

|   |   |                                       |
|---|---|---------------------------------------|
|  | <h1>Report</h1>   | <b>Agenda Item</b><br><br><h1>11</h1> |
| Report to:<br>Date of Meeting:<br>Report by:                                      | <b>Planning Committee</b><br><b>28 April 2009</b><br><b>Executive Director (Enterprise Resources)</b> |                                       |

|                 |  |
|-----------------|--|
| <b>Subject:</b> | <b>Proposed Wind Farm at Nutberry Hill near Douglas<br/>(Planning Application Ref. No. CL/06/0662)</b> |
|-----------------|--|

## 1. Purpose of Report

1.1 The purpose of the report is to:-

- (1) Seek approval for the Council to;
  - ◆ Remove its objections to the application by Nutberry Wind Energy Ltd to erect 6 wind turbines at Nutberry Hill,
  - ◆ Enter into a Section 75 Agreement (or other appropriate mechanism) with Nutberry Wind Energy Ltd to cover issues set out in section 2 below, and
  - ◆ Negotiate ongoing financial contributions, to be agreed between the Council and the applicants, to be made to the South Lanarkshire Council Renewable Energy Fund during the operational period of the windfarm.
- (2) Seek approval for the list of conditions to be forwarded to Scottish Ministers as suggested conditions to be attached if planning consent is granted (set out in the paper apart).

## 2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) That Scottish Ministers be advised that the Council's objections to the proposed development of 6 turbines at Nutberry Hill have been removed
- (2) In the event planning permission is granted by Scottish Ministers, authorisation is given to negotiate and conclude a Section 75 Legal Agreement prior to the issue of the consent between the Council and the applicant that encompasses the following:
  - ◆ the preparation and implementation of a Habitat Management Plan with a commitment to their review and development;
  - ◆ the funding mechanism for the Habitat Management Plan with provision for aftercare beyond the operational life of the windfarm
  - ◆ a commitment by the applicant to meet the costs of investigating and rectifying television/radio reception problems arising from the development
  - ◆ appropriate finances put aside to mitigate against adverse environmental impacts;
  - ◆ the cost of employing a Planning Monitoring Officer during the construction, operation, decommissioning and subsequent restoration of the site;
  - ◆ that the applicants shall meet all reasonable costs incurred by the Council in terms of legal expenses in concluding the Section 75 Agreement.

- ◆ that ongoing financial contributions, to be agreed between the Council and the applicants, is made to the South Lanarkshire Council renewable Energy Fund during the operational period of the windfarm.
- (3) That the conditions listed in the paper apart be forwarded to Scottish Ministers.
- (4) That in the event planning consent is granted by Scottish Ministers, a Section 96 Agreement is concluded due to the increase in heavy goods traffic.
- (5) That in the event planning consent is granted by Scottish Ministers a Restoration and Decommissioning Bond is agreed, to guarantee that the site is decommissioned and restored in a satisfactory manner.

### **3. Background**

- 3.1 Members will recall that the Planning Committee agreed at its meeting on 9 September 2008 to refuse detailed planning permission for the erection of 6 wind turbines and associated infrastructure at Nutberry Hill near Douglas. The reasons for refusal were as follows;
1. The proposal is contrary to Strategic Policy 8 of the approved Glasgow & Clyde Valley Structure Plan in that it fails to be favourably assessed in terms of a number of criteria set out in section (c) Renewable Energy in terms of impact on landscape, aviation and telecommunications.
  2. The proposal is contrary to Strategic Policy 9 of the approved Glasgow & Clyde Valley Structure Plan in that it would have a detrimental impact on the landscape character and quality of the area due to its cumulative impact with Hagshaw Hill windfarm
  3. The proposal is contrary to Policy ENV8 of the adopted Lower Clydesdale Local Plan in that it fails to comply with detailed guidance in Policy SLP4 of the local plan in terms the significant adverse impact on the landscape character and visual quality of the area due to the cumulative impact with Hagshaw Hill windfarm and the overall height and siting of this particular group of turbines and the failure of the applicants to satisfactorily demonstrate that the turbines will not interfere with radar transmission from air traffic control operations
  4. The proposal is contrary to Policy ENV37 of the Finalised South Lanarkshire Local Plan in that
    - a) There would be an unacceptable significant detrimental impact on the visual quality and landscape character of the area due to the cumulative impact with Hagshaw Hill windfarm and the siting and height of the proposed turbines
    - b) The proposal will unacceptably affect the amenity of local residents due to the visual dominance of the turbines
    - c) It has not been demonstrated to the satisfaction of the Council that the impact of the proposal on radar performance and air traffic safety has been adequately addressed.
- 3.2 The applicants subsequently lodged an appeal with Scottish Ministers against this decision on 31 October 2008 and advised they wished to have the appeal determined at a Public Local Inquiry. A date for the PLI has yet to be set, however a pre-inquiry

meeting has been arranged for 1 June 2009. This meeting is intended to establish the procedures for the PLI, including a date.

- 3.3 At the same time, the applicants have attempted to address the Council's reasons for refusing the application. In terms of the landscape and visual concerns, including the cumulative impact of the proposed development with the nearby Hagshaw Hill windfarm, as expressed in reasons for refusal, further information has been submitted which provides additional wireframe viewpoints. The wireframe information is intended to demonstrate the visual relationship of the proposal with existing turbines from a range of locations and is an accepted method of assessing cumulative impact. This information had been requested during the processing of the application but was never submitted. As a result, my concerns on this issue had not been adequately addressed and therefore refusal on the grounds of cumulative visual and landscape impact was correct based on the details available at that time.
- 3.4 Following the submission of the additional wireframe viewpoints I have had the opportunity to re-assess my previous views. The main vantage points are to east of the site and in particular from the settlements of Coalburn, Rigside and Douglas and the M74 motorway. There is no doubt the additional turbines, on their own, will have a significant visual impact within the landscape setting of the site. However, from most of these locations the proposed turbines will appear as a natural extension to the existing cluster of turbines at Hagshaw Hill. As a result I am satisfied that the overall cumulative impact will be acceptable. In addition, views from Douglas and the A70 to the west of the M74 will be negligible. There would also be no adverse impact on the landscape character of this area. It is worth noting that the site is within an area identified in the Glasgow and Clyde Valley Joint Structure Plan where support will be given for windfarm proposals and in the adopted South Lanarkshire Local Plan as being within an area potentially appropriate for windfarm development. These designations followed extensive work on the capacity of the landscape to accommodate wind turbines.
- 3.5 The other main grounds for refusal relates to the concern that the original submission failed to satisfactorily show that there would not be an adverse impact on radar performance and hence air traffic safety. This followed the receipt of objections to the application from the Civil Aviation Authority and National Air Traffic Services. The applicants had been advised of these issues during the determination of the application but failed to address the concerns raised by consultees. However, it should be noted that objections of this nature are common when dealing with windfarm proposals. The applicants have now advised that a radar capability study is being undertaken by Glasgow, Prestwick and Edinburgh in liaison with the Scottish Government. This will inform where the upgrading of radar capacity is required. They have suggested that a technical solution to this issue will be available and that a suspensive condition is appropriate in the circumstances. In response, I do agree that this way forward in addressing a technical issue is acceptable. It is noted that similar conditions have been used by Reporters who considered recent appeals at Clyde windfarm and Tormeywheel in West Lothian.
- 3.6 In view of the above, I am satisfied that the concerns that led to the refusal of the application by the Council have been addressed. On that basis, committee is asked to agree with my recommendation that the Council's stance be that it no longer objects to the application.
- 3.7 I have informally discussed the matter with the applicants and in particular on how they wish to proceed with their proposal. They have indicated that their preference is to pursue the current proposal through the appeal process rather than submit a further

application to the Council. However, they have suggested that they would be prepared to see the appeal determined at a hearing rather than a Public Local Inquiry, although this is on understanding that the Council remove its objections to the proposal. Nevertheless, I would still seek the Council to be represented at a hearing in order that it can be involved in discussions on any conditions to be attached if consent is granted by Scottish Ministers. The applicants have also agreed in principle to enter into a section 75 agreement to cover matters such as a habitat management plan and dealing with rectifying TV reception problems and a section 96 agreement cover costs of damage to the public road network. Again, a presence at the hearing will allow the Council to be included in any discussions on the terms of a legal agreement. The full range of issues I would like to see included in the agreement are set out in section 2 above.

- 3.8 Finally, the applicants advised in their original submission that they have an established policy of providing community benefit in association with their windfarm developments. This has been re-iterated in recent correspondence with the Council which suggests an index linked sum of £1,000 per MW would be made available. This is below the figure normally accepted by the Council and I would seek to negotiate a higher level of contribution with the applicants at the appropriate time. The applicants have stated the acceptance in principle that the contribution would be made to the Council's Renewable Energy Fund.

#### **4. Employee Implications**

- 4.1 None.

#### **5. Financial Implications**

- 5.1 None. The applicants will be expected to meet the legal expenses of the Council in respect of the preparation of any legal agreement.

#### **6. Other Implications**

- 6.1 None

#### **7. Equality Impact Assessment and Consultation Arrangements**

- 7.1 This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and therefore no impact assessment is required.

**Iain Urquhart**

**Executive Director (Enterprise Resources)**

21 April 2009

#### **Link(s) to Council Objectives**

- Improve the quality of the physical environment

#### **Previous References**

- Report to Planning Committee on 9 September 2008 on planning application ref CL/06/0662

#### **List of Background Papers**

- Planning Application Report on CL/06/0662

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

Tony Finn, Area Manager, South Vennel, Lanark  
Ext. 810 3154 (Tel: 01555 673154)  
E-mail: [enterprise.lanark@southlanarkshire.gov.uk](mailto:enterprise.lanark@southlanarkshire.gov.uk)

## Conditions

1. That the development hereby permitted shall be started within five years of the date of this permission
2. That consent is granted for a period from the date of this consent until 25 years from the date of commissioning of the development. Written confirmation of the date of the commissioning of the development shall be supplied in writing to the Planning Authority and the date of commencement of the development shall be no later than 5 years from the date of this consent.
3. The development is carried out strictly in accordance with the terms of the application and accompanying the ES, including all mitigation measures as stated in it subject to the conditions below.
4. At least one month prior to the commencement of the development, the applicant shall provide to the Council as Planning Authority details of the bond or other financial provision which it proposes to put in place to cover all site restoration costs on the expiry of this consent. No work shall commence on the site until the applicant has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Council that the proposed bond or other financial provision is satisfactory. The applicant shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent and the bond will be subject to a five yearly review, to be conducted by the applicant, the landowners and the planning authority, from the commencement of the development.
5. The site working area, including plant movements, should be identified on a suitably scaled plan prior to commencement of development, and agreed with the Council as Planning Authority in consultation with SNH. All unnecessary disturbance or encroachment onto sensitive habitats is to be avoided. The site working area should be clearly communicated to all site personnel prior to their commencement of work on the site and demarcated by a temporary fence or barrier for the duration of the work, unless otherwise agreed in writing with the Council.
6. In the event of any turbine, or group of turbines, failing or being no longer required for electricity generation, or any other reason, for a continuous period of six months, unless otherwise agreed with the planning authority, the turbine(s) shall be replaced (in the case of failures), or dismantled and removed. In the case of removal, that part of the site accommodating the turbine, the turbine pad and access roads shall be reinstated within three months of the end of the six month period of non generation in accordance with the agreed scheme under condition 38 of this permission, all to the satisfaction of the Council as Planning Authority.
7. Prior to the commencement of development on site, a monitoring plan shall be submitted to the planning authority setting out the steps that shall be taken to monitor the environmental effects of the development during the construction phase and the operational phase. The plan shall make specific reference to habitat creation, biodiversity impact, ground water, surface water, noise and dust. Thereafter, the plan shall be implemented to the satisfaction of the planning authority. The methodology of such monitoring, including locations, frequency, and gathering of information on background level should be agreed with the planning authority for approval prior to the commencement of works on site. Results of such monitoring to be submitted to the planning authority on a 6 monthly basis, or on request

8. The blades of all turbines shall rotate in the same direction.
9. That prior to any turbine being erected on site, the colour of the turbines shall require to be approved in writing by the Council as Planning Authority.
10. Throughout the construction, operation, decommissioning and subsequent restoration of the site, an appropriately qualified ecological clerk of works named to and approved by the Council as Planning Authority shall be made available by the developer to direct the micro-siting of turbine and crane pads, tracks, control and metering building, cables, construction compound, anemometer and the creation of habitats. The ecological clerk of works shall also check water quality and other ecological matters, and shall provide regular reports as an input to the compliance assessment.
11. Each turbine shall be erected in the position indicated on Drawing no. 538/ES/4.2. A variation of the indicated position of any turbine on the said Drawing by less than 25 metres shall only be permitted following the approval of the ecological clerk of works in consultation with West of Scotland Archaeology Service. A variation of between 25 metres and 50 metres shall only be permitted following written approval of the Council as planning authority. For all tracks, crane pads, cables and anemometer as described in the ES, a variation of their indicated position by less than 25 metres shall only be permitted following the approval of the Ecological Clerk of Works in consultation with West of Scotland Archaeology Service. A variation of between 25 metres and 50 metres shall only be permitted following written approval of the Council.
12. Prior to commencement of the development, a scheme showing the details of peat/soil stripping at the site and the storage and proposed use and replacement of peat/soil and subsoil shall be submitted to the planning authority. The scheme shall have regard to the drainage implications of soil movement and storage. All soil stored on site shall be stored in accordance with BS 3882. Thereafter, all soil stripping, storage and replacement operations shall accord with the approved details as approved by the planning authority. In particular the scheme shall incorporate a method statement setting out the measures to protect, store and replace peat/soil and any necessary mitigation measures.
13. Prior to the commencement of any works on site, a plan to a scale of (1:500) shall be submitted to the Council as Planning Authority showing the location of any contractor's site compound or contractor's laydown area required temporarily in connection with the construction of the development. Each plan shall indicate the location of the buildings, car parking, material stockpiles, oil storage, lighting columns and boundary fencing. The plans shall detail the surfacing of each site compound, the means of drainage and dust suppression within the compound and shall set out the activities that will take place within the compound. Thereafter any temporary site compound at the site shall be implemented in accordance with the approved plans
14. All temporary contractors' site compounds shall be removed and the land reinstated to its former profile and condition no later than 18 months following the date of commencement of development.
15. Prior to commencement of the development a Desk Study of the whole site (particularly the confirmed Borrow Pit locations) is required to confirm that there has been no previous potentially contaminating use of land. If any such previous usage is confirmed then a Phase 2 intrusive investigation and risk assessment is required. This should detail any methods of proposed remediation required. This is required to

be submitted to the Council as Planning Authority for written approval prior to work commencing.

16. Any imported material that is required to be brought onto site shall be accompanied by certification from a suitably U.K.A.S. accredited laboratory to confirm that it is free from any contamination.
17. A Traffic Management Plan (TMP) shall be developed to address likely traffic impact issues during the construction period. The TMP will include agreement of routes to be used by construction traffic together with the numbers involved. All details including the specific scope of the TMP shall be submitted for the prior written approval of the Council as Planning Authority in consultation with Amey Infrastructure Services and Douglas Community Council.
18. Steps shall be taken to ensure that all vehicles leaving the site are in such a condition as not to emit dust or deposit mud, slurry or other deleterious material on the adjoining public road. In particular, but without prejudice to the foregoing, efficient means shall be installed and maintained and employed for the cleaning of wheels and chassis of all vehicles leaving the site. Such means shall include suitable and sufficient wheel wash facilities that operate on a closed cycle basis with no discharge into any water course if so required by the Council as Planning Authority, said wheel washes being located in locations determined by the Planning Authority. The applicant or subsequent developer(s)/operator shall at all times be responsible for the removal of mud or other material deposited on any public highway adjacent to the site by vehicles entering or leaving the site. Any waste from any wheel wash facilities must be disposed of to the satisfaction of the Council in consultation with the Scottish Environment Protection Agency. All site access tracks from the wheel wash facility to the public road shall be maintained clear of any mineral derived material, including soils, during the construction of the development.
19. Prior to the commencement of the construction of any internal access track details of the means of downgrading all tracks after the completion of construction work shall be submitted to the Council as Planning Authority. Reinstatement should be carried out using peat sub soil and revegetated by reinstating peat turves unless otherwise agreed by the Council. Thereafter the downgrading as approved shall be implemented within six months of the commissioning of the windfarm and shall be carried out in accordance with the approved details. For the purposes of this condition "downgrading" means the steps necessary to reduce the environmental impact of said tracks and shall include the dressing of the side slopes of the tracks, hydroseeding of the surface of the tracks where, in the opinion of the Council such seeding is appropriate, their subsequent maintenance and a reduction in the width of each track where operational requirements allow. Details of proposed seed mixes to be submitted to the Council for approval in consultation with SNH.
20. No construction work shall commence until a method statement for track construction work has been submitted to and approved by the Council as planning authority in consultation with SNH. The method statement shall be submitted no less than three months prior to the proposed commencement of the development unless the planning authority approves in writing otherwise. Thereafter, the approved method statement shall be implemented. The method statement shall fully detail the following considerations:
  - the role of the Ecological Clerk of Works in decisions over location and construction methodologies for each section of track;



- method of defining track route and location (track corridors shall be pegged out a minimum of 100 metres in advance of operations) to the satisfaction of the appointed Ecological Clerk of Works and Archaeological Clerk of Works;
- track construction approach (maps of tracks indicating double and single tracks and position of indicative passing places, and full extent of anticipated track 'footprint(s)' including extent of supporting 'geogrid' below roadstone and cabling at the edges of the track);
- track construction (floating track construction over peat greater than 1m deep and gradients of 1:10 or less);
- track construction over peat less than 1m deep, or on gradients of greater than 1:10, cross slopes or other ground unsuitable for floating roads (where it is concluded that there is a high risk of instability, identification of the circumstances under which non-engineering solutions such as alternative routes would be considered);
- 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 on that track until a solution, informed with reference to advice from Ecological Clerk of Works, is identified;
- timing and extent of any necessary reinstatement;
- extent, design, treatment and reinstatement of embankments, track edges and other areas affected by track construction;
- drainage treatments;
- construction of crossing points for water courses such as culverts and bridges;
- methods to deal with failing roads, sinking/sunken roads, peat rotation at road edges;
- procedure for early reporting to the planning authorities of all major departures from the agreed method statement and design parameters for the tracks; and
- track widths.

21. Prior to the commencement of development on site, the developer shall submit to the Council as Planning Authority a method statement for addressing noise received at any noise sensitive property in the vicinity of the site and surrounding area. Specifically the method statement will set out the cumulative effects, if any, of concurrent construction, deforestation, operation of the substation and operation of the development and thereafter predict the likely noise impacts from such events both singularly and cumulatively. The method statement will include the means to ensure that noise generated by the wind farm complies with the guidance set out in the publication "The Assessment and Rating of Noise from Wind Farms (ETSU-R-97)" as well as advice contained within Planning Advice Note 56 (PAN56) "Planning and Noise".
22. Confirmation of the type and associated noise levels, including frequency analysis, of the turbines to be used, is required prior to the commencement of the development. It is noted that anticipated noise levels have been submitted, however it is understood that the exact type of turbine to be used has not been confirmed. If there are differing levels of noise at different wind speeds etc, this information is to be supplied prior to the commencement of the development.
23. Notwithstanding condition 21 above, a report, by a suitably qualified consultant, regarding the anticipated noise levels from the wind turbines and the control and metering building at noise sensitive properties is to be supplied to the Council as Planning Authority prior to the commencement of development for its approval. This should address the issue of overall noise levels, and also those of low frequency noise. Should any noise mitigation measures be found to be required, full details of these, and their associated noise reduction levels, should also be included.

24. No construction works within, or deliveries of materials to and from the development site that are audible to residential properties shall take place outwith the hours of 0730 - 1900 Monday to Friday and 0730 - 1300 Saturday with no working on a Sunday or local or national public holiday without the prior written approval of the Council as Planning Authority.
25. At the reasonable request of the Council as Planning Authority and following a complaint to the Council relating to noise emissions arising from the operation of the wind farm, the wind farm operator shall appoint an independent noise consultant, whose appointment shall require to be approved by the Council, to measure the level of noise emission from the wind farm at the property to which the complaint related. The measurement and calculation of noise levels shall be undertaken in accordance with ETSU-R-97 having regard to paragraphs 1 to 3 and 5 to 11 inclusive of the schedule on Pages 95 to 97 inclusive, and Supplementary Guidance Notes to the Planning Obligation pages 99 to 109 of ETSU-R-97.
26. Noise from the wind turbines shall not exceed the following levels at the boundary of the curtilage of any adjacent noise sensitive premises at wind speeds of up to 9 metres per second at 10m height as measured on the site:
  - Quiet Daytime Hours, as defined in ETSU-R-97 as all evenings 1800 to 2300, Saturdays 1300 to 1800 and Sundays 0700 to 1800, background noise level plus 5dB(A) L90 or 40 dB(A) L90 whichever is the greater;
  - Night time Hours, as defined in ETSU-R-97 as 2300 to 0700 on all days plus 5dB(A) L90 or 43 dB(A) L90, whichever is the greater.
27. If the tonal noise emitted by the development exceeds the threshold of audibility by 6.5dB or more, then the acceptable noise specified in condition 34 shall be reduced by 5dB, always providing that the definition of audibility for the purposes of this condition shall be as described in 'The Assessment and rating of Noise from Wind Farms (ETSU-R-97).
28. Pursuant to condition 25 above, where an assessment of any noise impact which, in the opinion of the Council as Planning Authority acting reasonably, is found to be in breach of the noise limits described in condition 27 the developer shall carry out mitigation measures to remediate the breach so caused. Details of any such mitigation measures required are to be submitted to the planning authority for prior approval.
29. Fixed and mobile plant and vehicles used within the site during the construction period shall not incorporate bleeping type warning devices that are audible at any residential property. Non audible vehicle reversing devices shall be provided and used where feasible, and the use of audible devices shall only be permitted where agreed with the Council as Planning Authority, and only where the device is designed to minimise disturbance at noise sensitive premises in the vicinity.
30. All stockpiles of materials to be used in road construction shall be formed in such a manner that they are capable of facilitating spraying during periods of dry weather.
31. Prior to the commencement of construction at the site, the developer shall submit to the Council as Planning Authority a management plan for minimising the emission of dust from the construction and operation of the development hereby authorised. The dust management plan shall specify the following matters and, after its approval it

shall be implemented prior to the commencement of and during the construction of the development :-

- i) the water spraying of all internal roads and unvegetated soil mounds to suppress dust in periods of prolonged dry weather;
- ii) the means to ensure that an adequate water supply is available at all times for dust suppression purposes;
- iii) the steps to be taken to improve efficiency of dust suppression measures in the event of the failure of the regime to prevent the emission of wind borne matter from the whole road falling out on the adjacent peat land and associated habitats;
- iv) the site shall be so operated to ensure that adequate steps are taken at all times to minimise dust propagation from unsurfaced access tracks within the site.
- v) the developer shall provide and utilise water bowser facilities to control dust emissions from the site from access tracks and mineral stockpiles.

- 32. Prior to the commencement of development, details shall be submitted to the Council as Planning Authority of groundwater management, water treatment and the means of drainage from all hard surfaces and structures within the site. For the purposes of this condition, "hard surfaces" includes internal access tracks, construction and lay down areas, turbine pads and crane pads. The details to be submitted should indicate the means of protecting groundwater and diverting surface water run-off and will allow for the recharging of peat areas within the site. Thereafter the approved measures shall be implemented.
- 33. Prior to and during development (including tree felling operations) monitoring of the surface waters should be undertaken where they enter and leave the site. Confirmation should be provided that the surface water quality is not being compromised by any on site activities.
- 34. The clearance of snow from access tracks will be by mechanical means only unless otherwise agreed in writing by the Council as Planning Authority in consultation with SNH. For the avoidance of doubt the use of chemicals or salt based material is not to be used for snow clearance purposes.
- 35. Any fuel, oil, lubricant, paint or solvent stored on site should be contained within bunds or double skin tanks which must be locked and capable of containing at least 110% of the largest capacity vessel stored therein and any spillage of any oil shall be dealt with immediately.
- 36. Foul drainage from sanitary facilities must be disposed of to the satisfaction of the Council as Planning Authority in consultation with the Scottish Environment Protection Agency.
- 37. Within 12 months of the end of the period of this consent as specified in condition 2 above, (unless a further consent is granted) all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land shall be restored and subject to aftercare, in accordance with the restoration and aftercare scheme referred to in Conditions 38 and 39. For the purposes of this condition "restored" means the removal of all wind turbines, turbine pads, initial layer of foundation and all buildings and ancillary development. Notwithstanding this

requirement, no later than one year prior to the commencement of the restoration and aftercare scheme, the Council as Planning Authority, in consultation with Scottish Natural Heritage, shall review the retention of pads, foundations, cable/ducts and access tracks within the context of the restoration strategy to identify any elements to be retained on site or requiring alternative reinstatement.

38. Prior to any turbines hereby authorised becoming operational, a plan for the decommissioning and restoration of the site shall be submitted to and approved by the Council as Planning Authority. The plan shall set out the means of reinstating the site following the removal of the components of the development. In particular the restoration strategy shall detail the level of subsoil, topsoil and peat replacement required over each part of the site. Details of all seed mixes proposed to be used should be submitted to the Council for approval in consultation with SNH. The applicants shall obtain written confirmation from the Council that all decommissioning works have been completed in accordance with the approved decommissioning scheme.
39. Prior to the decommissioning of any turbine, an aftercare scheme for the restored site shall be submitted to and approved by the Council as Planning Authority and thereafter implemented to its satisfaction. The aftercare scheme shall include the measures necessary to manage the site or that part of the site as the case may be in accordance with the habitat management plan subject to the Section 75 Agreement compiled in conjunction with this planning permission.
40. Without prejudice to the generality of condition 38 above, prior to the development becoming operational, the restoration plan will include details of phased decommissioning, the land use prevailing after decommissioning has taken place, the means of disposal of all waste materials and road metal, the dismantling methodologies for each turbine setting out the extent of recovery or of recycling of all metals and other recyclable parts, the means of removing the turbine bases and crane pads and the removal of cabling and ducts within the site.
41. Prior to any construction works, including deforestation, an ecologist appointed by the Company in consultation with the planning authority and SNH, shall carry out a further protected species survey, and based on the findings of this survey, the Company shall submit a management plan for the approval of the Council as planning authority in consultation with SNH. This plan shall include further mitigation measures designed to safeguard protected mammals within and adjacent to the operational areas of the site. During the course of construction, regular monitoring of the proposed mammal mitigation measures shall be carried out by the ECoW to ensure best practicable mitigation is carried out to the written satisfaction of the planning authority.

Should such survey or ongoing monitoring work identify impacts from any part of the works proposed for this development on European Protected Species (EPS), the Council and SNH are to be informed. No work which could cause disturbance to EPS may go ahead unless a licence is obtained from the Scottish Ministers.

42. Ornithological monitoring is to be carried out in accordance with detailed proposals as submitted by the Company to the Council as Planning Authority. Monitoring will be commenced before the felling of any trees and shall be continued in the 1st, 2nd, 3rd, 5th, 10th and 15th years following the final Commissioning of the Development.. The findings of these surveys shall be collated into two reports following the monitoring activities in the 5th and 15th years and shall contain all of the original data (in formats agreed by the Council). They shall be submitted to the Council and SNH

within 12 months of the end of the period to which they relate, unless the Council agree to an extension. Results of monitoring should inform any changes, alterations, or additional mitigation that may be required in order to ensure the protection of internationally important habitats and species. The monitoring reports should be submitted in writing to, and agreed by the planning authority in consultation with SNH prior to construction commencing.

43. No development should begin until a Peat Risk Assessment is undertaken within the site to the satisfaction of the Council as Planning Authority in consultation with SNH.
44. No development shall take place within the application site, as outline in red on the approved location plan until the developer has secured the implementation of a programme of archaeology survey works in accordance with a written scheme of investigation which has been submitted by the developer, agreed by the West of Scotland Archaeology Service, and approved by the Council as Planning Authority. Thereafter the developer shall ensure that the programme of archaeological survey works is fully implemented and that all recording and recovery of archaeological resources within the application site is undertaken to the reasonable satisfaction of the Council in agreement with the West of Scotland Archaeology Service.
45. Prior to commencement of works a risk assessment shall be carried out of the potential for electromagnetic radiation effects on sensitive receptors and submitted to and approved by the Council as Planning Authority.
46. That prior to the commencement of works the developer shall submit letters from the Civil Aviation Authority confirming whether or not it will be necessary to install aviation obstruction lighting on the wind turbines and from the Defence Geographic Centre that all structures exceeding 300 feet in height will be charted on aviation maps.
47. No development shall commence until a written scheme, setting out a protocol for the assessment of shadow flicker (and including mitigation measures) in the event of the receipt of a complaint, has been submitted and approved by the Council as Planning Authority. Operation of the turbines shall take place in accordance with the approved protocol, unless the Council gives its prior written approval to any variation.
48. No work shall commence on site until the applicant has provided the Ministry of Defence with the following detailed information:-
  - date of commencement of each phase of construction
  - date of completion of each phase of construction
  - the height above ground level of the tallest structure
  - the maximum extension height of any construction equipment
  - the position of the masts in latitude and longitude, and
  - site lighting if appropriate
49. No blasting shall take place except between the following times:
  - 10.00-12.00 and 14.00-16.00 Mondays to Fridays; and
  - 10.00-12.00 Saturdays.

No blasting shall take place until a scheme to address site blasting has been submitted to, and received the written approval of the planning authority.

The scheme shall be implemented as approved, or as may subsequently be approved, in writing by the Council as planning authority. This scheme shall make provision for:

- blasting monitoring locations;
- type of monitoring equipment to be used;
- frequency of monitoring;
- 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;
- limits on air overpressure levels at specified properties; and
- provision of records to be submitted to the planning authority.

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

50. Prior to the commencement of any deforestation associated with the construction of the development hereby approved, a felling plan for the area proposed to be deforested shall be submitted and approved in writing by the Council as planning authority in consultation with SNH and the Forestry Commission. The felling plan shall include details of proposed stump heights, stump removal, removal of brash, the treatment of wind blow, and regeneration and extraction routes.
51. No work is to commence on site unless and until the applicants enter into a maintenance agreement under Section 96 of the Roads (Scotland) Act 1984, as amended or any re-enactment thereof, in respect of the M74, A701, A702, B7076 and the B7078, whereby a baseline survey of the road shall be completed and agreed by the applicants and the Council as Roads Authority and thereafter the road shall be inspected on a regular basis by the appropriate Council officers. At the expense of the Company, predicted extraordinary damage and maintenance repairs based on the volume of wind farm related traffic shall be undertaken to the standard and timescales specified by the Roads Authority. All road work shall be undertaken to the satisfaction of the Roads Authority.
52. All wires and cables between the wind turbines and sub-station shall be located underground and the ground thereafter reinstated within two months of completion of the said works to the satisfaction of the Council as Planning Authority.
53. That no turbine or other building shall be erected on peat areas exceeding 5 metres in depth without referral to the ecological clerk of works in consultation with SNH.
54. No development shall take place until the extent of, and buffer zones for, archaeological sites 2-3 as identified in the Environmental Statement Appendix 6.2 have been agreed with the Planning Authority and fencing erected around sites in a manner also to be agreed with the Council as Planning Authority; and no works shall take place without prior agreement of the Planning Authority.
55. The method of the stream crossing on the access track between turbine 16 and 17 shall be submitted to and agreed with SEPA and the Council as Planning Authority prior to the commencement of any works.
56. No development shall commence unless and until the Council as Planning Authority have approved in writing a Primary Radar Mitigation Scheme. No turbine blades shall be fitted to any turbines unless and until all measures required to implement the

approved Primary Radar Mitigation Scheme have been carried out. The applicants shall thereafter comply with all ongoing obligations contained within the approved Primary Radar Mitigation Scheme.

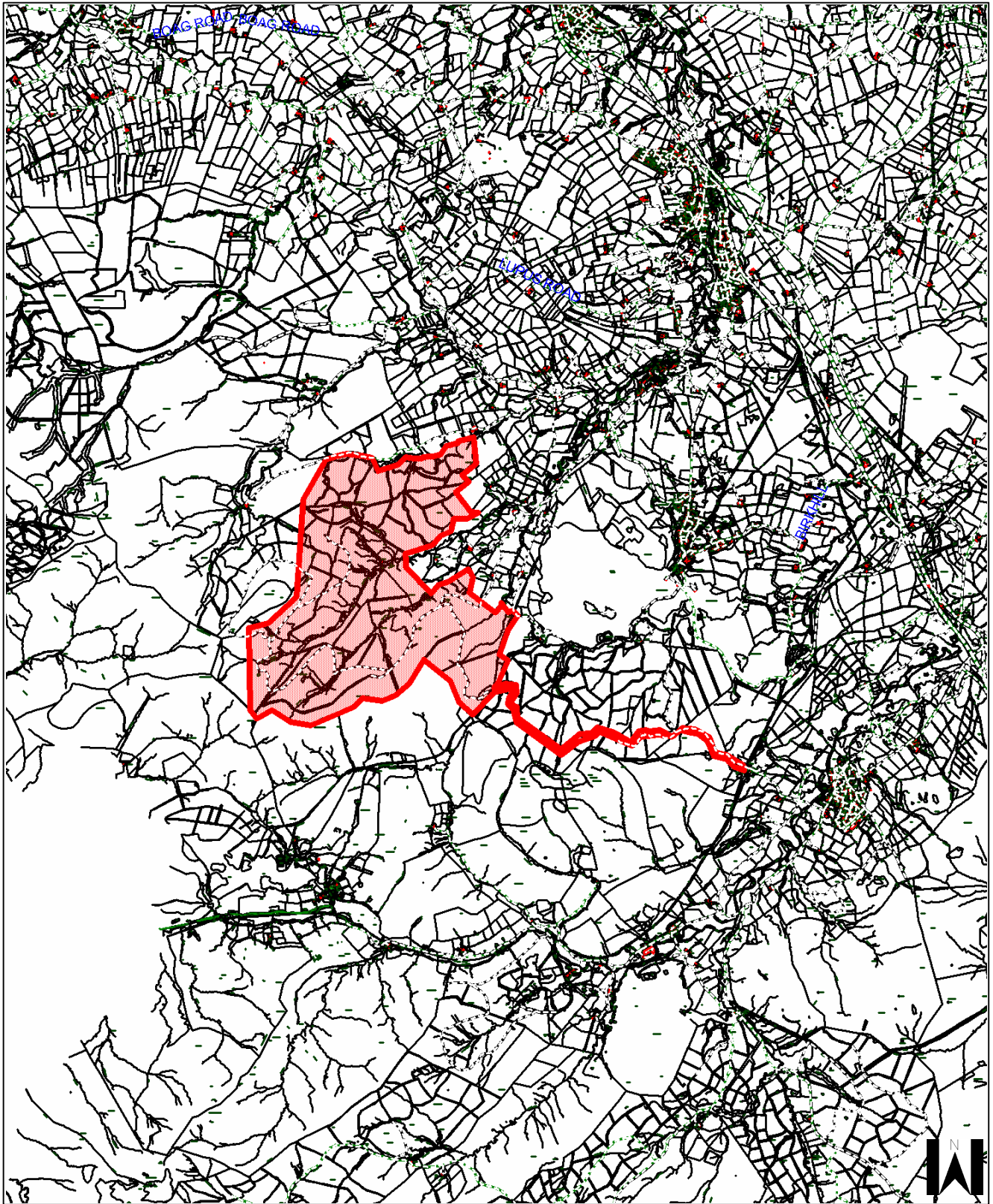
## REASONS

1. To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
2. To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
3. In the interests of amenity and in order to retain effective planning control
4. In the interests of amenity and in order to retain effective planning control
5. In the interests of amenity and in order to retain effective planning control
6. In the interests of amenity and in order to retain effective planning control
7. In the interests of amenity and in order to retain effective planning control
8. In the interests of amenity and in order to retain effective planning control
9. In the interests of amenity and in order to retain effective planning control
10. To avoid areas of nature conservation value, habitat enhancement/monitoring works and to ensure all mitigation measures are implemented.
11. To ensure that any micro-siting is employed so that areas of high nature conservation value, high archaeological value and deep peat are avoided
12. To ensure the proper storage of peat.
13. In the interests of amenity and in order to retain effective planning control
14. In the interests of amenity and in order to retain effective planning control
15. To ensure the site is free from contamination
16. To ensure the site is free from contamination
17. In the interest of road safety
18. In the interest of road safety
19. In the interest of road safety
20. In the interest of road safety and amenity
21. To protect local residents from noise nuisance
22. To protect local residents from noise nuisance
23. To protect local residents from noise nuisance
24. To protect local residents from noise nuisance
25. To protect local residents from noise nuisance
26. To protect local residents from noise nuisance
27. To protect local residents from noise nuisance
28. To protect local residents from noise nuisance
29. To protect local residents from noise nuisance
30. In the interests of amenity and in order to retain effective planning control
31. In the interests of amenity and in order to retain effective planning control
32. In the interests of amenity and in order to retain effective planning control
33. In the interests of amenity and in order to retain effective planning control
34. In the interest of road safety and amenity
35. In the interests of pollution control.
36. To ensure the provision of a satisfactory sewerage system
37. These details have not been submitted or approved.
38. These details have not been submitted or approved.
39. These details have not been submitted or approved.
40. These details have not been submitted or approved.
41. To minimise the impact upon sensitive habitats
42. To minimise potential impact on breeding birds
43. These details have not been submitted or approved
44. To ensure that previously unrecorded archaeological resources within the application site are properly identified and recorded prior to construction

- 45. In the interests of amenity and in order to retain effective planning control
- 46. in the interests of air traffic safety
- 47. In the interests of amenity and in order to retain effective planning control
- 48. in the interests of air traffic safety
- 49. To protect local residents from noise nuisance
- 50. These details have not been submitted or approved
- 51. In the interest of road safety
- 52. In the interests of amenity and in order to retain effective planning control
- 53. In the interests of amenity and in order to retain effective planning control
- 54. To ensure that previously unrecorded archaeological resources within the application site are properly identified and recorded prior to construction
- 55. In the interests of amenity and in order to retain effective planning control
- 56. To mitigate the impacts of the development on the Lowther Hill radar station



For information only



For information only

