

# **AGENDA ITEM 8**

## **APPENDIX I**

**2015/0014/PAC**

**SCOTTISH MINISTERS  
DECISION**

Energy and Climate Change Directorate  
Energy Division

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22 December 2011

Dear Mr Wilmar,

**APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF THE DORENELL WIND POWERED ELECTRICITY GENERATING STATION ON THE GLENFIDDICH ESTATE NEAR DUFFTOWN IN THE MORAY COUNCIL AREA**

### **Application**

I refer to the application, made by Dorenell Ltd (UK) ("the Company") dated 6 May 2008 ("the Application") for –

- i) consent under section 36 of the Electricity Act 1989 ("the Electricity Act") to construct and operate the Dorenell wind powered electricity generating station in the Moray Council area (as described in Annex 1), and
- ii) a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 ("the Planning Act") that planning permission be deemed to be granted in respect of that generating station and any ancillary developments (as described in Annex 1).

### **Consultation**

In accordance with Statutory Requirements, advertisements of the application had to be placed in the local press. Ministers note that these requirements have been met. Under Schedule 8 of the Electricity Act, Moray Council as the relevant Planning Authority were notified of the section 36 consent application. Notification was also given to Scottish Natural Heritage, the Scottish Environmental Protection Agency and other relevant parties.

Objections were received by the Scottish Ministers from Moray Council and 646 individuals. Of particular prominence in these objections were issues relating to visual impact and the impact on wildlife. There was a further 615 representations made in support of the development. A summary of representations can be found at Annex F.

As the relevant planning authority had objected and did not withdraw that objection, the Scottish Ministers were required to cause a public inquiry to be held, in accordance with paragraph 2(2) of Schedule 8 to the Electricity Act.

Following wide ranging consultation, **Moray Council** objected to the application on the grounds that the proposal will be located in an area which conflicts with the Council's strategy for wind farm location (the 2005 Supplementary Planning Guidance on Wind Energy Proposals in Moray). They decided there was insufficient justification for overriding the strategy on the basis of the cumulative visual impact created by the proposed development. The decision to object was taken on the casting vote of the chairman, with 4 members of the committee voting to object, and 4 not to object.

**Cairngorms National Park Authority (CNPA)** objected to the proposals raising a number of concerns, particularly around cumulative impacts as there are an increasing number of wind farm proposals within the vicinity and boundaries of the Park. They also had issues surrounding the effects the development could have on wild land value and golden eagles. These elements are contrary to both NPPG14 and the Cairngorms National Park Plan 2007. Furthermore, the proposals may affect tourism in the area and have a negative economic impact.

The impacts on the local rights of way and public access across the site have been assessed by **Scotways** and they object to the proposed development because of the proximity of some of the turbines in relation to 3 rights of way (GM17, GM18, GM19). Use of these routes fall under general access rights under the Land Reform (Scotland) Act 2003 and these routes should be kept open and free from obstruction. Scotways are concerned that this would be unachievable for GM19 during construction and that, once operational, the visual amenity and noise could have a particularly detrimental impact on users of all 3 routes. They also advise that routes GM17 and GM19 are classic heritage paths with high historical value and both of these routes were being considered as part of the Moray Council's core path plan, which has since been finalised (2009).

**The Mountaineering Council of Scotland** objected to these proposals as they believe it conflicts with Moray Council Local Development Plan and there are moderate to significant adverse effects on landscape, visual, tourism and recreation. They also highlighted issues with regard to habitats which comes under the scope of both ornithology and terrestrial ecology.

There were some concerns raised by the **Royal Society for the Protection of Birds (RSPB)**, notably the negative impacts on the golden eagle population and to a lesser degree several other moorland bird species. However they stipulated that much of this can be minimised by making adjustments to the proposals, such as layout and turbine numbers, and by ensuring an effective habitat management plan is implemented on the estate.

**Scottish Natural Heritage (SNH)** initially objected to the proposed development because of the potential adverse effects this may have on the River Spey Special Area of Conservation (SAC). They outlined the repercussions this could have on golden eagle and golden plover populations, particularly the lack of information on their impact assessment methodology. Furthermore, SNH had issues regarding the visual impact and indicated the consequences this could have for a plant which has the status of a European Protected Species. SNH said they would review their position on the provision of further information which Dorenell Ltd submitted at a later date and following this SNH withdrew their objection.

There was no objection from the **Scottish Environmental Protection Agency (SEPA)**, but this was subject to the application of various conditions regarding different aspects of the development. SEPA has suggested wording for a number of these conditions which relate to construction compound, access tracks, borrowing pits and water crossings. They also want to be consulted on during the formulation of the Construction Method Statement and Environmental Management Plan and they would like detailed plans of the Company's intended abstraction methodology. SEPA also highlighted that the south westerly corner of the site is within the Cairngorm Straths Environmentally Sensitive Area (ESA) and the River Fiddich and the Back Burn Special Areas of Conservation (SACs) are located within close proximity of the site.

**The Spey Fishery Board, River Deveron District Salmon Fishery Board and Deveron, Isla and Bogle Rivers Trust** gave a joint response and originally objected, however they have since worked with Dorenell Ltd to produce a fisheries management plan. This has been included as a condition.

There were various matters relating to impacts on the aquatic environment identified in the non-technical summary and the **Association of Salmon Fishery Board (ASFB)** acknowledge that the key point was the formation of a fisheries management plan to mitigate any negative impacts. They stated it was imperative that this was developed in collaboration with the statutory fishery interests and also to be agreed in consultation with SEPA and SNH.

**Marine Scotland** did not object but wanted clarification on matters relating to abstraction methods and river crossings. They also emphasized that it would be more appropriate if they were included in the consultation when developing the fisheries management plan.

Initial assessment of the proposals prompted the **National Air Traffic Services (NATS)** to object to the development due to the impact on the primary surveillance radar at Ailanshill. However, they later withdrew their objection subject to the Company fulfilling criteria for the development, implementation and operation of a suitable radar mitigation scheme prior to the erection of any turbines. There is a condition applied to the attached consent which sets out these requirements which must be approved by Ministers following consultation with NATS.

The **Civil Aviation Authority (CAA)** had no site-specific observations but indicated a requirement for all turbines over 91.5m tall to be charted on civil aviation maps. They also mentioned the anticipated amendment to international aviation regulatory documentation which will necessitate that the rotor blades, nacelle and upper 2/3 of the supporting mast

of wind turbines deemed an aviation obstruction should be painted white, unless otherwise instructed by an aeronautical study.

There was no objection from the **Defence Estates**, although they did stipulate that if planning permission is granted the Company must inform them of the dates for construction, the maximum height of construction equipment and the latitude and longitude of every turbine. This has been addressed in condition 54 of the consent.

**Historic Scotland (HS)** considered the Environmental Statement to be inadequate in the assessment of the impact upon the historic environment arising from the proposed development and believed the methodology was flawed. However, they concluded the impact on the setting of Auchindoun Castle will not be sufficiently adverse to warrant an objection. HS were also content there would not be a significant adverse impact upon listed buildings, namely Beldorney Castle and Braes of Glenlivet, a former Roman Catholic seminary and cottage.

**Transport Scotland** did not object to the proposals but did highlight that many of the constructions loads might be classified as abnormal therefore may require authorisation from the relevant management organisation BEAR. Due to the frequency and number of these loads it is UK policy to restrict these movements via the nearest suitable port and advised that BEAR are consulted on the feasibility of transporting these items to site.

The peat stability report submitted by the Company was technically assessed by **Halcrow Group Ltd** and they are satisfied the report adequately assesses the risk of peat landslides at this site and largely follows the Best Practice Guide (Ref 1). However there is still a requirement for some of the assertions to be confirmed by ground investigation.

Although not a consultee, as the neighbouring authority **Aberdeenshire Council** submitted their opinion for consideration with the remit for landscape issues only in relation to this development. Their main concern was the potentially significant cumulative visual effects of these proposals in combination with two other developments, Clashindarroch and Kildrummy, from various view points.

The following consultees responded but had no objection to the Dorenell wind farm proposal: **British Telecom Network Radio Protection, Ofcom, Joint Radio Company Ltd, CSS Spectrum Management Services Ltd, Highland and Islands Airports, Crown Estate and Forestry Commission Scotland.**

The following consultees had no comments to make on the wind farm proposal: **Scottish Government Climate Change and Water Environment and the Health and Safety Executive.**

## **Inquiry**

The PLI was held in Mortlach Memorial Hall, Albert Place, Dufftown. The hearings sessions took place between 19 October 2010 and 21 October 2010. The inquiry sessions took place between 16 November 2010 and 23 November 2010.

The Scottish Ministers have considered fully and carefully all the evidence presented at the Inquiry, the Reporter's findings, reasoning, conclusions and recommendation thereon.

They accept the Reporter's findings, agree with his reasoning and conclusions and adopt them for the purposes of their own decision, and accept the Reporter's recommendation that, subject to conditions, consent under section 36 of the Electricity Act 1989 be given and a direction made under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission be deemed to be granted.

## **Planning**

Scottish Government Policy is that due to the constraints, scale and complexity of constructing a wind farm over 50MW, that a 5 year timescale for the commencement of the Development is granted and the Scottish Ministers therefore consider a direction should be made to this effect under section 58 of the Town and Country Planning (Scotland) Act 1997.

## **Environmental matters**

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

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

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

Scottish Ministers are satisfied that the Company has had due regard to these features and complied with this duty. Scottish Ministers have also considered the Environmental Statement that was provided with the Application as well as the supplementary information provided to the Inquiry. Ministers note and adopt the Reporter's findings, and agree and adopt the Reporter's conclusions and recommendations on environmental matters. Ministers are satisfied that all environmental matters can be dealt with by way of mitigation and conditions.

## **The Scottish Ministers' Considerations**

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

The 177 MW Development located near Dufftown, will provide sufficient power for approximately 83,538 houses. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of

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

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

Ministers have also considered the objections raised within the 1261 public representations received, including the concerns over the proposal's effect on visual amenity, wildlife and tourism. Ministers are of the view that these issues will be addressed where appropriate by way of mitigation, and in any case are outweighed by the benefits the Development will bring. The Scottish Ministers are content to apply, with minor re-drafting modifications, the conditions recommended by the Reporter. These changes reflect the evolving nature of wind farm development and seek to build on good practice.

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

The Scottish Ministers therefore have decided-

- (a) subject to the conditions set out in Part 1 of Annex 2, to **grant consent** under section 36 of the Act, for the construction of the Dorenell Wind Power Electricity Generating Station in the Moray Council Area (as described in Annex 1); and
- (b) subject to the conditions set out in Part 2 of Annex 2, to issue a direction that **planning permission be deemed to be granted** in respect of the Development described in Annex 1.

Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply as respects that planning permission but that the permission is to lapse on the expiration 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 Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended), you must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

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

Within 2 months of the date of this consent (and within 2 months of the final commissioning if there has been any variation on the original approved plan), the

Company shall provide to Scottish Ministers a detailed plan showing the site boundary and all turbines, anemometer masts, access tracks and infrastructure in a format compatible with the Scottish Government's Spatial Data Management Environment (SDME), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shapefile format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by the Scottish Government), all metadata should be provided in this format.

Copies of this letter have been sent to Moray Council as the Planning Authority, and to SEPA, SNH and the Scottish Government library. This letter, the consent and the PLI Report will also be published on the Scottish Government website.

The Scottish Minister's decision is final, subject to the right of any aggrieved person to apply to the Court of Session in Scotland 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 at Scottish Court website: <http://www.scotcourts.gov.uk/session/rules/Chapter58.asp>. Your local Citizen's Advice Bureau or your solicitor will be able to advise you about the applicable procedure.

Yours sincerely



**Simon Cootes**  
Head of Energy Consents and Deployment  
A member of the staff of the Scottish Minister



**Description of the Development**

The Development shall have a maximum capacity of 177 MW and shall comprise a wind-powered electricity generating station at Dorenell Hill, near Dufftown in the Moray Council area including:

- i. Not more than 59 turbines, each with a total height to blade tip of 126 m;
- ii. 5.3 km of existing site roads upgraded with a running width of 5 m;
- iii. 34.8 km of new site roads constructed with a running width of 5 m;
- iv. An on-site borrow pit;
- v. A temporary construction compound containing site offices, welfare facilities and storage for plant and materials;
- vi. On site concrete batching plant contained within the temporary construction compound;
- vii. One on-site sub-station compound including the control building and transformers; and;
- viii. Two permanent wind farm monitoring masts (free standing lattice, up to 85 m tall)

All as specified in the Application and Environmental Statement; and references in this consent and deemed planning permission to "the Development" shall be construed accordingly.

## CONDITIONS

### Part 1

#### Conditions applying only to section 36 consent

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

1. 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 shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that event.

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

2. The Commencement of the Development shall be no later than 5 years from the date of this consent, or (in substitution) no later than such date as the Scottish Ministers may hereafter direct. If Commencement of the Development does not occur by such date, then by no later than the date occurring 6 months after such date, the Site and the ground shall be fully reinstated by the Company to the specification and satisfaction of the Scottish Ministers, following consultation with the Planning Authority.

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

3. In the event, that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then unless otherwise agreed in writing with the Scottish Ministers, after consultation with the Planning Authority and Scottish Natural Heritage, such wind turbine shall be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment shall be dismantled and removed from the Site by the Company within the following 6 month period, and the ground fully reinstated to the specification and satisfaction of the Scottish Ministers after consultation with the planning authority and SNH.

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

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

authorisation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

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

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

**Reason: To ensure compliance with Health and Safety legislation.**

6. No turbine shall be erected until an operator radar mitigation scheme has been submitted to and approved in writing by the Scottish Ministers following consultation with the operator (NATS [En Route] plc).

No turbine shall be erected until all obligations contained within the operator radar mitigation scheme (other than ongoing obligations) have been fully implemented and the Development shall thereafter be operated fully in accordance with all ongoing obligations contained in the approved scheme.

**Definitions:**

- (i) the operator radar mitigation scheme means a detailed scheme agreed with National Air Traffic Services which sets out the measures to be taken to mitigate at all times the impact of the Development at Dorenell on the primary radar of National Air Traffic Services at Allanshill and their associated air traffic management operations which reflects the requirements of the submitted Statement of Common Understanding; and
- (ii) the Statement of Common Understanding means a document agreed with National Air Traffic Services which sets out the high level requirement of the operator radar mitigation scheme and the principles which will govern the Development and agreement of such a scheme.)

**Reason: to safeguard radar and air traffic interests**

## Part 2

### Conditions applying to deemed planning permission

#### Design

7. The Development hereby granted consent shall be carried out strictly in accordance with the approved plans and all the details contained in the Environmental Statement (as added to by the Supplementary Environmental Information) (except in so far as amended by the terms of the consent).

**Reason: to ensure the Development is implemented as proposed.**

8. Each turbine shall be erected in the positions indicated on figure 7.1 of the Environmental Statement. A variation of the indicated position of any turbine on the said plan by up to 50m shall be permitted. Any variation greater than 50m shall require the written approval of the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency.

**Reason: to ensure that micro siting decisions result in areas of high nature conservation value being avoided and in the interests of visual amenity.**

9. For all tracks on figure 7.1 of the Environmental Statement a variation of their indicated position by up to 25m either side of the centre line of the track shall be permitted. Any variation greater than 25m either side of the centre line of a track shall require the written approval of the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency.

**Reason: to ensure that micro siting decisions take account of areas of high nature conservation value, and in the interests of visual amenity.**

10. Prior to the Commencement of the development, full details of the turbines (including design, size, make and model, colour/external finish, and transformer location) shall be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, the tip height of the turbines granted permission shall not be greater than 126m above ground level. The Development shall thereafter be implemented in accordance with the approved details.

**Reason: in the interests of the visual amenity of the area and to retain effective control over the Development.**

11. Prior to the Commencement of the development, full details (including means of

access, design, materials and colour/external finish) of the ancillary elements of the Development (including the substation, switch gear, control building, and fencing) shall be submitted to and approved in writing by the Planning Authority. The Development shall thereafter be implemented in accordance with the approved details.

**Reason: to ensure a high standard of design in the interests of visual amenity.**

12. Unless shown on the approved plans or otherwise agreed in writing with the Planning Authority, the track widths shall be as set out in table 7.1 of the Environmental Statement with no track running width being wider than 6m at any location except where passing places or turning facilities are required.

**Reason: to minimise the disruption to habitats and the visual impact of the tracks.**

13. Unless otherwise agreed in writing with the Planning Authority, all electricity and control cables between the turbines and the substation and control building shall be laid underground alongside the tracks to be constructed on site.

**Reason: to minimise the disruption to habitats, and in the interests of visual amenity.**

14. The blades of the turbines shall all rotate in the same direction.

**Reason: in the interests of visual amenity.**

### **Construction compound**

15. Prior to the Commencement of the development, plans at a scale of 1:500 shall be submitted to and approved in writing by the Planning Authority, in consultation with the Scottish Environment Protection Agency, showing:

- (i) the exact location of the temporary site compound for the contractor which shall be based on the position indicated in figure 7.1 of the Environmental Statement;
- (ii) the location of the building, car parking, material stockpiles, oil storage, lighting columns and fencing; and
- (iii) the surfacing of the compound, the means of drainage and dust suppression, and the activities that will take place within it.

The compound shall be developed in accordance with the approved details before it comes into use for the first time. No compound activity shall take place outwith the defined compound area, including movement and storage of construction vehicles and mobile or fixed plant.

Upon completion of the construction of the wind farm or the commissioning of the last turbine, whichever is the sooner, the site of the temporary compound shall be restored to

its existing condition. Full details of all restoration measures, which shall include timescales for the works, shall be submitted to the Planning Authority not less than 4 weeks prior to the use of the compound ceasing. The restoration shall thereafter be undertaken in accordance with the approved measures.

**Reason: to ensure compliance with the commitments made in the Environmental Statement, to minimise pollution risks arising from construction activities, to protect the amenity and appearance of the area, and to allow the site of the compound to properly revert to its existing condition.**

### **Method statements**

16. Prior to the Commencement of the development, a detailed construction method statement shall be submitted to and approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage, the Scottish Environment Protection Agency,

and Moray Transportation. The method statement will address the following matters:

- (i) public road works (including road widening, junction improvements, and entrance works);
- (ii) site tracks;
- (iii) watercourse crossings;
- (iv) construction compound;
- (v) crane pads;
- (vi) cable trenches;
- (vii) foundation works, including working widths;
- (viii) substation and control building;
- (ix) anemometry masts;
- (x) oil storage compound and bunding;
- (xi) cleaning of the site entrances and the adjacent public highway;
- (xii) post construction restoration of the working areas, including timescales and the approval of seed mixtures;
- (xiii) waste management;
- (xiv) water abstraction;
- (xv) construction management;
- (xvi) response to pollution incidents; and
- (xvii) monitoring measures.

The Development will thereafter be undertaken in accordance with the approved method statement, unless otherwise agreed in writing with the Planning Authority.

**Reason: to ensure compliance with all commitments made in the Environmental Statement, to ensure that the necessary contingencies are in place, to minimise pollution risks arising from construction activities, and to protect public amenity and the environment.**

17. Prior to the construction of the Development, a detailed construction method statement for the borrow pit shall be submitted to and approved in writing by the Planning

Authority. The method statement shall include:

(i) a location plan showing: the extent of the workings; details of depth of excavation and

finished levels related to existing ground levels; the locations and heights of all materials

to be stockpiled on site; details of the type of machinery to be used in the borrow pit, and

the means of enclosure;

(ii) the arrangements for the restoration and aftercare of the site including: removal of fencing; details of any ground works to be carried out on finished levels related to existing

or excavated ground levels; and seeding and planting arrangements; and

(iii) details of times and dates of blasting activity.

The borrow pit shall thereafter be developed and restored in accordance with the approved details.

**Reason: to ensure that the borrow pit is developed in an acceptable manner, to protect public amenity and the environment, and to allow for the proper restoration of the borrow pit once activity ceases.**

## **Ecology**

18. Prior to the Commencement of the development, an independent and suitably qualified Ecological Clerk of Works shall be appointed by, and at the expense of, the Company to oversee for, and report to, the Planning Authority in consultation with Scottish Natural Heritage, on the construction of the wind farm and the implementation of all ecology related conditions. The role of the Ecological Clerk of Works is to undertake a watching brief throughout the construction phase and shall remain appointed up to the completion of the agreed programme of works under the Post Construction Restoration Statement.

Where protected species are found, the role of the Ecological Clerk of Works will be to ensure that work is suspended at that location until such time as the Planning Authority in consultation with Scottish Natural Heritage, have agreed in writing the measures designed to safeguard the protected species and sensitive areas and the timescale for implementing them, and the agreed measures have been implemented within those timescales. The remit for the Ecological Clerk of Works shall also include:

(i) monitoring compliance with the ecological mitigation works approved in this consent;

(ii) advising the Company on adequate protection of nature conservation interests on the

site, including altering construction practices if these have an adverse impact on natural heritage;  
(iii) advising on the micro siting of turbines and tracks; and  
(iv) monitoring compliance with the scheme of working for the required borrow pit.

**Reason: to safeguard ecological interests on site and to ensure an orderly progression of development.**

19. Prior to the Commencement of the development, a pre-commencement survey of protected mammal species and an assessment of any areas sensitive to disturbance shall be carried out by an ecologist who has been approved by the Planning Authority in consultation with Scottish Natural Heritage shall carry out and then a management plan, based on the findings of the survey and assessment, and as part of the Environmental Management Plan, shall be submitted by the Company to and approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage. The plan shall include mitigation measures, designed to safeguard those protected mammals and sensitive areas within and adjacent to the operational areas of the site, and shall also set out timescales for their implementation. The measures shall thereafter be implemented in accordance with the approved management plan, including the specified timescales.

**Reason: to protect sensitive mammal species and sensitive areas.**

20. Prior to the Commencement of the development, a fisheries management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and Marine Laboratory Scotland (previously Fisheries Research Services). It will include the matters agreed in the fisheries management plan, dated 11 March 2010, among Dorenell Ltd, the Spey District Salmon Fisheries Board, the River Deveron District Salmon Fisheries Board, the Deveron, Bogie and Isla Rivers Charitable Trust, and the Spey Foundation. It shall also set out timescales for the implementation of the measures it identifies. The measures shall thereafter be implemented in accordance with the approved management plan, including the specified timescales.

**Reason: to protect sensitive fish species and their environment.**

21. Prior to the Commencement of the development, an operational protocol shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds. The protocol will detail



the procedures for access for wind farm staff for turbine, track and other infrastructure maintenance and operational requirements, during the bird breeding season. It shall also address interpretation and visitor management to encourage responsible public access during the bird breeding season. The procedures and other measures identified shall thereafter be implemented in accordance with the approved protocol.

**Reason: to minimise impacts upon breeding birds during the operation of the wind farm.**

22. Ornithological monitoring shall be carried out in accordance with detailed proposals submitted to and approved in writing by the Planning Authority after consultation with Scottish Natural Heritage and such other parties as considered appropriate. Monitoring of breeding birds will commence and shall be continued in the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 10<sup>th</sup>, and 15<sup>th</sup> years following the Final Commissioning of the Development. The findings of the surveys shall be collated into 2 reports following the monitoring activities in the 5<sup>th</sup> and 15<sup>th</sup> years and shall contain all of the original data (in formats to be agreed by the Planning Authority in consultation with Scottish Natural Heritage). The reports shall be submitted to the Planning Authority and Scottish Natural Heritage within 12 months of the end of the period to which they relate, unless the Planning Authority agrees to an extension. The Planning Authority may decide in consultation with Scottish Natural Heritage that mitigation measures are required. Such measures shall be set out in writing and shall be implemented by the Company in accordance with a timetable set out to cover such matters in the approved detailed proposals for monitoring.

**Reason: to protect bird species.**

## **Roads**

23. Prior to the Commencement of development, a plan for the management of abnormal loads shall be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland, Grampian Police, and Moray Transportation. The plan shall include the following:

- (i) a detailed survey of the chosen route for delivery vehicles;
- (ii) details of the arrangements, including timescales, to undertake and monitor all construction traffic trial runs (which shall all be prior to the Commencement of the development);
- (iii) the locations of affected structures, eg bridges and street furniture;
- (iv) the location, design details and timescales of all road improvements/strengthening required (which, for the avoidance of doubt, includes improvements identified at the time of the trial runs);
- (v) details of the number, locations, spacing, and design of all construction traffic passing

places and holding areas, including the holding areas for traffic along the A920 between the A920/A941 and the Planning Authority's boundary;

(vi) details of the timescales for providing all construction traffic passing places and holding areas;

(vii) details to demonstrate that only single abnormal loads shall travel along the A941 between the A920 and the site entrance, unless alternative arrangements are agreed in writing with the Planning Authority;

(viii) details of the location and design of, and timescale for providing, a holding area for vehicles in convey near to the A920/A941 junction; and

(ix) details of the exact location and design for widening the A941 at the top of the hill at Laggan to allow unrestricted passing of abnormal loads and other construction traffic;

These elements of the Development shall thereafter be undertaken in accordance with the details in the approved plan. For the avoidance of doubt, they shall be completed prior to any timber extraction from, or delivery of materials to, the site. This shall include the completion of all road improvement/strengthening works.

**Reason: in the interests of road safety and to ensure a safe and suitable access for large construction vehicles to and from the site.**

24. Prior to the Commencement of the development, a traffic management plan shall be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland and Moray Transportation. The plan shall include the following:

(i) the method for dealing with large delivery vehicles, including swept path analysis;

(ii) the details of verge hardening at the A920/A941 junction to accommodate the wide turning circle of all abnormal load construction traffic over the junction area, with dropped kerbs required during the construction period to allow over running on to the verge, and the existing type of kerbs (254mm by 127mm hpc) being reinstated after construction;

(iii) the methods for marshalling and manoeuvring at junctions on the public road network;

(iv) details of all heavy construction traffic routes to/from the site, which shall confirm that no heavy construction traffic shall access the site from the A941 to the south;

(v) details of the arrangements to undertake and submit to the Planning Authority before

and after video surveys of the proposed delivery routes, and written confirmation that all damage to the road network, including verges, will be made good;

(vi) details of the location and design of inter-visible passing places and vehicle holding areas to be provided for all construction traffic along the A941 between the A920/A941 junction and the site access;

(vii) details of the timescale for providing the facilities specified at (vi);

(viii) details of the arrangements, including location and timescale, to provide day time traffic signal controlled one way working on the narrow section of the A941 road between Laggan and Bridgehaugh; the signal control shall be operational throughout the construction and decommissioning phases;

(ix) details of a scheme setting out the location and type of road signage to be provided at the site access on to the A941; and

(x) details, including the location and duration, of a temporary speed limit to be introduced at the site access, and the identification of all the statutory procedures required to promote it; the speed limit shall be in force throughout the construction and decommissioning phases.

These elements of the Development shall thereafter be undertaken in accordance with the details in the approved plan. For the avoidance of doubt, they shall be completed prior to any timber extraction from, or delivery of materials to, the site.

**Reason: in the interests of road safety and to ensure a safe and suitable access for vehicles to and from the site.**

25. The site access track and the public road shall be kept free from mud, debris, slurry or other deleterious material at all times, and suitable wheel cleaning facilities shall be provided in the site to prevent such material being deposited on the public road.

**Reason: to ensure all vehicles leaving the site will not emit dust or deposit mud, debris, slurry or other deleterious material on the adjoining public highway.**

26. Any existing ditch, watercourse, or drain under the site access or passing places/holding areas shall be bridged, culverted or piped using a suitable diameter of pipe. Bridging solutions, or bottomless or arched culverts, shall be designed to leave the bed and banks of the watercourse in a natural state. Prior to the Commencement of the development, full details of the bridging/culverting arrangements to be used in these locations shall be submitted to and approved in writing by the Planning Authority in

consultation with Moray Transportation and the Scottish Environment Protection Agency.

These elements of the Development shall thereafter be undertaken in accordance with the approved details.

**Reason: in the interests of road safety, and to protect the water environment.**

27. The new junction which is to be formed at the point where the site access meets the A941 shall have visibility splays of 4.5m by 120m, and shall be kerbed to a radius of 15m (using 254mm by 127mm hpcc kerbs).

**Reason: in the interests of road safety, and to provide a safe and suitable access.**

28. If the site access road is not constructed to an adoptable road standard, prior to the use of the new junction referred to in condition 24 commencing, the site access road shall be surfaced with a suitable material (i.e. hot rolled asphalt) for a minimum distance of 30m from the point where it meets the A941, or for the length of the longest vehicle and load, whichever is the greater.

**Reason: in the interests of road safety, and to provide a safe and suitable access.**

29. Prior to the use of the new junction referred to in condition 24 commencing, a 50m length of the A941 (i.e. 25m either side of the centreline of the new junction) shall be surfaced in a suitable material (i.e. hot rolled asphalt); the same 50m length of road shall also be widened to 6m, and shall include appropriate tapers such that delivery and construction vehicles do not have to mount the verges when negotiating the junction.

**Reason: in the interests of road safety, and to provide a safe and suitable access.**

## **Water**

30. Prior to the Commencement of the development, a drainage design and management plan covering water treatment and the means of drainage from all hard surfaces and structures within the site shall be submitted to and approved in writing by the Planning Authority, in consultation with the Scottish Environment Protection Agency. For the purposes of this condition, hard surfaces includes internal access tracks, construction compound, turbine pads, and crane pads. The details to be submitted shall include the means of protecting groundwater and diverting surface water run off, shall allow for the recharging of peat areas within the site, and shall contain the necessary mitigation

measures (not least measures to prevent movement of concrete derived pollutants and surface run off at the turbines and access tracks), along with a timescale for implementation. The measures shall thereafter be implemented in accordance with the approved plan, including the specified timescale.

**Reason: to protect sensitive fisheries and groundwater, to ensure compliance with all commitments made in the Environmental Statement and the outline drainage design and management plan.**

31. Prior to the Commencement of the development, a water quality monitoring programme shall be submitted to and approved in writing by the Planning Authority. The programme will include details of pre-construction monitoring, construction monitoring, post construction monitoring, and timescales for implementation. The monitoring will be implemented in accordance with the approved programme, including the specified timescales.

**Reason: to protect environmentally sensitive areas, and to ensure compliance with the Environmental Statement and the agreed outline drainage design and management plan.**

### **Land management**

32. Prior to the Commencement of the development, a detailed and final habitat management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The approved plan shall be implemented in full to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage, and shall set out detailed nature conservation management objectives, including the management for target (priority) habitats and species. If after commissioning the development, the substantial attainment of any nature conservation management objective included in the plan is compromised by either a wilful act or omission on the part of the Company or the land owner, the Planning Authority in consultation with Scottish Natural Heritage may require the wind farm temporarily to cease operation in part or in whole until they are satisfied that the affected nature conservation management objective is again capable of being attained as part of the approved plan. The approved plan shall include provision for the appointment of a wild life ranger.

**Reason: to ensure compliance with all commitments made in the Environmental Statement, to safeguard protected species and to secure the effective implementation of the approved plan.**

33. Prior to the Commencement of the development, details shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage, the Scottish Environment Protection Agency and Moray Transportation, regarding a finalised Health Safety & Environmental Management System where:

- (i) the Health Safety & Environmental Management System is based on the information included in the Environmental Statement (volume 2, chapter 25) and includes the following finalised plans:
  - (a) **Environment Management Plan**, to include:
    - (a[i]) habitat management plan (condition 29);
    - (a[ii]) fisheries management plan (condition 17);
    - (a[iii]) abstraction management plan (condition 13);
  - (b) **Construction Method Statement**, to include:
    - (b[i]) construction management plan (condition 13);
    - (b[ii]) traffic management plan (condition 21);
    - (b[iii]) drainage design and management plan (condition 27);
    - (b[iv]) geotechnical risk register (condition 35);
    - (b[v]) waste management plan (condition 13);
    - (b[vi]) pollution incident response plan (condition 13) ;
- (ii) all plans and statements shall include all mitigation measures to be implemented, based on the details included in the Environmental Statement (volume 2, chapter 25, tables 25.1 and 25.2);
- (iii) all plans and statements shall provide information as required by other conditions attached to this consent and deemed planning permission;
- (iv) prior to the preparation of plans and statements, a schedule shall be submitted to the Planning Authority to identify all plans and statements to be prepared, together with associated timescales for preparation and submission, and all agencies and organisations to be consulted prior to finalising each document; and
- (v) upon submission to the Planning Authority, each plan and statement shall be accompanied by written confirmation of acceptance, or similar, from all agencies and organisations consulted on the proposed plan and statement.

The Development shall thereafter be carried out in accordance with the approved Health Safety & Environmental Management System.

**Reason: to ensure an acceptable form of development with a system of documents designed to guide and aid the implementation of the Development, to address all aspects of site work that may impact on the environment, and to identify and ensure that all appropriate mitigation measures are implemented to minimise any adverse impacts associated with the Development.**

34. Prior to the commencement of the development, an access management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The plan shall be implemented in full to the satisfaction of the

Planning Authority. It shall include the following:

- (i) the location, design and layout of all car parking facilities;
  - (ii) the location, design and layout of access points and path networks for pedestrians and cyclists;
  - (iii) the location and details of any interpretative/information facilities and any other visitor facilities to be provided;
  - (iv) details of the arrangements to be made for enabling and improving access rights, eg paths, signs, footbridges, both within the site and connections to the existing path network outwith the site; and
  - (v) details of the timescales for implementing all measures.
- The Development shall thereafter be implemented in accordance with the approved plan, including the specified timescales.

**Reason: to ensure compliance with all the commitments made in the Environmental Statement, and to safeguard protected species.**

35. Prior to the Commencement of the development, an independent and suitably qualified warden shall be appointed at the expense of the Company to support visitors to the Glenfiddich Estate and to safeguard ecological and habitat interests.

**Reason: to support the implementation of the access management plan and to protect environmentally sensitive areas.**

### **Peat Management**

36. Prior to the Commencement of the development, a peat management plan showing the details of peat/soil stripping at the site and the storage and proposed use and replacement of peat, topsoil and subsoil shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. All soil stripping and storage and replacement operations shall accord with the approved details, and the approved plan shall be implemented in full. In particular, the plan shall be incorporated in the Construction Method Statement setting out the measures to protect, store and replace peat/soil excavated on site and any necessary mitigation measures.

**Reason: to minimise impacts on sensitive peat habitats.**

37. The Company shall undertake an ongoing assessment and call out service provided by professionally qualified geotechnical personnel, whose appointment has been approved by the Planning Authority in consultation with Scottish Natural Heritage. The

Company shall develop and adopt a formalised reporting procedure which records ground conditions, site workings, and monitors results and construction progress pertinent to the stability of all development works. In addition, the results of this monitoring shall be fed into a geotechnical risk register to be submitted to the Planning Authority and Scottish Natural Heritage at quarterly intervals per annum. Should the risk of peat failure be identified, the Company shall install and monitor ground conditions using suitable geotechnical instrumentation as recommended by the geotechnical personnel and approved in writing by the Planning Authority.

**Reason: to minimise the environmental impacts arising from peat slide.**

38. Prior to the Commencement of the development, a contingency plan detailing the level of response to observed poor ground conditions shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The performance of the ground shall be assessed against design assumptions. Where the works perform better than expected or as expected there will be no need for contingencies to be implemented. Where findings indicate that the ground is performing outside the expected limits and that a potentially adverse situation might develop, corrective action shall be implemented in accordance with the contingency plan.

**Reason: to minimise the environmental impacts arising from peat slide.**

39. The role of the geotechnical personnel referred to in condition 35 will be to undertake regular inspections of the site, the 1<sup>st</sup> inspection taking place within one year of the date of the deemed planning permission and section 36 consent. The inspection shall include a walkover of the site with a report on ground stability produced and submitted to the Planning Authority. Where the report identifies a risk of peat failure, measures shall be implemented by the Company in accordance with the contingency plan.

**Reason: to minimise the environmental impacts arising from peat slide.**

40. No extraction of peat shall be undertaken from any part of the site other than in accordance with the approved construction method statement.

**Reason: to minimise the environmental impacts arising from peat slide.**

41. Excess peat excavations shall not be placed on to the peat surface until the adequacy of the ground to support the load has been determined by the geotechnical personnel and the Planning Authority has given its approval.



**Reason: to minimise the risk of peat slide.**

42. All water discharged from excavations shall be directed into a suitably designed drainage system. All discharge of water shall be into a formalised drainage path which shall form part of a site wide drainage network. Prior to the Commencement of the development, the drainage network design shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency.

**Reason: to minimise the risk of peat slide, and to avoid the pollution of watercourses.**

43. During the period of consent, all excavations shall be suitably supported to prevent collapse and where peat is present to prevent the development of tension cracks. Peat removed from drainage ditches as part of maintenance shall be considered as excavated peat.

**Reason: to minimise the risk of peat slide.**

#### **Inoperable turbines**

44. In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 12 months then, unless otherwise agreed in writing with the Planning Authority after consultation with Scottish Natural Heritage, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required, the wind turbine shall be dismantled and removed from the site within the following 12 months, and the ground fully reinstated to a specification agreed in writing with the Planning Authority after consultation with Scottish Natural Heritage.

**Reason: to ensure the removal of non-functional equipment and plant, and in the interests of visual amenity.**

#### **Noise, and vibration from blasting**

45. Prior to the Commencement of the development, details of the power rating and sound power levels of the turbines, along with a warranty (from the supplier and/or manufacturer) for the absence of tonality of the turbine and a copy of the standard showing the assessment method, shall be submitted to and approved in writing by the Planning Authority. In the absence of a warranty, a tonal penalty of 5dB will be assumed, and the noise levels specified in condition 45 will be reduced by this amount.

**Reason: to safeguard the noise amenity of local residents.**

46. The Company shall log wind speed and wind direction data continually and shall retain the data which has been obtained for a period of no less than 12 months. The data shall include the average wind speed in metres per second for each 10 minute period. The wind speed and wind direction data shall be made available to the Planning Authority on request.

**Reason: to ensure that proper records are kept to enable the operation of the wind farm to be assessed.**

47. At wind speeds not exceeding 10m per second, as measured or calculated at a height of 10m above ground level (at the location of the nearest wind monitoring mast), the wind turbine noise level at any house or other noise sensitive properties shall not exceed 35dB LA90, 10min. The method of assessing noise levels shall accord with ETSU-R-97, The Assessment and Rating of Noise from Wind Farms. The condition shall only apply to houses or other noise sensitive properties existing at the date of this deemed planning permission and section 36 consent.

**Reason: to safeguard the noise amenity of local residents.**

48. At the reasonable request of the Planning Authority, and following a valid complaint to the Planning Authority relating to noise emissions from the wind turbines:

(i) the Company shall measure, at their own expense, the level of noise emissions from the turbines (inclusive of existing background noise) using an La90 index over a minimum of 20 periods, each of 10 minutes duration. At least 10 measurements shall be made at wind speeds between the one specified by the Planning Authority and one not less than 2m per second below it. Measurements of noise emissions shall, as far as is practically possible, be made in consecutive 10 minute periods provided that they fall within the wind speed range defined in this condition; and

(ii) where required by the Planning Authority, the Company shall carry out an assessment for tonal noise in accordance with the terms of chapter 6 of ETSU-R-97 (ie

the procedure based on the Joint Nordic Method). Where the tone level is greater than

2dB, a tonal penalty shall be applied to the permitted noise levels in accordance with figure 16 of ETSU-R-97, so that the permitted levels referred to in conditions 43 and 45

will be reduced by the tonal penalty.

The results of these investigations, together with all necessary mitigation measures, shall

be submitted to and approved in writing by the Planning Authority. The results shall be

submitted within 4 weeks of the completion of the investigations. Should the permitted

noise levels be exceeded, the Company shall take immediate steps to ensure that the approved mitigation measures are implemented and shall obtain written

confirmation that they have been satisfactorily completed from the Planning Authority.

**Reason: to safeguard the noise amenity of local residents.**

49. Measurements made in accordance with the provisions of condition 46, in order to demonstrate compliance with the requirements of conditions 43 and 45, shall be correlated with wind speeds (condition 44).

**Reason: to ensure that the methodology used for assessing noise emissions is Appropriate.**

50. Ground vibration as a result of blasting operations to form the borrow pit at the site shall not exceed a peak particle velocity of 10mms<sup>-1</sup> in 95% of all blasts, and no individual blast shall exceed a peak particle velocity of 12mms<sup>-1</sup> as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

**Reason: to ensure that vibration disturbance is satisfactorily controlled.**

51. At the reasonable request of the Planning Authority, and following a valid complaint to the Planning Authority relating to vibration from blasting operations to form the borrow pit, the Company shall measure, at their own expense, ground vibration to ensure compliance with condition 48. The results of the investigation, together with all necessary mitigation measures, shall be submitted to and approved in writing by the Planning Authority. The results shall be submitted within 4 weeks of the completion of the investigation. Should the peak particle velocity levels specified in condition 48 be exceeded, the Company shall take immediate steps to ensure that the approved mitigation measures are implemented and shall obtain written confirmation that they have been satisfactorily completed from the Planning Authority.

**Reason: to ensure that vibration disturbance is satisfactorily controlled.**

### **Contamination**

52. If significant unsuspected contamination is found, then all work shall cease until an appropriate investigation to determine the nature, extent and potential impacts of the contamination has been undertaken, and a remediation method statement, including timescales for the implementation of any measures considered necessary, has been submitted to and approved in writing by the Planning Authority.

**Reason: to safeguard the health and safety of construction workers, and future users**

and users of the site, buildings, and structures from the impacts and effects of harmful ground contamination.

### **Decommissioning**

53. Unless an alternative timescale is agreed in writing with the Planning Authority, within 12 months of the consent expiring, 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 a decommissioning, restoration and aftercare scheme. For the purposes of this condition, restored means the removal of all wind turbines, crane pads, all buildings, and ancillary development. Notwithstanding this requirement, no later than one year prior to the commencement of the decommissioning, restoration and aftercare scheme, the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency shall review the retention of turbine pads, cables/ducts, access tracks and the grid connection within the context of the scheme to identify any elements to be retained on site or requiring alternative reinstatement.

Reason: For the avoidance of doubt, to ensure that the development is removed from the site, and to ensure that a satisfactory scheme is in place for the reinstatement of the site.

54. In order to ensure the satisfactory decommissioning, restoration and aftercare of the site, prior to the Commencement of the development, a decommissioning and restoration statement shall be submitted to the Planning Authority for their written approval, and it shall be updated on a 5 yearly cycle. At least one year before the cessation of generation from the site, the finalised decommissioning, restoration and aftercare scheme shall be submitted for the written approval of the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The finalised scheme shall include details of the means of reinstating the site following the removal of the components of the development. In particular, it shall include details of the level of subsoil, topsoil and peat replacement required over each part of the site, and the proposed seed mixes. The scheme shall be implemented as approved.

Reason: to ensure that a plan is in place for the restoration of the site, and to protect the character of the countryside and the visual amenity of the area.

55. Unless an alternative timescale is agreed in writing with the Planning Authority, at least 2 years before the cessation of generation from the site, details of a decommissioning survey shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The details shall include:

- (i) the timescales for decommissioning;
- (ii) the intended survey programme in relation to (i); and

(iii) the species to be surveyed, and the methods to be used to identify their presence.

The decommissioning of the site shall be carried out in accordance with all the measures identified through the survey as necessary to mitigate the impact of the works on natural heritage interests. The findings of the survey and the mitigation measures proposed shall all be included in the finalised decommissioning, restoration and aftercare scheme referred to condition 52.

**Reason: to ensure that appropriate arrangements are made to protect sensitive species.**

### **Defence Estates**

56. No development shall take place until the Ministry of Defence (Defence Estates) have been supplied with the following information:

- (i) date of the commencement of construction;
- (ii) the maximum height (including any extension) of the construction equipment; and
- (iii) the latitude and longitude of every turbine.

Immediately on completion of construction, this body shall be informed of that fact.

**Reason: to safeguard military flight.**

## **INTERPRETATION**

**-(1) In the section 36 consent and the deemed planning permission, and in the conditions, unless the context otherwise requires:**

**"Commencement of the development" means initiation of the development by carrying out a material operation, as defined in section 27(4) of the Town and Country Planning (Scotland) Act 1997.**

**"Commissioning of the development" means the date on which the first wind turbine generator forming part of the development first supplies electricity on a commercial basis.**

**"the Company" means Dorenell Ltd (UK) (Company no. No.05628395, registered office at 16 West Borough, Wimborne, Dorset, BH21 1NG) or its successors or assignees.**

**"Construction Period" means the period from the Commencement of the development until the site compounds have been reinstated in accordance with the conditions of this consent;**

**"the Development" means the Dorenell wind-powered electricity generating station near Dufftown comprising no more than 59 turbines and associated works as described in Annex 1.**

**"ETSU-R-97" means the ETSU Report number ETSU-R-97 'The Assessment and Rating of Noise from Windfarms' published in September 1996;**

**ETSU-R-97 derived 'quiet waking hours' or 'night hours' noise limit means the noise limits derived in accordance with paragraphs 1.2.3, 1.3.1 and 1.3.2 of the Supplementary Guidance Notes to the Planning Obligation, pages 101 to 102, of ETSU-R-97;**

**"Final Commissioning of the Development" means the date on which the last wind turbine generator forming part of the Development is commissioned and generating electricity to the national grid;**

**'Ministry of Defence' means the HM Ministry of Defence**

**"NERL" means NATS En Route Ltd (Company No. 4129273, registered office at 5th Floor South, Brettenham House, Lancaster Place, London WC2E 7EN) or its successors or assignees.**

**"Night hours" means 23:00 - 07:00 hours on all days.**

**"Operational Period" means the period from the date of the Final Commissioning of the Development until the last date on which any of the wind turbine generators supplies electricity on a commercial basis;**

**"Operator" means NATS (En Route) pic, incorporated under the Companies Act (4129273) whose registered office is 5th Floor, Brettenham House South, Lancaster Place, London, WC2E 7EN 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 Moray Council;**

**"Operator Radar Mitigation Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken (including provision of an agreed extra radar feed) to mitigate at all times the impact of the wind farm development at Blackcraig Hill on NERL's operations which reflects the requirements of the approved Statement of Common Understanding.**

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

**"The Site" means the area outlined in red on figure 1 attached to this consent.**

**"Statement of Common Understanding" means a document devised in accordance with condition 19(1) and agreed with NERL which sets out the high level requirements of the Primary Radar Mitigation Scheme and the principles which will govern the development and agreement of such a scheme.**

**"Wind Turbine Noise Level" means the rated noise level due to the combined effect of all the wind turbines, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R-97, pages 99 - 109.**

**"Wind Speeds" means wind speeds measured or calculated at a specified height of 10 metres above ground level on the site at a specified Ordnance Survey grid reference agreed with the planning authority.**

**(2) References to the date or time of the commencement of the Development means the date on which the development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997 but shall not include any activities, including works necessary to give effect to the conditions of this consent, site investigations or surveys, setting out works or any other works or activities.**