Monday 29 June 2015, now replaces the South Lanarkshire Local Plan (2009). The proposed development has been assessed against the policies in the adopted SLLDP.

SLLDP Policy 2: Climate Change - requires that proposals for new development must, where possible, seek to minimise and mitigate against the effects of climate change by meeting certain criteria. The criteria relevant to this proposal are criterion (iii) utilising renewable energy sources and criterion (vii) having no significant adverse impacts on the water and soils environment, air quality, biodiversity and

green networks. Having assessed the impact of the proposed development against these criteria, in paragraphs 6.4.4, 6.5.6, 6.5.15, 6.5.20, 6.5.22, 6.5.23 and 6.5.24 of their response. Ministers agree with the Planning Authority's assessment that the proposed development is compliant with Policy 2 of SLLDP.

SLLDP Policy 3: Green Belt and Rural Areas. The Green Belt and the Rural Area function primarily for agricultural, forestry, recreation and other uses appropriate for the countryside. The Planning Authority consider renewable energy is an acceptable use in the rural area subject to the proposal being in accordance with all relevant local development plan policies and supplementary guidance. The Planning Authority assessed this acceptability at sections 6.3, 6.4 and 6.5 of their response. Ministers concur with the conclusion that the proposed development is compliant with Policy 3 of SLLDP.

SLLDP Policy 15: Natural and Historic Environment and associated SG requires that development proposals will be assessed in terms of their effect on the character and amenity of the natural and built environment and must accord with other relevant policies in the Plan and the appropriate guidance. The Planning Authority considered the effect of the proposed development on the character and amenity of the natural environment at sections 6.3, 6.4 and 6.5 of their response to Scottish Ministers. Ministers agree with the conclusion that the proposed development accords with Policy 15.

SLLDP Policy 19: Renewable Energy. Ministers note the Reporter's examination report on the Local Development Plan considers that renewable energy proposals should be assessed against the bullet points in paragraph 169 of SPP and the revised spatial framework set out in Table 1 of SPP. This was assessed by the Planning Authority at section 6.2 of their response. Taking into account the aforementioned assessment Ministers agree that, subject to the removal of turbines numbered T1, T2 and T3, the proposed development will not have significant adverse cumulative landscape and visual impacts. Ministers also agree with the Planning Authority's conclusion that the effects on the natural and water environment are considered to be acceptable subject to the delivery of suitable mitigation measures, therefore the proposal complies with the provision of SPP and Policy 19.

Ministers, having considered in full the Planning Authority's response, concur with their assertion that, subject to the refusal of consent for turbines numbered T1, T2 and T3, the proposed development is consistent with aforementioned local development plans, policies and guidance and that the environmental impacts of the development can be satisfactorily minimised to take account of the benefits of the proposal in contributing towards Scotland's renewable energy targets

Landscape, visual and cumulative impacts

Although not the basis of an objection, SNH raised concerns in relation to the cumulative landscape and visual impacts and significant adverse landscape impacts.

They summarised that the proposed development would *"cause significant adverse cumulative landscape and visual impacts with the Kype Muir wind farm and Dungavel wind farm and significant adverse impacts on the "Upland River Valley"*

landscape character type. In addition the proposal will have adverse visual impacts on viewers from the Avon Valley and the footpaths associated with the Auchengilloch Monument. We also note the comparatively large size of the proposed turbines (132m and 152m) when considered in relation to the adjacent wind farm turbines."

SNH advised Scottish Ministers, to give consideration to the removal of turbines numbered T1, T2, T3 T4 and T5, to reduce the negative landscape and visual impacts of the proposed development for the following reasons;

- To better fit with the Design Strategy of the Kype Muir wind farm. The strategy of the extension contradicts the original proposal's response to the landscape and visual constraints.
- To reduce cumulative adverse landscape and visual impacts with the adjacent Dungavel wind farm caused by different sizes of turbines
- To reduce cumulative adverse landscape and visual impacts caused by closing the gap separating the Kype Muir and Dungavel wind farms.
- To improve the design of the wind farm in response to the underlying landform which forms the southern horizon to the valley of the Avon Water, and to reduce stacking and clutter.
- To improve the design of the wind farm, by removing the line of turbines that extends from, and does not fit the grid or cluster on higher ground.
- To reduce the direct impacts on the "Upland River Valley" landscape character where the immediately adjacent large-scale turbines will overwhelm the small-scale field pattern and High Dykes farm itself, features which contribute to the wider landscape character.
- To reduce the indirect impacts on the small-scale "Upland River Valley" landscape character of the Avon valley below.
- To reduce the visual impacts on the southward facing views from the settled Avon valley.

The Planning Authority had similar concerns in respect of the landscape and visual impact of the proposed development. They noted in their response that the proposed development site, which lies adjacent to the Upland River Valley Landscape Character Type (LCT), has low capacity for wind farm development. Whilst acknowledging that none of turbines were proposed within this LCT the Planning Authority, following their assessment of the proposed development, considered that removal of turbines T1, T2 and T3 would:-

- Reduce the direct impacts on the Upland River Valley LCT where these turbines would overwhelm the small-scale field pattern and features which contribute to the wider landscape character.
- Reduce the indirect impacts on the Upland River Valley LCT
- Reduce the visual impacts on the southward facing views from the settled Avon valley.
- Improve the design of the wind farm in response to the underlying landform which forms the southern horizon to the valley of the Avon Water

In addition to the above points, they considered that the removal of turbines would reduce cumulative and adverse landscape and visual impacts with the adjacent

Dungavel wind farm and reduce cumulative adverse landscape visual impacts caused by turbines T1, T2 and T3 closing the gap between Kype Muir and Dungavel wind farms.

In summary, taking account of the relevant policies as well as the importance of renewable energy generation in terms of national policy, the Planning Authority advised it was their view that following these alterations, the scheme, whilst still having some landscape, visual and other impacts, would be acceptable.

Ministers' Considerations

A site visit was undertaken on 16 August 2016 at which representatives of the Company and South Lanarkshire Council were also present. The purpose of the visit was to facilitate further deliberation of the modifications proposed by the Planning Authority by considering the viewpoints identified in the ES relevant to landscape and visual concerns raised by SNH and the Planning Authority. In addition to travelling the access route to the development and gaining an understanding of the surrounding area, the following viewpoints were considered:

Viewpoint 7 Gilmourton
Viewpoint 8 Caldermill
Viewpoint 11 Drumclog
Viewpoint 22 B743 NW of site

As a consequence of their position on the land form, the Scottish Ministers are of the view that the landscape and visual impacts of turbines numbered T1, T2 and T3 are such that they should not form part of the extended wind farm.

Scottish Ministers accept, in line with the Planning Authority's assessment, that turbines numbered T4 and T5 sit further back when viewed from these viewpoints and are therefore much less prominent on the skyline.

Scottish Ministers recognise the detrimental landscape and visual impact of this development. Having considered the terms of the Planning Authority's objection and the advice given by the Planning Authority and SNH, to reduce the negative landscape and visual impacts of the proposed development, Scottish Ministers are of the opinion that if the proposed development reflects the changes proposed by the Planning Authority the remaining impacts are not of a level which would warrant a refusal of consent. Ministers agree with the Planning Authority that whilst some impacts would remain, particularly cumulative, visual and landscape impacts, these are acceptable in light of the benefits the proposed development will bring.

Habitats Regulations

SNH advised of the connectivity between the proposed development and the Muirkirk and North Lowther Uplands SPA. The status of the SPA means that the requirements of the Conservation of Habitats and Species Regulations 2010 ("the Habitats Regulations") apply. Consequently Ministers must consider the effects of the development before consenting such applications.

A Habitats Regulations appraisal (Annex E) has been carried out which concludes that if the proposal is undertaken in strict accordance with SNH's mitigating conditions then the integrity of the SPA will *not be adversely affected*. The proposed conditions set out by SNH, impose a requirement for a detailed Habitat Management Plan (HMP) and an extension to the proposed 20 year forest plan, outlined in the ES, to cover the full consent period of the proposed wind farm extension. Both have been secured through conditions 37 and 42 respectively (Annex 2).

Economic and Renewable Energy Benefits

The fifteen turbine extension would provide energy to power up to 25,470 households in Scotland per year. The extension would increase the total generating capacity of Kype Muir Wind Farm to over 155MW, sufficient to power approximately 77,408 average households per year. Overall, including the extension, the development in its entirety offers a significant contribution towards Renewable Energy targets.

Scottish Ministers recognise this increase in the amount of renewable energy produced is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target for renewable sources to generate the equivalent of 100% of Scotland's annual electricity demand by 2020. It is also consistent with climate change objectives.

Significant economic benefits to Scotland are anticipated through investment in construction and employment, and there are also anticipated economic benefits to the country arising from the production of electricity - through its export, which is an important economic aspiration for Scotland, and through the fact that it will support security of supply which is essential to the country's economic wellbeing.

During the construction period there will be an estimated 88 short-term jobs, with a further 13 jobs supported during the lifetime of the development. There are likely to be minor positive effects on local businesses based on the opportunities that the construction phase presents to local businesses including £10 million worth of local contracts.

Environmental Benefits and Carbon Payback

The total CO₂ saving from the proposed wind farm extension over the 25 year operational life of the development is estimated by the Company to be 2,305,120 tonnes.

The Company's calculation of the time required for the proposed development to generate enough carbon-free electricity to offset its own carbon footprint (known as the "CO₂ payback period"), was calculated as 3.1 years. The minimum and maximum payback periods are estimated at approximately 1.4 years and 5.6 years respectively.

Ministers have noted SEPA's assessment, on behalf of the Scottish Government, of the Company's calculation of the CO₂ payback period and are content that it serves

to demonstrate that the wind farm extension will make a significant positive contribution to reducing CO₂ emissions.

Public Representations

Scottish Ministers have considered the 256 Public Representations received and note the concerns raised, within the 6 objections, regarding the visual impact of siting another wind farm in this area, noise, shadow flicker, wild life, private water supplies and access route. Ministers are satisfied that the matters pertaining to these objections have been appropriately assessed. The proposal is consistent with the South Lanarkshire Local Plan and SPG Renewable Energy, subject to conditions and mitigation measures being implemented. It is also consistent with Policies 2, 3, 15 and 19 of the South Lanarkshire Local Development Plan and the associated Supplementary Guidance. The 250 Public Representations in support of the Application cited the support to local employability, training schemes and local economy as the main reasons for supporting the proposed extension. The letters of support further highlighted the low overall environmental impact of the development.

Summary of Scottish Ministers' Considerations

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

Ministers consider that the balance is in favour this development and that, subject to conditions and refusal of consent for turbines numbered T1, T2 and T3 , **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 reflecting the refusal for turbines numbered T1, T2 and T3.

Duration of planning permission

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, and the variables around wind farm connections feeding into the distribution and transmission network, a 5 year time scale for the commencement of the development may be 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 construction and operation of the Kype Muir Wind Farm Extension electricity generating station in the South Lanarkshire Council area (as described in part 1 of Annex 1) but **refuse consent** for **turbines T1, T2 and T3** (described as "Excluded Development" in part 2 of Annex 1), presented as the consented development in Annex 4.

Subject to the conditions set out in Part 2 of Annex 2, Scottish Ministers direct under section 57 (2) of the Town and Country Planning (Scotland) act 1997 that **planning permission be deemed to be granted** in respect of the development for which section 36 has been granted in the paragraph above.

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

In accordance with the EIA Regulations, 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 website www.energyconsents.scot

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

<http://www.scotcourts.gov.uk/session/rules/print/rules/CHAP58.pdf> Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely

Frances Pacitti

Head of Energy Consents

For and on behalf of the Scottish Ministers

A member of the staff of the Scottish Government

ANNEX 1

Part 1 - Description of the Development

The Development is an extension to the Kype Muir Wind Farm electricity generating station, comprising a 15 turbine extension to the consented Kype Muir Wind Farm, located 6.5 kilometres south of Strathaven, in the South Lanarkshire Council planning area as described in the Application and accompanying Environmental Statement.

The *principal* components of the extension to the wind farm and related ancillary developments of the wind farm comprise:

- Eight wind turbines with a maximum blade tip height of 152m
- Seven wind turbines with a maximum blade tip height of 132m
- A total length of access track of 13.5km including construction of approximately 11.24km of new access tracks (using approximately 2.26km of existing tracks)
- A total of 5 water crossings, including 1 new water crossing and 4 upgraded water crossing
- Underground cabling and communications cabling
- One control building and substation area and a platform area for National Grid substation equipment and control building
- Up to 4 borrow pits for the excavation of stone and other construction materials
- Temporary construction compound, turbine crane pads and laydown areas and foundations
- Restoration of areas of degraded and modified blanket bog plus hen harrier enhancement.

ANNEX 1

Part 2 - Excluded Development

Consent is refused for-

- 3 turbines - numbered T1, T2 and T3 (identified on the Map at Annex 5);
- any associated access tracks, and borrow pits located alongside such access tracks; and
- any associated hard-standing areas
- the 80m high meteorological monitoring mast and associated crane pad

ANNEX 2

CONDITIONS

Part 1 - Conditions attached to section 36 consent

1. Duration of the Consent

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

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

2. Commencement of the Development

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

Reason: *To ensure that the development is commenced within a reasonable period.*

3. Non-assignment

The Company must not assign the consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may grant authorisation, with or without conditions. The consent, must not be assigned, alienated or transferred otherwise than in accordance with this condition.

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

4. Serious incident reporting

In the event of a Serious Health and Safety, Environmental or Planning incident occurring on Site during the period of consent, the Company must notify Scottish Ministers within 24 hours of the incident occurring.

Reason: *To keep Scottish Ministers informed of compliance with Health and Safety legislation.*

5. Aviation Radar NATS

No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Scottish Ministers in order to avoid the impact of the development on the Primary Radar of the Operator located at Lowther Hill, Cumbernauld and Glasgow and associated air traffic management operations.

Reason: In the interests of aviation safety.

6. Aviation Radar NATS.

No blades shall be fitted to any turbine until the approved Primary Radar Mitigation Scheme has been implemented and the Development shall thereafter be operated fully in accordance with such approved Scheme.

Reason: In the interests of aviation safety.

7. Aviation Glasgow Airport

Prior to the commencement of development, a Radar Mitigation Scheme setting out measures to be taken to prevent the impairment of the performance of aerodrome navigation aids and the efficiency of air traffic control services at Glasgow Airport must be submitted to, and approved in writing by, the Scottish Ministers, in consultation with Glasgow Airport Limited.

Reason: In the interests of aviation safety.

8. Aviation Glasgow Airport

The turbines must be erected in accordance with the approved Radar Mitigation Scheme and the Development must thereafter be operated at all times fully in accordance with the approved Radar Mitigation Scheme.

Reason: In the interests of aviation safety.

Part 2 - Conditions attached to the deemed Planning Permission

9. Duration of the Consent

This planning permission shall expire and cease to have effect after a period of 28 years from the date of Final Commissioning. Upon the expiration of a period of 25 years from the date of Final Commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 50 of this permission. Written confirmation of the date of Final Commissioning shall be submitted in writing to the Planning Authority no later than one calendar month after the date of Final Commissioning.

***Reason:** To define the duration of the consent. The 28 year cessation date allows for a 3 year period to complete decommissioning and site restoration work.*

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

The Development must be carried out in accordance with the terms of the Application and the accompanying Environmental Statement including all mitigation and monitoring measures stated in it, the conditions attached to the deemed planning permission and any Planning Application (PA) plans, schemes or similar documents required to be obtained by those conditions. Any proposed deviation from the detail provided within these documents, must be submitted to and approved in writing by the Planning Authority before the works described therein are undertaken.

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

11. Financial Guarantee

Except to any extent specifically permitted in writing by the Planning Authority, there shall be no commencement of development or operations at the site until the Guarantee (after mentioned) has been delivered to the Planning Authority and the Planning Authority has confirmed receipt of it.

There will be a validly executed guarantee in an appropriate form that incorporates all the Guarantee Criteria and has been approved in writing by the Planning Authority ("the Guarantee") lodged with the Planning Authority for the period from the date of commencement of development to a date no earlier than 24 months after the date of completion of the restoration and /or aftercare ("the Guarantee Period") unless otherwise agreed in writing with the Planning Authority. If this Condition has not been complied with for any reason, operations at the site will cease until this Condition has been complied with.

In this Condition (i) a "guarantee in an appropriate form " means a bond or a deposit agreement, or at the Planning Authority's discretion, such other form of surety that has been confirmed as acceptable to the Planning Authority and (ii) "Restoration Sum" means the sum confirmed in writing by the Planning Authority from time to time to cover the full value of the restoration and aftercare works set out in the restoration schemes as approved by the Planning Authority from time to time during the Guarantee Period.

The Guarantee Criteria which a guarantee must meet is :-

(i) that the sum which can be claimed by the Planning Authority is the Indexed Restoration Sum which is (a) the Restoration Sum plus (b) an amount equal to an annual increase in the Restoration Sum by the same percentage increase in PubSec Index (non-housing building) or, in the event that the PubSec Index (non-housing building) is no longer in force, such other replacement index as is in force published as at the date on which the Restoration Sum was determined and the relevant anniversary of that date;

(ii) that any financial institution, bank or building society against whom the Planning Authority can make a claim is of sound financial standing and capable of paying the Indexed Restoration Sum;

(iii) that it is enforceable by the Planning Authority either (a) for the whole Guarantee Period that the Planning Authority is entitled to make a claim on the Guarantee for the Indexed Restoration Sum (b) on a breach of the restoration and aftercare conditions set out in this Consent; (c), for a breach of the requirements set out at (i) and (ii) of this Guarantee Criteria (d) for a breach of the requirement for a Guarantee to be in place for the Guarantee Period (such claim being permitted for a period up to [one month] after the date of expiry of the Guarantee) and (e) on the insolvency of the party carrying out the operations permitted by the Consent.

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

12. Design and operation of turbines

Development shall not commence until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The turbines tip height shall not exceed consented turbine height above ground level. A turbine other than the candidate turbine assessed in the environmental statement may not be installed without the prior approval of the planning authority.

Prior to the erection of turbines, the Company shall confirm in writing to the Planning Authority that the selected turbine model will not exceed the predicted wind turbine noise limits determined in Tables 1 and 2 of condition **28** below.

The turbines, anemometry masts and associated apparatus shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

All wind turbine blades shall rotate in the same direction.

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

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

13. Design of sub-station and its Associated Ancillary Development

Construction of the sub-station, including its ancillary elements, shall not commence until final details of the external appearance, dimensions, and surface materials of the sub-station building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The sub-station building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

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

14. Ground Investigations

Ground investigations shall be undertaken prior to Commencement of Development to inform the final site design and site management plans. There shall be no Commencement of the Ground Investigation Works and associated felling until an Environmental Management Plan for the ground investigations works and details of the associated felling have been submitted to the Planning Authority and an Environmental Clerk Of Works (ECoW) has been appointed in relation to the Ground Investigation Works. The ground investigation works and associated felling shall be implemented in accordance with submitted documents, unless amendments are approved in writing by the Planning Authority.

Reason: *To ensure the environmental impacts are minimised.*

15. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Revised Layout Plan (Construction) at Annex 4. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless

approved in advance, in writing by the Planning Authority (in consultation with SEPA and SNH) micro-siting is subject to the following restrictions:

- a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on the plan referenced as above;
- b. No wind turbine, building, mast or hardstanding is to be moved more than 70 metres from the position shown on the plan referenced as above;
- c. No access track shall be moved more than 70 metres from the position shown on the plan referenced as above;
- d. No micro-siting shall take place within areas of peat of greater depth than at the position shown on the plan referenced as above;
- e. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems or breach the 50m water buffer zones;
- f. No micro-siting shall locate a turbine closer to a residential property;
- g. No micro-siting shall locate a turbine outwith the consented application boundary;
- h. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW);
- i. If the micro-siting variation is between 50 metres and 70 metres it shall only be permitted following written approval of the Planning Authority.

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

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

16. Borrow Pit Material

Development shall not commence until intrusive site investigations are undertaken to identify the availability of suitable stone material from proposed borrow pits on site. Information submitted must include data to demonstrate the borrow pit material structural characteristics and the suitability of the material is fit for purpose. This information must be submitted to the Planning Authority, prior to the commencement of Development, for approval prior to the implementation of the borrow pit in consultation with SEPA.

All imported material that is required to be brought onto site must 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 is proposed, information relating to the quantities, proposed vehicle trips and delivery routes between the proposed borrow pit site and the wind farm site must be submitted to the Planning Authority, prior to the delivery of any

imported material. Should these routes not be covered by the approved traffic management plan prepared in accordance with condition 29 then a revised traffic management plan must be submitted for the approval of the Planning Authority and approved in writing prior to the delivery of any imported material. Thereafter the approved revised traffic management plan must be implemented.

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

17. Borrow Pits – Scheme of Works

Development shall not commence until a site specific scheme for the working and restoration for each borrow pit forming part of the development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include —;

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

The approved scheme shall thereafter be implemented in full.

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

18. Borrow Pits – Blasting

No blasting is to take place until a scheme to address site blasting has been submitted to, and approved in writing by, the planning authority. The approved scheme must be implemented. No changes can be made to the approved scheme unless approved in writing by the Planning Authority. This scheme must make provision for—:

- a. blast monitoring locations;
- b. the type of monitoring equipment to be used;
- c. frequency of monitoring;
- d. the methods to be employed to minimise the effects of overpressure arising from blasting, having regard to blast design, methods of initiation and the weather conditions prevailing at the time;
- e. limits on air overpressure levels at specified properties; and

- f. submission of blasting records to the Planning Authority.

Unless otherwise approved in writing by the Planning Authority, no blasting is to take place except between the following times —:

- a. 10.00am to 12.00pm and 2.00pm to 4.00pm on Mondays to Fridays, and
- b. 10.00am to 12.00pm on Saturdays.

with no audible activity taking place on a Sunday or local or national bank holiday.

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

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

19. Borrow Pit – Operational noise

In the event that Borrow Pits are operational the noise levels must be restricted to 65dB LA (1hr) or background LA90 (1hr) + 10dBA, whichever is the greater, and any general construction noise, which is ongoing simultaneously with the Borrow Pit operation, is to be considered as Borrow Pit noise.

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

20. Environmental Clerk of Works

Development shall not commence until the Planning Authority has approved in writing an independent Environmental Clerk of Works (ECoW) in consultation with SNH and SEPA, and the terms of appointment of that ECoW. The terms of appointment shall—:

- a. impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan and the Habitat Management Plan approved in accordance with conditions **23** and **37**,] and other plans approved in terms of condition **26** ("the ECoW works");
- b. require the ECoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- c. require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- d. require the ECoW to report to the Planning Authority any incidences of noncompliance with the ECoW Works at the earliest practical opportunity.

An approved ECoW shall be appointed on the approved terms throughout the period from 3 months prior to Commencement of Development, throughout any period of

construction activity and during any period of post construction restoration works approved in terms of condition **25** (post construction condition).

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

21. Environmental Clerk of Works Decommissioning

No later than 3 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the development to the Planning Authority for approval in consultation with SNH and SEPA. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

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

22. Otter Protection Plan

No work shall be undertaken within a 30m buffer zone surrounding the otter layup area located within Auchingilloch Glen as shown on the Otter Buffer Plan Ref; - HJB/TA812/127).

***Reason:** To minimise adverse impacts on protected species.*

23. Construction Method Statement

Development shall not commence until a Construction Method Statement (CMS) has been submitted to and approved by the Planning Authority in consultation with SEPA and SNH. The CMS, which must incorporate good practice methods from the Scottish and UK wind farm industry to ensure that environmental impacts are reduced and incorporate all the mitigation measures identified in the Environmental Statement (ES), must be submitted no less than two months prior to the commencement of the development unless the Planning Authority agrees otherwise. Thereafter, all the measures described in the approved CMS must be implemented. The method statement must include, but is not limited to, the following—;

- a. a plan of the construction operations at an appropriate scale;
- b. a plan to an appropriate scale showing the location of any contractor's site compound and lay down areas required temporarily in connection with the construction of the development;
- c. a method of defining track route and location (track corridors should be pegged out 500 - 1000m in advance of operations);
- d. track design approach;

- e. maps of tracks indicating double and single tracks and position of passing places;
- f. the full extent of any anticipated track footprint, including the extent of supporting 'geogrid' below road stone and cabling at the edges of the track;
- g. details of track construction, floating track construction over peat more than 1m deep and gradients of 1:10 or less steep; details of track construction for peat less than 1m deep, or on gradients steeper than 1:10, cross slopes or other ground unsuitable for floating roads;
- h. 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 Ecological Clerk of Works (ECoW);
- i. details of peat soil stripping, storage and re-use. All soils stored on site must be in accordance with BS3882;
- j. a management plan for minimising the emission of dust from the construction and operation of the development;
- k. evidence of compliance with the Planning Authority's Sustainable Drainage Systems design criteria guidance and inclusive sign off by the relevant parties carrying out the elements of work associated with the design criteria in appendices 1 to 4 of that design criteria guidance;
- l. 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 drawing;
- m. measures to ensure stability during construction of turbines and infrastructure on peat;
- n. a surface water and groundwater management plan, including a description of and measures to mitigate impact on surface water courses and the hydrology;
- o. provision that watercourse crossings should be kept to a minimum to ensure they do not adversely impact on natural flow pathways. These crossings must be appropriately sized and overland flow routes must be provided in the event of culvert blockage;
- p. 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 must avoid road construction during high periods of high rainfall;
- q. timing and extent of any necessary re-instatement;
- r. details of the site security gate, wheel wash facility and site entrance hardstanding including measures to ensure all work associated with construction of the access gate, access bellmouth (with associated abnormal load over run area) and wheel wash facility shall be implemented on site prior to commencement of any internal site works;
- s. details of waste management, including recovery and reuse of waste;
- t. details identifying the location of Scottish Water assets and measures to be taken for pollution prevention;
- u. measures to ensure the safety and protection of badgers, bats, black grouse and otters during the construction period;
- v. measures to ensure that the development site shall not be illuminated by lighting unless –

- the planning authority has given prior written approval;
 - lighting is required during working hours which has been approved by the planning authority, or;
 - an emergency requires the provision of lighting.
- w. details of plant warning devices – including that 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. Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the development site.

No changes to the approved CMS shall take place unless with the prior written approval of the Planning Authority.

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

24. Statutory Undertakers' Apparatus

The Company is responsible for any alterations required to statutory undertakers' apparatus. Where work is being carried out in the vicinity of an overhead line it must be in accordance with Health & Safety Guidance Note GS6 "Avoidance of Danger from Overhead Lines".

Reason: *In the interests of health and safety.*

25. Post-construction

A post-construction restoration/reinstatement plan shall be submitted for approval by the Planning Authority in consultation with SNH and SEPA. The plan shall include proposals for the working areas not required during the operation of the wind farm, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. The plan should include details of all seed mixes to be used for the reinstatement of vegetation. The approved plan shall be implemented to the satisfaction of the planning authority within 6 months of Final Commissioning of any part of the development unless otherwise agreed by the Planning Authority.

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

26. Environmental Management Plan

Prior to commencement of Development an Environmental Management Plan (EMP) must be submitted for the approval of the Planning Authority in consultation with

SEPA. The EMP must take account of SEPA's letters dated 28 November 2014, 28 April 2015, 3 June 2015 and Scottish Government's Marine Scotland Science's letter dated 11 November 2015 and must include —;

- a. water quality assessments (with baseline sampling at least 1 year prior to commencement of the development);
- b. biological assessments consisting of macro-invertebrate surveys over 2 seasons (autumn and spring) prior to, during and post construction;
- c. a mitigation plan for the protection of Ground Water Dependent Terrestrial Ecosystems (GWDTE);
- d. details of how micro-siting will be implemented and controlled in relation to avoiding impacts on deep peat and GWDTEs.;
- e. mitigation measures detailed in the ES and the associated Construction Method Statement.

Thereafter the EMP must be implemented in full and in accordance with the timescales set out in the plan. No changes to the EMP shall take place unless they are with the prior written approval of the Planning Authority.

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

27. Construction work

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 7.00am to 7.00pm,
- Saturday 8.00am to 1.00pm;

with no audible activity taking place on a Sunday or local or national bank holiday - without prior written approval of the Planning Authority.

Outwith these hours, certain works, such as turbine erection, maintenance to turbines, emergency works, dust suppression and the testing of plant and equipment, are permitted so long as the noise associated with these works is not audible at any noise sensitive premises. The reception of materials or equipment, with the exception of turbine blades, nacelles and towers, is not permitted outwith of the stipulated hours.

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

28. Noise

1) The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer

wind speed set out in or derived from Tables 1 and 2 attached to these conditions and:

A) Prior to the First Commissioning, the Company shall submit to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

B) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the Company shall, at its expense, employ an independent consultant approved, as per the list referenced at part A of this condition, by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Planning Authority) in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Authority made under this paragraph (B), the Company shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Authority in the format set out in Guidance Note 1(e).

C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the Company shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the Company's submission shall include a method to calculate the noise level from the wind turbines at the complainant's property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in

writing by the Planning Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.

E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (F) of this condition, the Company shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:

- i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.
- ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Planning Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

F) The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

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

H) The Company shall continuously log wind speed and direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production, nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine, all in accordance with Guidance Note 1(d). The data from each turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The Company shall provide this information in the

format set out in Guidance note 1(e) of the Guidance Notes to the Planning Authority on its request within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition a "dwelling" is a building within the use of Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

Table 1 - Between 07:00 and 23:00 - Noise level dB LA90, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	LA90 Decibel Levels											
High Dykes (266884,638686)	30	30	30	30	30	30	30	30	32	34	37	39
Gainerhill Cottages (267568,639679)	30	30	30	30	30	30	33	36	39	42	45	47
Hawkwood Farm (268548,639523)	30	30	30	30	30	31	33	36	39	41	44	47
Lambhill Steadings (269623,639718)	35	35	35	35	35	35	35	35	35	37	40	43
Kype Lodge (273490,638643)	30	30	30	30	30	30	30	30	33	37	41	44
Burnside (266621,638321)	30	30	30	30	30	30	31	33	35	37	38	40
Glengavel House (266428,635185)	30	30	30	30	30	30	30	33	36	39	43	47
Hamilton Drive (265800,637427)	30	30	30	30	30	30	32	34	36	37	39	41
Logan Farm (273922,635259)	30	30	30	30	30	30	30	30	33	37	41	44

Table 2 - Between 23:00 and 07:00 - Noise level dB LA90, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
High Dykes (266884,638686)	33	33	33	33	33	33	33	33	33	34	37	40
Gainerhill Cottages (267568,639679)	33	33	33	33	33	33	33	33	38	41	45	47
Hawkwood Farm (268548,639523)	33	33	33	33	33	33	33	34	36	39	42	45
Lambhill Steadings (269623,639718)	35	35	35	35	35	35	35	35	35	35	37	39
Kype Lodge (273490,638643)	33	33	33	33	33	33	33	33	33	35	39	42
Burnside (266621,638321)	33	33	33	33	33	33	33	33	33	36	38	40
Glengavel House (266428,635185)	33	33	33	33	33	33	33	33	33	34	36	39
Hamilton Drive (265800,637427)	33	33	33	33	33	33	33	33	33	36	39	42
Logan Farm (273922,635259)	33	33	33	33	33	33	33	33	33	35	39	42

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

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

29. Traffic Management Plan

Development shall not commence until a detailed Traffic Management Plan (TMP) has been approved in writing by the roads authority. The TMP must be produced in consultation with Roads and Transportation Services and Police Scotland and include a program indicating phasing of construction of the project. The TMP must include 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 through the course of site inspections and site meetings. The approved TMP must be complied with.

The Company shall notify the Planning Authority 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. Any changes to the TMP must be approved in advance in writing by the Planning Authority, in consultation with Roads and Transportation Services and Police Scotland.

Reason: *In the interests of road safety*

30. Site Access

Development shall not commence until the road works upgrade programme required for abnormal loads (described at Chapter 13.52 of the ES), from the B743 through Lambhill Road to the site entrance, has been completed to the Planning Authority's approval.

Reason: *In the interests of road safety.*

31. Abnormal Load Route Assessment

Development shall not commence until an Abnormal Load Route Assessment (ALRA) is undertaken and the report and any recommendations, including a programme for the implementation of the recommendations, are submitted to the Planning Authority, for written approval. The approved ALRA must thereafter be implemented.

Any requirements must be implemented prior to the delivery of the abnormal loads.

Reason: *In the interests of road safety*

32. Abnormal Load Route Assessment

All wind turbine components must be delivered to site in accordance with the approved TMP and Abnormal Load Route Assessment.

Reason: In the interests of road safety

33. Bridge Assessment

Development shall not commence until Bridge Assessments, including a programme for any required remedial measures, have been submitted to, and approved in writing by, the Planning Authority for the bridges listed below. Any remedial works must be implemented in accordance with the approved programme.

- (a) Cander
- (b) Glassford
- (c) Old Castle
- (d) Browns

These assessments must be carried out in accordance with the Design Manual for Roads and Bridges and must include the full Technical Approval process, the assessment, the assessment check appropriate to the category of structure, assessment certificate, assessment check certificate appropriate to the category of structure and preparation of the assessment report. Preliminary results must be submitted to the Planning Authority for approval before finalising the report.

Reason: In the interests of road safety

34. Bridge Assessment

If a bridge has been assessed as not capable of carrying the proposed loads those loads must not cross the bridge until remedial measures have been approved in writing by the Planning Authority and implemented.

All remedial measures must be carried out in accordance with the Design Manual for Roads and Bridges and the relevant Eurocodes and must include the full Technical Approval process, the design, the design check appropriate to the category of structure, design certificate, the design check certificate appropriate to the category of structure and the procurement of the physical works through to completion on site. The Planning Authority are the Technical Approval Authority.

Reason: In the interests of road safety

35. Bridge Assessment

All of the bridges on the proposed abnormal delivery route must be monitored for defects during the period that abnormal loads are transported in accordance with the

Design Manual for Roads and Bridges, with Principal Inspections being carried out jointly between the Company and the Planning Authority on the occasions detailed below—;

- a. prior to the transportation of the first abnormal load identified in the Abnormal Road Route Assessment
- b. at four weekly intervals for the duration of the period of delivery of abnormal loads identified in the Abnormal Load Route Assessment
- c. after the transportation of the last abnormal load identified in the Abnormal Load Route Assessment

Following the first inspection a report must be prepared for each bridge and must include a full description of the condition of all the bridge elements before transportation of the first abnormal load. The type and extent of any defects must be clearly marked on drawings and supported by photographs. This report is to form the basis for the defects monitoring regime and must be updated after every inspection.

If, during an inspection, a defect is observed that gives the Planning Authority cause for concern, no further abnormal loads must cross the bridge until the issue has been resolved to the satisfaction of the Planning Authority.

Reason: *In the interests of road safety*

36. Bridge Assessment

Any proposals, including calculations for a bridge requiring to be overlaid with a steel plate or similar to ensure that the load exerted on the structure does not exceed that from normal construction and use vehicles must be forwarded to the Planning Authority for approval and the approved proposals must be implemented prior to abnormal loads being transported over the bridge.

Vehicles carrying abnormal loads must cross any such bridge at a maximum speed of 5mph. No braking, gear changing or manual steering of the rear trailer is permitted on the bridge. Only one vehicle carrying an abnormal load is permitted on the bridge at any one time. All reasonable steps must be taken to ensure that no other vehicle is on the bridge at the same time as the abnormal load.

Reason: *In the interests of road safety*

37. Habitat Management Plan

At least 3 months prior to commencement of the Development—;

(a) the draft Habitat Management Plan (HMP) must be finalised and submitted to the Planning Authority for approval in consultation with SNH, SEPA and Forestry Commission Scotland. The HMP shall set out proposed habitat management of the

site during the period of construction, operation, decommissioning, restoration and aftercare of the site, and shall provide for the maintenance, monitoring and reporting of bog habitats and qualifying species associated with the Muirkirk and North Lowther Uplands SPA on site. The HMP should be prepared in accordance with:

- SNH letter dated 8 April 2015 to help reduce potential collision risk to SPA hen harriers, and to monitor impacts, and explore reducing the extent of the Hen Harrier enhancement area proposed to the south of the site.
- SEPA letters dated 28 November 2014 and 3 June 2015 relating to forestry and habitat restoration
- RSPB letter dated 15 April 2015 relating to a programme of post construction bird monitoring to be agreed with RSPB and SNH

(b) A Habitat Management Group (HMG) must be established to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring and the HMG shall include representatives of South Lanarkshire Council, RSPB, SNH and Forestry Commission Scotland and shall have powers to make reasonable changes to the HMP necessary to deliver its agreed aims.

(c) Notwithstanding the above:

- Site clearance activities and where possible, construction must take place outwith the bird breeding season (March-July) inclusive unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH.
- The HMP is to operate for the full lifespan of the wind farm, including decommissioning.
- The mitigation identified in the HMP must be fully implemented.
- Surveillance and monitoring results of species and habitat must be carried out in accordance with the approved plan and submitted to the HMG.

The approved habitat management plan must include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan must be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with SNH, SEPA and Forestry Commission Scotland.

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

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

38. Access Management Plan

No development shall commence until a detailed Access Management Plan (AMP) has been submitted to, and approved in writing by, the Planning Authority. The AMP

shall be produced in consultation with the local authority's Countryside and Greenspace Services and a programme of community consultation shall be undertaken on a draft AMP. Proposals shall incorporate and identify the local authority's Core Path and Wider Network and provide signage where the network identifies links. The approved AMP must be implemented in full within the timescales set out.

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

39. Programme of Archaeological Works

At least 1 month prior to commencement of the Development the Company must have secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation. The written scheme must have been agreed to by the West of Scotland Archaeology Service and approved by the Planning Authority. Thereafter the programme of archaeological works must be fully implemented and all recording and recovery of archaeological resources within the site must be carried out 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. Replanting of Forestry

Development shall not commence until a woodland planting scheme to compensate for the removal of a maximum of 82 hectares of existing woodland ("the Replanting Scheme") has been submitted to, and approved in writing by, the Planning Authority in consultation with Forestry Commission Scotland.

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

- a. details of the location of the area to be planted;
- b. details of land owners and occupiers of the land to be planted;
- c. the nature, design and specification of the proposed woodland to be planted;
- d. details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- e. the phasing and associated timescales for implementing the Replanting Scheme;
- f. proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and

- g. proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

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

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

41. Forestry Replanting Delivery

Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis until all relevant consents necessary for implementation of the approved Replanting Scheme referred to in condition **40** in accordance with the phasing and timescales set out therein have been obtained.

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

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

42. Forest Plan

There shall be no commencement of any deforestation, as set out in conditions **40** and **41** of this consent, associated with construction of the Development until a Forest Management Plan covering the 28 year consent period had been approved in writing by the Planning Authority in consultation with SNH, Forestry Commission Scotland, and RSPB. Unless otherwise agreed with the Planning Authority the approved plan must be implemented.

***Reason:** To minimise adverse impacts on forestry.*

43. Private Water Supplies

Development shall not commence until a method statement has been submitted to, and approved in writing by, the Planning Authority. The method statement shall

contain details of all mitigation measures to be carried out to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

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

44. Waste Management Plan

At least 2 months prior to commencement of the Development a Site Waste Management Plan shall be submitted for the approval of the Planning Authority in consultation with SEPA and thereafter all work must be carried out in accordance with the approved plan. The Site Waste Management Plan shall be prepared and implemented in accordance with SEPA's letter dated 28 April and 3 June 2015.

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

45. Peat Slide Risk

Development shall not commence until an updated Peat Slide Risk Assessment has been approved in writing by the Planning Authority in consultation with SNH and SEPA. The PSRA shall:

- a. be informed by detailed ground investigation to identify areas of deep peat which will follow Best Practice Guidance including quantitative stability assessment;
- b. set out the depth of peat at each turbine location and across the site;
- c. set out mitigation measures if higher risk areas are identified following the detailed ground investigation and quantitative stability assessment. Turbine locations should be adjusted towards areas of shallowest peat (preferably areas less than 2m of peat);
- d. set out method statement;
- e. describe how important areas of peat will be protected during construction

and thereafter the mitigation measures shall be undertaken in accordance with the terms of the approved assessment.

The assessment should be carried out in accordance with the Scottish Government's 2007 Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments.

Reason: *To minimise adverse impacts on peat and ensure development conforms to Environmental Statement.*

46. Peat Management Plan

Development shall not commence until a Peat Management Plan has been submitted to, and approved by, the Planning Authority in consultation with SEPA. All work must be carried out in accordance with the approved plan. The Peat Management Plan shall be in accordance with SEPA's letter dated 28 April and 3 June 2015.

Reason: *To minimise adverse impacts on peat and ensure development conforms to Environmental Statement.*

47. Construction

During the construction period:-

- a. no work shall be undertaken within a 20m buffer zone surrounding all watercourses and known functioning drains, with the exception of access route crossings, unless otherwise agreed in writing by the Planning Authority;
- b. crack layout shall minimise disruption to water courses;
- c. existing drainage routes shall be maintained through sensitive placement of soil heaps and where necessary temporary drains;
- d. silt traps shall be provided on all existing drainage routes affected by site works;
- e. a suitable design for the watercourse crossings shall be put forward and agreed in writing by the planning authority in consultation with SEPA;
- f. any disturbance of watercourses shall be minimised utilising cofferdam temporary works;
- g. cable trenches shall only be constructed in limited sections to reduce drainage of groundwater and prevent additional drainage routes being created;
- h. cable trenches shall be plugged to prevent the creation of new drainage paths;
- i. the scheduling of works shall minimise disruption and working within wet weather;.
- j. temporary works interception drains shall be constructed to prevent potential contamination of runoff and groundwater;
- k. stockpiling of materials on wet ground and near drainage channels shall not take place, unless agreed in writing by the planning authority;
- l. backfilled trenches shall be re-vegetated temporary silt traps shall be constructed to treat runoff;
- m. sulphate resistant concrete shall be used to prevent leaching of chemical.

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

48. Redundant Turbines

If, after the Date of Final Commissioning but before the Decommissioning Date, any wind turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall;

- (i) by no later than the date of expiration of the 12 month period, submit a scheme to the Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
- (ii) implement the approved scheme within six months of the date of its approval, all to the satisfaction of the Planning Authority.

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

49. Snow Clearance

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 explicit approval.*

50. Site Decommissioning, Restoration and Aftercare

The Development will cease to generate electricity on the Decommissioning Date and the Site will thereafter be decommissioned and restored in accordance with this consent. The total period for restoration of the Site in accordance with this condition shall not exceed three years from the Decommissioning Date without prior written approval of the Planning Authority in consultation with Scottish Ministers.

Development shall not commence until a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than;

- (i) if the Decommissioning Date is the Original Decommissioning Date 3 years prior to Original Decommissioning Date or
- (ii) if the Decommissioning Date is the Early Decommissioning Date, within one month after the Early Decommissioning Date.

A detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy shall be submitted to the Planning Authority for written approval in consultation with SNH

and SEPA. The detailed decommissioning, restoration and aftercare plan must provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil storage and management;
- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

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

The approved plan and works within the Decommissioning Method Statement shall be implemented and overseen by an ECoW.

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

51. Aviation Safety

Development shall not commence until the Company has provided the Ministry of Defence, Defence Geographic Centre and NATS with the following detailed information and has provided evidence to the Planning Authority of having done so:

- a. estimated date of commencement of each phase of construction (followed by actual date once known);
- b. estimated date of completion of each phase of construction (followed by actual date once known)
- c. the height above ground level of the tallest structure;
- d. the maximum extension height of any construction equipment
- e. the height and position of the turbines in latitude and longitude
- f. the height and position of the masts in latitude and longitude
- g. site lighting, if appropriate

Reason: *In the interests of public safety.*

52. Aviation Lighting

No turbines may be erected until a scheme for aviation lighting has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety purposes, unless otherwise agreed in advance and in writing by the Planning Authority.

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

Reason: *In the interests of public safety.*

53. Deer Management Statement

Development shall not commence until a deer management statement has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH. The deer management statement shall set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of Development until the date of completion of restoration. The approved deer management statement shall thereafter be implemented in full.

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

Definitions

In this consent and deemed planning permission:-

"the Application" means the application submitted by the Company on 14 October 2014 for construction and operation of the Development.

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

"the Company" means Banks Renewables (Harting Rig Wind Farm) Limited (company registration 8791006), United Kingdom or such other person as from time to time has the benefit of the consent granted under section 36 of the Electricity Act 1989.

"Construction Period" means the period from commencement of the Development until the date 6 months after the Site compounds have been reinstated in accordance with the conditions of this consent;

"the Development" means the development described in part 1 of Annex 1

"the proposed development" means the Development described in Annex 1;

"Environmental Statement" or "ES" means the Environmental Statement submitted by the Company with the Application on 14 October 2014;

"Date of First Commissioning" means the earlier of (i) the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development or (ii) the date falling twenty four months from the date of Commencement of Development.

"Date of Final Commissioning" means the earlier of (a) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development; or (b) the date falling eighteen months from the date of First Commissioning.

"Decommissioning Date" means the earlier of (i) Early Decommissioning Date or (ii) the Original Decommissioning Date. Early Decommissioning Date means any date after the Date of Final Commissioning that the Development does not generate electricity on a commercial basis to the public network for a continuous period of 12 months from 50% or more turbines installed at the Date of Final Commissioning, Original Decommissioning Date means the date falling twenty five years from the date of Final Commissioning.

"Operator", in respect of conditions 5 and 6 of this consent, 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).

"Planning Authority" means South Lanarkshire Council.

"Primary Radar Mitigation Scheme" or "Scheme", in respect of conditions 5 and 6 of this consent, 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 Lowther Hill, Cumbernauld and Glasgow primary radars and air traffic management operations of the Operator.

"Site" means the area of land outlined in red on the map (Annex 4) attached to this consent;

ANNEX 3

Summary of Consultation Responses

South Lanarkshire Council a statutory consultee and the relevant Planning Authority assessed the proposed development against the relevant Local Development plans and policies, namely;

- Glasgow and the Clyde Valley Strategic Development Plan (2012)
- South Lanarkshire Local Plan (adopted 2009)
- SLLP Supplementary Planning Guidance: Renewable Energy (December 2010)
- Proposed South Lanarkshire Local Development Plan (May 2013)

The Planning Authority have **no objection**. Subject to the refusal of consent for turbines numbered T1, T2 and T3, they consider that the development is consistent with relevant Scottish Government policy and guidance. It is consistent with the South Lanarkshire Local Plan and SPG Renewable Energy subject to conditions and mitigation measures being implemented and it is also in accord with relevant policies of the South Lanarkshire Local Development Plan and the associated Supplementary Guidance.

Scottish Natural Heritage (SNH) have **no objection** subject to conditions in relation to Muirkirk and North Lowther Uplands SPA and associated Muirkirk Uplands Site of Special Scientific Interest (SSSI). SNH require the provision of detailed Habitat Management Plan (HMP) prepared in accordance with the advice set out by them in their response to be approved by the Planning Authority, in consultation with SNH and RSPB. They further require that the proposed 20 year forest plan is extended to cover the full consent period of the wind farm. Ministers have imposed conditions which give effect to these requirements (see Annex 2). Although not the basis of an objection SNH also raised concerns in relation to the cumulative landscape and visual impacts and significant adverse landscape impacts. SNH consider the proposal would have adverse visual impacts from the Avon Valley and the footpaths associated with the Auchengilloch Monument. They also note the comparatively large size of the proposed turbines when considered in relation to the adjacent wind farm turbines. SNH advised that wind turbines one to five should be omitted to reduce the negative impacts of the proposal. Having considered the relevant view points and taken account of both SNH's and South Lanarkshire Council's landscape and visual concerns Ministers are satisfied that the refusal of consent for turbines numbered 1 through to 3 satisfactorily minimises the impact to an acceptable level.

SNH advised of the connectivity between the proposed development and the Muirkirk and North Lowther Uplands SPA and that the requirements of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) apply. Consequently Ministers must consider the effects of the development before consenting such applications. A Habitats Regulations appraisal has been undertaken which concludes that provided the proposal is undertaken in accordance

with SNH's mitigating conditions, the integrity of the SPA shall not be adversely affected.

Scottish Environment Protection Agency (SEPA) advised they have **no objection** provided conditions are included covering effective mitigation aimed at maintaining the hydrology within the groundwater dependent wetlands identified on site, and requiring both a Peat Management Plan, and a Habitat Management Plan to include details of bog restoration within the felled areas. The identified mitigation measures having been secured by way of planning conditions (see Annex C).

Other Parties

Association of Salmon Fishery Board recommended that Clyde River Foundation are consulted and that Rivers and Fisheries Trusts of Scotland (RAFTS) guidelines are fully considered throughout the planning, construction and monitoring phases of the proposed development. Ministers note that the Clyde River Foundation advised it was unable to respond to the requested consultation.

British Telecom (BT) have **no objection**. They advised the proposal should not cause interference to BT's current and presently planned radio networks.

CH2MHILL (formerly Halcrow Ltd.) undertook a review of the Peat Slide Risk Assessment. They recommended mitigations that require to be secured through conditions including undertaking further peat probing to more comprehensively characterise the depth of peat across the site. Conditions giving effect to these recommendations have been imposed.

Civil Aviation Authority (CAA) have **no objection**. They are content that the appropriate aviation consultees have been identified. They instructed that the Defence Geographic Centre should be notified of the locations, heights and lighting status of the turbines and meteorological masts, the estimated and actual dates of construction and the maximum height of any construction equipment to be used, prior to the start of construction, to allow for the appropriate inclusion on Aviation Charts, for safety purposes. Ministers have imposed conditions to give effect to this instruction.

The Crown Estate raised **no objection** as they are not affected by this proposal.

Defence Estate Organisation (MOD) have **no objection**. The MOD originally objected to the proposed height and location of turbines as they would impact on a low flying area. However, after further reassessment of the impact they withdrew their objection. In the interests of air safety the MOD requests that the perimeter turbines and wind monitoring masts are fitted with aviation lighting. Ministers have imposed a condition giving effect to this requirement.

Forestry Commission Scotland (FCS) have **no objection** subject to the inclusion of conditions to secure compensatory planting to replace the deforestation arising as a consequence of the development. Ministers have secured compensatory planting, for the deforestation associated with both the development and habitat

enhancement, by way of a planning condition, in accordance with Scottish Government's Woodland Removal Policy.

Glasgow Airport raised an initial objection on the grounds that the proposed development would cause an adverse impact on the airport's Primary Surveillance Radar and associated air traffic operations without suitable mitigation being identified. Following agreement between Glasgow Airport and the Company, on an identified mitigation solution, they **withdrew their objection** subject to conditions regarding radar mitigation. Ministers have given effect to the requirements of this non-objection and have attached the appropriate conditions to the section 36 consent.

Glasgow Prestwick Airport have **no objection**. They withdrew their original objection after entering into a commercial agreement with the developer to facilitate the identification, development and deployment of a mitigation solution to mitigate any detrimental impact on their Primary Surveillance Radar affecting Air Traffic Control Services.

Historic Environment Scotland (HES) have **no objection**. HES reviewed the assessment in the ES and the potential impacts for the heritage assets. They agree with the conclusions reached that the impacts on heritage assets within their remit are not likely to be significant.

Joint Radio Company (JRC) reported **no issues** with respect to radio link infrastructure operated by Scottish Power and Scottish Gas Networks.

Marine Scotland Science (MSS) have **no objection**. MSS made recommendations and gave advice in respect of establishing a robust baseline water quality dataset 12 months prior to construction, avoidance of excessive leaching of nutrients into watercourses, consideration of the potential cumulative impacts on water quality and fish populations and avoidance of excessive disturbance of peat. The advice and recommendations set out in their response have been incorporated into an Environmental Management Plan and included as a condition.

National Air Traffic Services Ltd (NERL Safeguarding) examined the proposal from a technical and operational safeguarding aspect and identified a conflict with NATS (En Route) Plc's safeguarding criteria. A technical solution has been identified and agreed between the Company and NATS. They have **no objection** subject to the imposition of a condition to implement the technical solution in advance of turbines being erected. Ministers have accordingly imposed the specified condition.

RSPB Scotland have **no objection** subject to requirements which include a post construction bird monitoring scheme, an extension to the current 20 year forest plan to cover the lifespan of the wind farm, a finalised Habitat Management Plan (HMP) to cover the full lifespan of the wind farm including restoration and the establishment of a Habitat Management Group (of which RSPB should be a member) for the same period of time. Ministers have imposed the appropriate conditions which give effect to these requirements.

Sandford and Upper Avondale Community Council have **no objection**. They are broadly supportive of the proposed development.

Scottish Water have **no objection** subject to conditions relating to the protection of Scottish Water's assets. Requirements on the developer to identify the location of Scottish Water assets and specify measures to be taken for pollution prevention have been incorporated into a Construction Method Statement which has been secured by Ministers in a condition.

Scottish Wildlife Trust (SWT) **object** to the proposed development in its current form due to significant impacts on peatlands though would consider its position if areas of deep peat were avoided. Ministers are satisfied that the advice given by SEPA and CH2MHILL on peat, incorporated into conditions, satisfactorily addresses SWT's concerns in relation to the avoidance of construction on deep peat.

The Scottish rights of Access and Ways society (ScotWays) – **object** on the basis of the proximity of turbine 12 to a core path. ScotWays recommend, in line with the Welsh Assembly Government's Technical Assessment Note on renewable energy (TAN8) that the distance of the turbine from the core path should be the equivalent to the height of the blade tip (in this proposal, 152 metres), used in TAN 8 in reference to the proximity of wind turbines to *public highways or railway lines*. Ministers note that South Lanarkshire Council's Countryside and Greenspace Service has raised no concerns in this respect. A condition requiring an Access Strategy, in recognition of the importance of outdoor access for the health and wellbeing of communities, has been imposed as per the Planning Authority's request to safeguard the public's right to access.

Transport Scotland - term consultants, Trunk Road and Bus Operations (TS-TRBO) on behalf of Transport Scotland has **no objection** subject to conditions covering approval of the abnormal loads route on the truck road network and approval of any additional signing or temporary traffic control measures deemed necessary during the delivery period of the wind turbine construction materials. The appropriate condition have been imposed by Scottish Ministers.

Visit Scotland have **no objection**. Ministers note their recommendation that any potential detrimental impact; visually, environmentally and economically, of the proposed development on tourism should be identified and considered in full.

The following bodies responded to South Lanarkshire Council

East Ayrshire Council highlighted their concerns about the cumulative impact of the proposed development but acknowledged that the prime impacts will be felt to the north of the site and most notably around South Lanarkshire stretch of the A71. East Ayrshire Council is generally satisfied that there will be no significantly adverse landscape and visual impacts within East Ayrshire.

Strathaven Community Council raised concerns regarding interference to both civil and defence radar systems in relation to Glasgow and Prestwick Airports as a result of the effects of turbine-induced clutter on the approach paths. Concern over the access to Auchingilloch monument for walkers was raised, along with concern that

visual impact and cumulative effect of wind farms will be exacerbated by the proposed development. Scottish Ministers are content that the matters raised have been satisfactorily addressed by the relevant consultees.

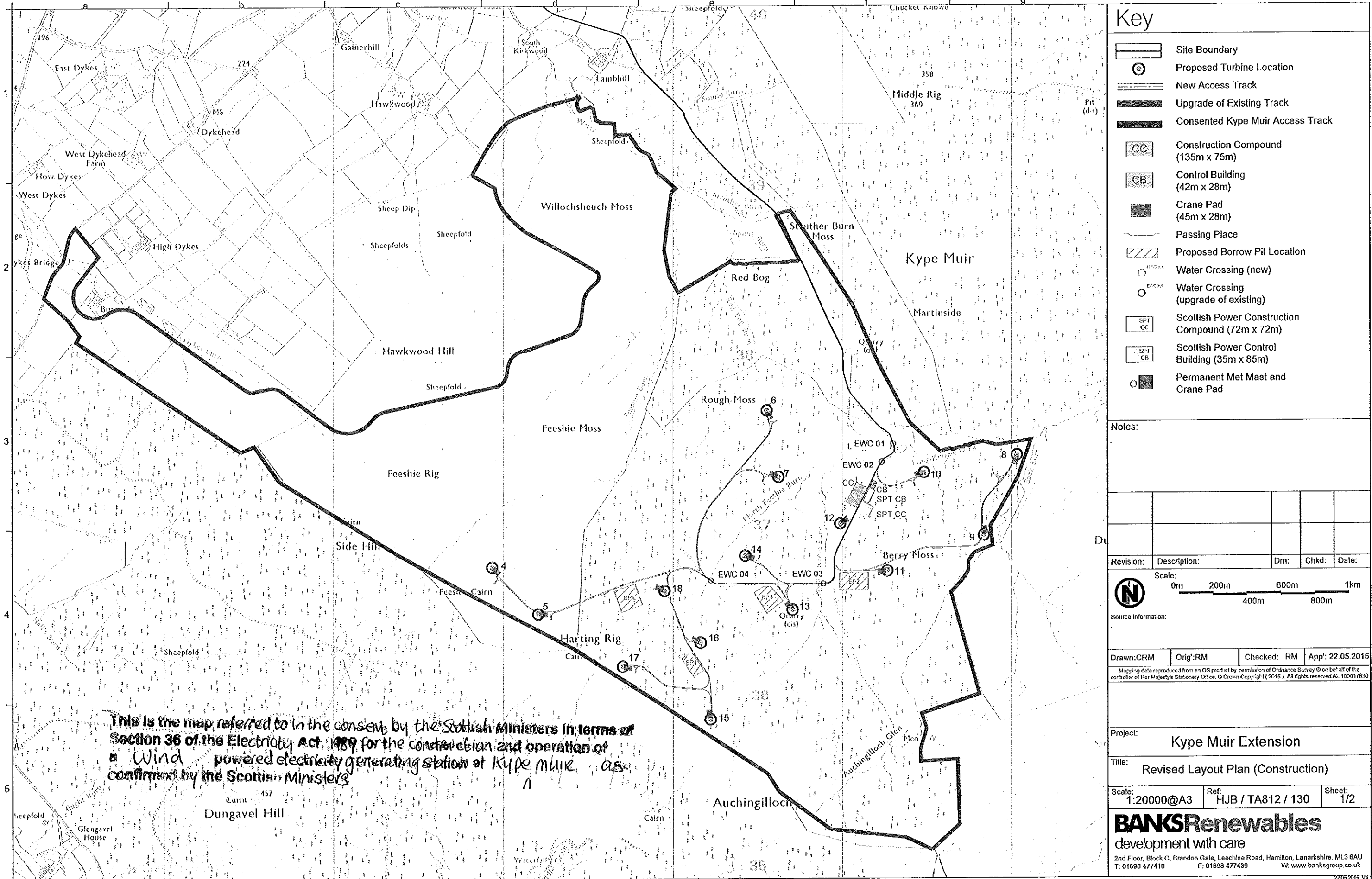
Stonehouse Community Council raised **no objection** and supports the proposed development. They welcome the applicant's willingness to engage and consult with local communities and their approach to profit sharing and use of the renewable energy fund for local communities. Stonehouse Community Council consider that Banks Renewables have demonstrated a willingness to deliver community benefits to the wider community and have kept the Community Council updated with the application and provide details on the visual aesthetics of the scheme.

West of Scotland Archaeology Service (WOSAS) generally agree with the conclusions of the Company set out in the ES and consider the proposal is unlikely to have an impact on archaeology and cultural heritage that would merit a recommendation for refusal. WOSAS advised that mitigation measures should be agreed and an appropriately worded condition should be attached, if consent granted. Scottish Ministers have imposed a suitably worded condition to take account of the required mitigation measures.

The following bodies had no comments:

Lesmahagow Community Council, Clyde River Foundation, John Muir Trust, Mountaineering Council of Scotland, Ofcom

Annex 4 - Site Map - Consented Development



Key

- Site Boundary
- Proposed Turbine Location
- New Access Track
- Upgrade of Existing Track
- Consented Kype Muir Access Track
- Construction Compound (135m x 75m)
- Control Building (42m x 28m)
- Crane Pad (45m x 28m)
- Passing Place
- Proposed Borrow Pit Location
- Water Crossing (new)
- Water Crossing (upgrade of existing)
- Scottish Power Construction Compound (72m x 72m)
- Scottish Power Control Building (35m x 85m)
- Permanent Met Mast and Crane Pad

Notes:

Revision:	Description:	Dm:	Chkd:	Date:

Scale: 0m 200m 400m 600m 800m 1km

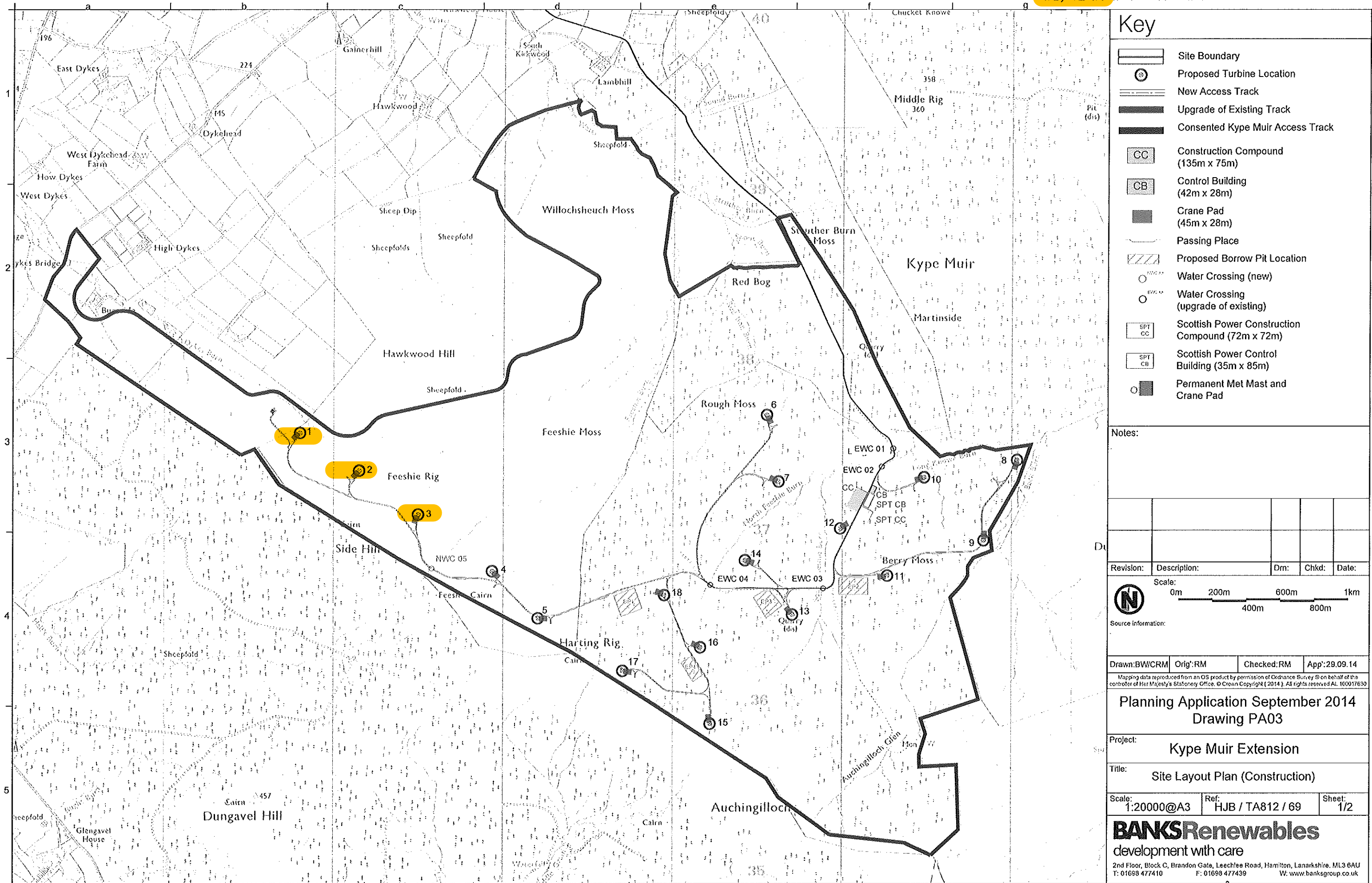
Source Information:

Drawn: CRM	Orig: RM	Checked: RM	App: 22.05.2015
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Project:	Kype Muir Extension		
Title:	Revised Layout Plan (Construction)		
Scale:	1:20000@A3	Ref:	HJB / TA812 / 130
		Sheet:	1/2

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Key

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- Water Crossing (upgrade of existing)
- Scottish Power Construction Compound (72m x 72m)
- Scottish Power Control Building (35m x 85m)
- Permanent Met Mast and Crane Pad

Notes:

Revision:	Description:	Dm:	Chkd:	Date:

Scale: 0m 200m 600m 1km
400m 800m

Source information:

Drawn: BW/CRM	Orig: RM	Checked: RM	App: 29.09.14
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Planning Application September 2014
Drawing PA03

Project: Kype Muir Extension

Title: Site Layout Plan (Construction)

Scale: 1:20000@A3	Ref: HJB / TA812 / 69	Sheet: 1/2
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