

Cloud Hill Windfarm Limited
22 Chancery Lane
London
England
United Kingdom
WC2A 1LS

16 December 2025

Dear Sir/Madam

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF CLOUD HILL WIND FARM WITHIN THE PLANNING AUTHORITY AREA OF DUMFRIES AND GALLOWAY COUNCIL

Application

1. On 23 August 2023 the Scottish Ministers received an application ("the Application") from ERM (on behalf of Cloud Hill Windfarm Ltd) for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") to construct and operate Cloud Hill Wind Farm ("the proposed Development"). Cloud Hill Windfarm Ltd ("the Company") is incorporated under the Companies Act with company number 13180855 and having its registered office at 22 Chancery Lane, London, England, United Kingdom, WC2A 1LS.

2. The proposed Development is located wholly within the planning authority area of Dumfries & Galloway Council ("the Planning Authority"). The Application, as initially submitted, comprised of 11 wind turbines each with a maximum tip height of 180 metres ("m") and associated infrastructure. In response to consultation responses, the number of turbines was reduced to 10. The Company sought consent for an operational life of 35 years.

3. This letter contains the Scottish Ministers' **decision to grant** section 36 consent for the proposed Development as described at Annex 1.

Planning Permission

4. In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 the Scottish Ministers may, on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station, direct that planning

permission be deemed to be granted in respect of that generating station and any ancillary development.

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

Background

6. The proposed Development will be located on land approximately 4.5 kilometres ("km") south of Sanquhar, and approximately 4 km south-east of Kirkconnel, within the administrative area of Dumfries and Galloway Council.

7. The site of the proposed Development covers approximately 804 hectares (ha). The proposed site entrance is approximately 0.5 km south-west of Sanquhar. The proposed Development is located within an area predominantly characterised by open moorland with rough grasses. There are semi-improved pasture fields on the lower eastern hills, and several forestry plantations are located nearby. This includes the Ulzieside Plantation which covers approximately 41 hectares and lies adjacent to the northern site boundary. The site features several prominent hilltops and ridgelines, including Corridow Hill (470m Above Ordnance Datum ("AOD")), Mid Rig (437m AOD), Cloud Hill (440m AOD), and Whing Head (456m AOD). These elevated areas are interspersed with a network of watercourses that traverse the site, notably Whing Burn, Glenmaddie Burn, Glen Burn, and Glenlarie Burn.

8. There are 10 operational or consented wind farms within 10 km of the proposed Development, and 152 within a 45 km radius of the proposed Development.

9. The proposed Development is located immediately east of the operational Whiteside Hill Wind Farm and 3.4km north-west of Twentyshilling Hill Wind Farm. Access to the site will be via the C125N (from the U540N At Braefoot Cottage to the C128N At Nithbank Cottage, near Ulzieside Farm) to the northwest of the Site. A network of approximately 12.7km of new and existing (approximately 8km new and 4.7km existing) access tracks, will be upgraded and utilised to access the proposed Development.

10. There are no residential properties within the site boundary. Settlement in the upland area immediately surrounding the site is limited. The nearest individual residences and small groups of houses are located within the upland glens of the Euchan Water to the north and Scaur Water to the south. Four properties are within the 2km radius, with the closest property within approximately 971m of the closest turbine. The other three are between 1km and 1.5km from the closest turbine.

11. The site of the proposed Development is not subject to any national, regional or local landscape designations, and there are no statutory or non-statutory natural heritage designations within the site. The Upper Nithsdale Woods Special Area of Conservation (SAC), the Back Wood site of Special Scientific Interest (SSSI), Mennock Water SSSI and North Lowther Uplands SSSI are all within approximately 3-4km of the proposed Development and the Thornhill Uplands Regional Scenic Area (RSA) lies in close proximity to the south west of the Site . The Muirkirk and North Lowther Special Protection Area (SPA) and the Muirkirk Uplands SSSI are

approximately 11.7 km from the closest turbine. Upper Nithsdale Woods SAC is classified for mixed woodland on base-rich soils associated with rocky slopes. The Muirkirk and North Lowther SPA is classified for its internationally important breeding populations of Hen Harrier, Merlin, Peregrine, Short-Eared Owl, and Golden Plover, as well as its wintering population of Hen Harriers.

Legislation and consultation (including Additional Information)

12. The Application for Section 36 consent requires to be determined in line with the provisions of the Electricity Act, the Electricity (Applications for Consent) Regulations 1990 ("the Consents Regulations") and the Electricity Works (Environmental Impact Assessment (Scotland) Regulations 2017 ("the EIA Regulations).

13. Under paragraph 2(1) of Schedule 8 to the Electricity Act, the relevant planning authority, in this case Dumfries and Galloway Council, is required to be notified in respect of a section 36 consent application.

14. In accordance with the EIA Regulations, the Company submitted an Environmental Impact Assessment report ("the EIA Report") in August 2023, in support of the Application, describing the proposed Development and giving an analysis of its environmental effects. Volume 1 comprised the main EIA Report chapters. Volume 2a comprised figures excluding LVIA, Volume 2b LVIA figures, Volume 2c Visualisations. Volume 3 comprised the Technical Appendices. Volume 4 comprised a Non-Technical Summary. Supporting documents were submitted with the EIA Report, including a Planning Statement describing the proposed Development and giving an overview of how the proposed Development accords with national and local planning and energy policies. The Scottish Ministers have examined the EIA Report and are satisfied that it has been produced in accordance with the EIA Regulations.

15. In accordance with the requirements of the Consents Regulations and the EIA Regulations, a notice of the Application was published on the Company's website and advertised in local and national press. The Application, the EIA Report and associated documentation were made available in the public domain and the opportunity given for those wishing to make representations to do so.

16. To comply with the EIA Regulations, the Scottish Ministers are required to consult the relevant planning authority, as well as NatureScot, the Scottish Environment Protection Agency ("SEPA") and Historic Environment Scotland ("HES") as well as other public bodies likely to be concerned by the proposed Development by reason of that body's specific environmental responsibilities. The required consultation ("the Application consultation") was undertaken by Scottish Ministers.

17. The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Act in respect of the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

19. As required by section 36(5A) of the Electricity Act, SEPA's advice has been considered by the Scottish Ministers with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. In its response to the Scottish Ministers SEPA direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

Additional Environmental Information

20. In November 2024, in response to matters raised in consultation responses, the Company submitted Additional Environmental Information ("AEI"). The AEI included changes made to the layout of the proposed Development, specifically the removal of one turbine, the relocation of a turbine and the relocation of the substation and battery storage. Changes to ancillary infrastructure were also included. The AEI included addendums to chapters in the EIA Report submitted by the Company in August 2023 in support of the Application, and updates of the Biodiversity Enhancement Plan, Peat Slide Risk Assessment and Outline Peat Management Plan.

21. In accordance with Regulation 20 of the EIA Regulations, the AEI was made available for public inspection. Public notices informing the public of the AEI and where it could be viewed were published in the Edinburgh Gazette and in a newspaper circulated in the respective local communities. The notices also included advice about how representations to the Scottish Ministers could be made.

22. The required statutory consultation ("the AEI consultation") was initiated by the Scottish Ministers on 19 November 2024. The AEI was made available to all parties consulted for the Application consultation.

23. The Scottish Ministers are satisfied that the EIA Report and the subsequent AEI were advertised and consulted upon in accordance with the requirements of the EIA Regulations.

24. Following the AEI consultation process, a letter was submitted by the Company dated 4th April 2025 confirming that the Battery Energy Storage Facility (BESS) would no longer be part of the proposed Development and that the substation would be relocated to its original position as specified in the initial Application. Consultees were informed of this change. As the substation had previously been assessed the Scottish Ministers concluded that no further advertisement or consultation was necessary.

25. The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations and the EIA Regulations, and are satisfied the general public, as well as statutory and other consultees, have been

afforded the opportunity to consider and make representations on the proposed Development.

26. Before granting any section 36 consent the Scottish Ministers, in accordance with section 36(5A) of the Electricity Act, are required to obtain SEPA advice on matters relating to protection of the water environment and have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

27. In their response to the Scottish Ministers, SEPA direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

28. The Scottish Ministers are satisfied that the EIA Report and the AEI have been produced in accordance with the EIA Regulations. The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, the EIA Report, the AEI, the representations and the consultation responses into consideration in reaching their decision.

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

30. Under paragraph 3(3) of Schedule 9 of the Electricity Act, the Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to stock of fish in any waters. The Scottish Ministers are satisfied that this is the case and more generally that the requirements of paragraph 3 have been met.

31. The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations and the EIA Regulations, and are satisfied the general public, as well as statutory and other consultees, have been afforded the opportunity to consider and make representations on the proposed Development

Public Inquiry

32. In accordance with paragraph 2(2) of Schedule 8 to the Electricity Act, where the relevant planning authority objects to an application and that objection is not withdrawn, the Scottish Ministers shall cause a Public Inquiry to be held, unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the Planning Authority.

33. The Planning Authority did not object to the proposed Development and therefore, a Public Inquiry under paragraph 2(2) is not a statutory requirement. However, Paragraph 3 of Schedule 8 to the Electricity Act provides that where objections or copies of objections have been sent to the Scottish Ministers by other parties, they must consider those objections together with all other material considerations with a view to determining whether a Public Inquiry should be held. If the Scottish Ministers consider it appropriate to do so, they must cause a Public Inquiry

to be held. The Scottish Ministers consider that there is no requirement for a Public Inquiry in this instance.

34. The Scottish Ministers have considered the objections raised by the Royal Society for the Protection of Birds Scotland (“RSPB Scotland”), Tynron Community Council and the objections raised in representations submitted by the public and have determined that it would not be appropriate to hold a Public Inquiry in this instance.

35. The Scottish Ministers are content there is sufficient information to be able to make an informed decision on the Application and that they can weigh all the conflicting issues without recourse to hold a Public Inquiry.

36. The Scottish Ministers are satisfied that both the public and the consultative bodies have been afforded ample opportunity for their objections to be made and that little would be added to the Scottish Ministers’ understanding of parties’ positions by discussion in a Public Inquiry forum.

Conservation of Habitat and Species Regulations

37. The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require the Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations, and consideration is also given to whether the proposed Development is directly connected with or necessary to the management of the European site.

38. The proposed Development’s nearest turbine is approximately 11.7 km from the Muirkirk & North Lowther Uplands Special Protection Area (“the SPA”), which is an extensive moorland recognized for its important upland habitats and breeding birds, including the golden plover, hen harrier, merlin, peregrine, and short-eared owl.

39. NatureScot did not identify any significant effects in relation to any of the qualifying interests of the SPA and consequently a Habitats Regulation Appraisal is not required from the Scottish Ministers.

Summary of the Consultation Responses

40. A summary of the consultation responses is provided below. The full responses are available on the Energy Consents Unit website www.energyconsents.scot

Statutory consultees

41. **The Planning Authority** do not object. Their assessment was undertaken against the Development Plan, including National Planning Framework 4 (NPF4), Dumfries and Galloway Local Development Plan 2 (LDP2), and associated supplementary guidance. While acknowledging significant landscape and visual effects, particularly within 5–6 km of the site, the Planning Authority concluded that these effects are localised.

42. The Planning Authority commissioned an independent landscape and visual impact assessment, which identified two grounds for objection (GFRDs): daytime visual dominance within Scaur Water and night-time impacts from aviation lighting. However, the Planning Authority determined that both concerns could be addressed. The consented Sanquhar II Wind Farm would alter the baseline sufficiently to reduce the significance of daytime effects, and aviation lighting impacts could be mitigated through directional lighting and reduced intensity in clear conditions. Effective lighting mitigation secured by condition would address concerns regarding night-time impacts.

43. Impacts on residential visual amenity were assessed through the Residential Visual Amenity Assessment (RVAA), which identified a small number of properties within 2 km experiencing significant effects. However, these were not considered sufficient to render the properties unacceptable as places of residence. Similarly, effects on the historic environment were deemed acceptable, given the presence of existing wind farms and the limited additional impact on heritage assets.

44. In conclusion, the Planning Authority found the proposal to be broadly in accordance with the Development Plan, subject to the application of recommended conditions. While residual concerns remain, particularly regarding landscape sensitivity and night-time lighting, these were not considered sufficient to justify a formal objection.

45. The Scottish Ministers have imposed appropriately worded conditions on the planning permission which give effect to the requirements of the Planning Authority. The conditions sought by the Planning Authority are contained in Annex 2, part 2 of this determination.

46. **NatureScot** do not object to the proposed Development. In relation to ornithology, NatureScot identified some shortcomings in the survey data but considered these insufficient to alter the overall assessment and, with appropriate mitigation including a Biodiversity Enhancement Management Plan, the proposed Development is unlikely to have significant effects on key ornithological features.

47. In their consultation response NatureScot stated that they are satisfied with the assessment of ecological and peatland resources. They agree with the assessment that significant effects on natural heritage can be avoided through embedded mitigation. NatureScot welcomed the proposed habitat restoration measures, including peatland restoration and habitat improvements for waders and black grouse, though they note that predator management should be considered to ensure the success of these measures.

48. NatureScot acknowledged that the proposed Development would result in landscape and visual effects but concluded that these were such that they do not raise issues of national interest. Conditions which will give effect to the mitigation recommended by NatureScot are contained in Annex 2, part 2 of this determination.

49. **SEPA** do not object to the proposed Development subject to the imposition of conditions.

50. SEPA requested that conditions be imposed in relation to a finalised Peat Management Plan, a finalised Biodiversity Enhancement Management Plan, mitigation in protection of wetland habitats and infrastructure micro-siting allowances to avoid areas of deep peat and other sensitive features, such as watercourses and groundwater dependant terrestrial ecosystems. To ensure construction works are conducted in line with the Application submission, SEPA request that the Company must adhere to the mitigation described in the 'Schedule of Mitigation' (EIA Report Table 17.1).

51. The Scottish Ministers have imposed appropriately worded conditions on the planning permission, in consideration of circular 4/1998, which give effect to the requirements of SEPA, these are contained in Annex 2, part 2 of this determination.

52. **HES** do not object to the proposed Development, concluding that it will have no detrimental impacts on the integrity of the setting of any of their historic environment assets. They do not consider that the Application raises historic environment issues in the national interest.

Internal Advisors to Scottish Government

53. **Marine Scotland (now known as Marine Directorate – Science Evidence Data and Digital (“MD-SEDD”))** provide standard advice and guidance on preparing and establishing a robust integrated water quality and fish population monitoring programme.

54. **Scottish Forestry** stated that they had no concerns regarding the proposed Development. They noted that the proposed Development avoided existing forestry plantations and that it did not impact on sites that have been recently planted.

55. **Transport Scotland** do not object to the proposed Development subject to conditions relating to abnormal loads, construction materials and construction traffic. The Scottish Ministers have imposed appropriately worded conditions which give effect to Transport Scotland's requirements (see Annex 2, part 2).

External Advisors to Scottish Government

56. **Ironside Farrar (Peat)** are advisors to the Scottish Ministers on Peat Landslide and Hazard Risk Assessment (“PLHRA”). Following minor revisions requested during the Stage 1 and Stage 2 assessments of the Company's PLHRA, Ironside Farrar confirmed in their final Stage 3 assessment that the revised submission was satisfactory. They advised that the PLHRA was considered sufficient and that no further action was required.

Other consultees

57. **British Telecom the Coal Authority, Glasgow Airport and the Health and Safety Executive** do not object to the proposed Development.

58. **Civil Aviation Authority (“CAA”)** do not object to the proposed Development. A lighting variation has been granted to the Company permitting medium intensity

steady red lights on five identified turbines, with dimming permitted under favourable visibility conditions. The CAA considers the lighting arrangement proposed to be sufficient to support aircrew situational awareness. The CAA confirmed that intermediate-level 32 candela lights are not required on the turbine towers.

59. **Defence Infrastructure Organisation (Ministry of Defence (“MOD”))** do not object to the proposed Development subject to conditions in respect of aviation lighting and aviation charting and safety management. The Scottish Ministers have imposed appropriately worded conditions which will meet the requirements of MOD (see Annex 2, part 2).

60. **East Ayrshire Council (“EAC”)** do not object to the proposed Development. EAC expressed general satisfaction with the EIA Report, noting minimal impacts on the UNESCO Biosphere Zone, Southern Upland Way, and local landscapes within East Ayrshire. They did however advise caution in respect of cumulative effects on the recreational value of the Southern Uplands Way, in combination with other nearby wind farms.

61. **Glasgow Prestwick Airport (“GPA”)** do not object to the proposed Development. They requested that they are consulted further, should an Aircraft Detection Lighting System (ADLS) be proposed with regards to aviation lighting mitigation.

62. **Joint Radio Company (“JRC”)** do not object to the proposed Development, subject to there being a 50m micrositing mitigation allowance. The Scottish Ministers have imposed an appropriately worded condition to give effect to the requirements of JRC (see Annex 2, part 2).

63. **Kirkconnel and Kelloholm Community Council (“KKCC”)** do not object to the proposed Development. They supported the proposed Development stating that there was extensive, positive engagement with the Company.

64. **National Air Traffic Services Safeguarding (“NATS”)** do not object to the proposed Development, subject to the imposition of conditions. They confirmed that an agreement has been entered into between themselves and the Company for the implementation of an identified and defined mitigation solution in relation to the development, and the agreement of suitable planning conditions. The Scottish Ministers have imposed appropriately worded conditions which give effect to NATS’ requirements (see Annex 2, part 2).

65. **Nith District Salmon Fishery Board (“NDSFB”)** do not object to the proposed Development subject to a full suite of surveys being conducted within the aquatic environment. This will enable them to determine if there have been any impacts in that environment or the species contained within. The Scottish Ministers have imposed appropriately worded conditions which give effect to NDSFB’s requirements (see Annex 2, part 2).

66. In their response to the Application consultation **Royal Society for the Protection of Birds Scotland (“RSPB Scotland”)** objected to the proposed Development due to the effects it could have on the status of red listed Black Grouse.

They also had concerns regarding impacts on red-listed and globally near-threatened breeding Curlew not being addressed. The AEI submitted by the Company in November 2024 included details of how this objection would be addressed. In their response to the AEI consultation RSPB Scotland stated that AEI provided did not provide sufficient detail to allow them to withdraw their objection.

67. RSPB Scotland requested that conditions be imposed to secure a revised Outline Biodiversity Enhancement Management Plan targeting Curlew and Black Grouse habitat enhancement and a Breeding Bird Protection Plan. The conditions sought by RSPB Scotland are contained in Annex 2, part 2 of this determination.

68. **Scottish Water** do not object to the proposed Development. Their records indicate the presence of live infrastructure in close proximity to the proposed Development, which may have implications for existing Scottish Water assets. They advise that the Company must identify any potential conflicts with these assets and contact Scottish Water for an appraisal of the proposals. They note that the proposed Development would not affect any Scottish Water drinking water catchments or water abstraction sources which are designated as Drinking Water Protected Areas under the Water Framework Directive.

69. **The Scottish Rights of Way and Access Association (ScotWays)** do not object to the proposed Development. They continue to express concern regarding the impact of wind farm development on the Southern Upland Way, particularly in relation to turbine encroachment along the route.

70. **The Royal Burgh of Sanquhar and District Community Council** do not object to the proposed Development. They stated that there is “*an overwhelming support*” for the proposed Development which is “*documented in the Community Action Plan which is supported by the local community*”.

71. **Tynron Community Council (“TCC”)** object to the proposed Development. They considered the proposed Development as contributing to a wider pattern of overdevelopment in the Southern Uplands and “*mass industrialisation*” of the region which outweighs any benefits it could bring. TCC consider the proposed Development contrary to NPF4. They highlighted the environmental implications of further wind farm expansion in the area, including habitat disruption and impacts on biodiversity. TCC also made reference to what they perceive as being a lack of sufficient grid infrastructure to accommodate energy generation.

72. The following organisations were consulted but did not submit a response:

- British Horse Society;
- Crown Estate Scotland;
- Galloway and Southern Ayrshire Biosphere;
- John Muir Trust;
- Mountaineering Scotland;
- Penpont Community Council;
- Scottish Wildlife Trust;
- Scottish Wild Land Group;
- Visit Scotland and;

- West of Scotland Archaeology Service.

73. All consultation responses received have been taken into account in the determination of the proposed Development.

Representations

74. The Scottish Ministers received a total of 35 public representations, 34 of which objected to the proposed Development and 1 being in support. In the representation submitted in support of the proposed Development no reasons for supporting it were stated. Reasons for objecting were:

- landscape and visual impacts including cumulative;
- scale of turbines;
- flood risk and impacts on water supplies;
- shadow flicker;
- economic impacts;
- noise;
- impacts on habitats;
- impacts on ornithology;
- impacts on peat and soils;
- impacts on radar and communication networks;
- impacts on ecology and biodiversity;
- impacts through degradation of turbine components;
- impacts on tourism including the Southern Uplands Way;
- impacts on the Thornhill Uplands Regional Scenic Area;
- insufficient electrical transmission infrastructure;
- energy generation outweighing demand;
- impacts on local economy;
- residential amenity impacts;
- aviation lighting effects;

75. Full details of all the representations received are available on the Energy Consents Unit website at www.energyconsents.scot

76. The effects of the proposed Development during its construction and operation, on the landscape character, visual receptors and visual amenity, tourism and tourist routes, noise, shadow flicker, flood risk, cultural heritage, peat, socio-economics, habitats, biodiversity, birds, transport routes, private water supplies, cumulative impacts, and its positive contribution to climate change have been assessed in the EIA Report, and AEI, including all appendices and accompanying documents.

77. The EIA Report and AEI identify that there are some significant effects and taking this into account, together with the advice from statutory consultees, the Scottish Ministers consider the effects are acceptable, subject to conditions and mitigation measures being implemented.

78. The matters relating to landscape and visual impacts including aviation lighting and cumulative effects and the effects on ornithology are considered by Scottish Ministers throughout the remainder of this letter.

79. The Scottish Ministers are satisfied that the matters pertaining to representations have been appropriately considered, in the context of current policy and guidance, and the matters raised have been taken into account in the determination of the proposed Development. The Scottish Ministers have considered the matters raised in the consultation responses and public representations and are satisfied, having taken into account the EIA Report and the AEI that the significant environmental impacts of the proposed Development have been appropriately assessed and largely mitigated by design. The Scottish Ministers are satisfied that the conditions imposed by them at Annex 2 of this decision letter are necessary and reasonable, having regard to the proposed Development's likely impacts, the mitigation required in respect of those impacts and the recommendations and advice from consultees as summarised above.

80. The remaining impacts are considered to be acceptable in light of the overall benefits of the proposed Development. This reasoning is set out in more detail under the heading "Assessment of Determining Issues" at pages 13 through to 18 of this decision letter.

The Scottish Ministers' Considerations

Legislation and Environmental Matters

81. The Scottish Ministers are satisfied that the EIA Report and the AEI have been produced in accordance with the EIA Regulations and that applicable procedures regarding publicity and consultation requirements, laid down in EIA Regulations, have been followed.

82. The Scottish Ministers have fully and carefully considered the Application, including the EIA Report, the AEI, the consultation responses and the representations and are satisfied that the environmental impacts of the proposed Development have been assessed. The Scottish Ministers have taken the environmental information into account when reaching their decision.

In accordance with paragraph 3 of Schedule 9 to the Act, the Scottish Ministers have also had regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. The Scottish Ministers have also had regard to the extent to which the Company has done what it reasonably can to mitigate any effect the proposed Development would have on those matters.

Main Determining Issues

83. Having considered the Application, the EIA Report, the AEI, consultation responses and the representations as well as Scottish Government policies, the Scottish Ministers consider that the main determining issues in respect of the proposed Development are:

- Landscape and visual impacts including Aviation Lighting and Cumulative impacts;
- its effects on ornithology
- The benefits of the proposed Development; and
- The extent to which the proposed Development accords with Scottish Government policies, the local development plan and other relevant guidance.

Assessment of Determining Issues

Landscape and Visual Impacts including Aviation Lighting and Cumulative Effects

84. The site of the proposed Development is located on an area of open moorland comprising rough grasses. The main site area demonstrates complex topography varying in elevation from a high of approximately 470 m Above Ordnance Datum ("AOD") in the south-east of the site and a low of approximately 150 m AOD, in the north-east of the site. The site of the proposed Development lies mostly within the Nithsdale Landscape Character Unit ("LCU") of the Southern Uplands Landscape Character Type("LCT") (LCT19 Southern Uplands) and extends into the Upper Nithsdale LCU of the Upper Dale (Valley) LCT (LCT 9). All of the proposed turbines and main infrastructure will be located within the Southern Uplands Nithsdale Unit.

85. The EIA Report assesses eleven LCTs and identifies that three would be subject to significant effects due to the proposed Development. These are:

- DG LCT 9 Upper Dale (Valley) / Upper Nithsdale LCU;
- DG LCT 10; Upland Glens / Scaur LCU; and
- DG LCT 19 and the Southern Uplands / Nithsdale LCU.

86. The EIA Report also predicts significant effects on parts of the Thornhill Uplands RSA, which lies within 5-6 km of the proposed Development.

87. In chapter 6 of volume 1 of the EIA Report the Company provided a detailed assessment of the landscape and visual aspects of the proposed Development. This was accompanied with numerous visualisations.

88. The Company's Landscape and Visual Impact Assessment ("LVIA") concluded that there would be some significant landscape and visual effects on the baseline environment as a result of the proposed Development. The Company stated that although there would be significant landscape and visual effects, they would be contained locally, within 7.5km of the proposed Development. The assessment concluded that of the viewpoints assessed, significant visual effects were predicted at seven of the twenty-two viewpoints and eight of the thirteen visual receptors. Significant effects are predicted from the following viewpoints: A76, Sanquhar Castle; Sanquhar Church Road; Euchan Water Minor Road; Shiel, Scaur Water Minor Road; Southern Upland Way, east of Sanquhar; Polgown, Scaur Water Minor Road; and Crawick Multiverse. Significant effects are predicted from the following visual

receptors: Sanquhar; A76; Glasgow – Carlisle Railway Line; Euchan Water minor road; Scaur Water minor road; SUW; Kirkconnel to Mynwhirr Hill core path; and Sanquhar Castle Circular core path. The Company note that the Southern Upland Way passes through the proposed site and that users of the right of way would experience close range significant effects.

89. The LVIA also considered cumulative effects, concluding that significant cumulative effects are predicted in the three LCTs and one RSA, specifically in areas between approximately 5 to 6 km from the site. These would be associated with the existing pattern of wind farm development set out in the EIA Report- Chapter 6, including at operational developments, Whiteside Hill (0.54km distance), Sanquhar (2.32km distance), TwentyShilling (3.49km distance) and Sandy Knowe (4.75km distance), and consented developments Sanquhar II (4.31km) and Lorg (5.79km) Wind Farms.

90. Significant cumulative visual effects are predicted in relation to seven representative viewpoints and six principal visual receptors located within 7.5 km of the proposed Development. The viewpoints comprise: A76; Sanquhar Castle; Sanquhar Church Road; Euchan Water Minor Road; Shiel, Scaur Water Minor Road; Southern Upland Way east of Sanquhar; Polgown, Scaur Water Minor Road; and Crawick Multiverse. The principal visual receptors comprise: Sanquhar; Euchan Water Minor Road; Scaur Water Minor Road; Southern Upland Way; Kirkconnel to Mynwhirr Hill core path; and Sanquhar Castle Circular core path.

91. According to the LVIA, the proposed Development's placement and turbine spacing have been designed to read as a natural easterly extension of the neighbouring operational development, Whiteside Hill. The EIA Report states that within the 5–6 km range, visibility for landscape and visual receptors would generally be limited in areas screened by woodland or landform.

92. The LVIA concludes that significant landscape and visual effects would be largely contained within a localised area, would occur intermittently, and that the local landscape has capacity to accommodate the proposed Development.

93. In respect of turbine lighting, Article 222 of the UK Air Navigation Order 2016 requires medium intensity (2000 candela) steady red aviation warning lights to be mounted as close as possible to the top of all structures at or above 150m above ground level. This would include lighting during the hours of darkness.

94. An assessment of visible turbine lighting identified that the proposed Development would be expected to have significant visual effects on one viewpoint, Euchan Water Minor Road. No other viewpoint was considered as being significantly affected, owing to existing baseline lighting in the Nith Valley from operational windfarms. Following engagement with the Planning Authority, the lighting strategy originally proposed and presented in the EIA Report was revised. The AEI submitted by the Company in November 2024 presented a revised version requiring less turbines to be fitted with lighting. Lighting would be required on turbines T01, T03, T07, T09 and T10. Mitigation would include directional lighting and, potentially, physical light-shielding to reduce visual effects. The AEI sets out that the reduced lighting scheme will considerably reduce nighttime illumination and that with the removal of Turbine 8,

the turbines which would have lighting fitted to them would appear more contained along the ridgeline. The CAA confirmed in their consultation response that they were satisfied with the proposed lighting strategy.

95. NatureScot raised no objection to the proposed Development on landscape and visual grounds. While recognising that significant effects are likely, they did not consider these to raise issues of national interest and therefore offered no further advice or comment.

96. The Planning Authority has considered the visual impacts against viewpoints agreed with the Company at the scoping stage. They concluded that the proposed Development would result in significant effects and that there are some aspects of the scheme which would give rise to levels of harm that are above an ideal threshold. In particular, the Planning Authority considered impacts on the Southern Upland Way, local landscapes, and parts of the RSA, to be potentially severe but localised.

97. With regards to cumulative effects, the Planning Authority stated that although the difference in turbine scale would be apparent in cumulative views, Cloud Hill Wind Farm would be visually cohesive with the operational and consented baseline. The Planning Authority acknowledged the Company's commitment to implement landscaping and planting to provide screening for certain infrastructure elements.

98. With regards to daytime visual impacts, the Planning Authority considered that they were localised (within 5-6km) and that they were not overriding adverse both singularly and cumulatively.

99. The Planning Authority considered the proposed Development as having visual interaction with a regional scale designation, the Thornhill Uplands RSA, affecting small areas in the western part of the RSA. They concluded that the Special Landscape Qualities of the Thornhill Uplands RSA in this particular area have already been diminished due to the current operational and consented wind farm baseline. The Planning Authority stated, "*that if the consented Sanquhar II scheme is implemented, Sanquhar II would erode the remaining special qualities of the Regional Scenic Area to the extent that this suggested GRFO should be removed*". The Scottish Ministers note that construction work for Sanquhar II Wind Farm commenced in August 2025.

100. With regards to visual impacts from nighttime lighting, the Planning Authority stated that such lighting would have a significant impact within a typically dark sky and upland landscape with a relatively remote character.

101. The Planning Authority stated that significant effects could extend beyond 13 km to the north-east. In the consultation response, the Planning Authority's landscape consultant advised that the aviation lighting could cause severe regional scale effects on rural populations within Upper Nithsdale and the Euchan and Scaur Water valleys due to the introduction of such lighting into inherently dark and tranquil night-time views. The landscape consultant also advised that effective mitigation could sufficiently reduce these effects. The Planning Authority requested a condition enabling assessment of the final lighting scheme and mitigation should consent be granted.

102. In terms of cumulative impacts, which are cited as part of the basis for the objection from Tynron Community Council and numerous public representations, the Planning Authority considered that the proposed Development would add to the existing wind turbine baseline in such a way that it impacts adversely on landscape character. They noted that the proposed turbines would exhibit a noticeable difference in scale compared to existing developments. However, they also acknowledged that when seen in combination with other wind farms from more distant viewpoints, the proposed Development would demonstrate a degree of visual cohesion within the wider landscape.

103. The Planning Authority advised that consented Developments with taller turbines of 200m tip height, surrounding the proposed Development, have established a change in the baseline, creating a broader cluster of comparable scale in the Southern Uplands.

104. The Planning Authority also advised that design changes submitted in the AEI, the subsequent removal of the BESS and the relocation of the substation to its originally assessed location within the proposed Development, had resolved some potentially unacceptable landscape and visual impacts.

105. In summary in respect of landscape and visual effects, the Planning Authority considers that while there are still substantial concerns regarding the daytime landscape and visual impacts and the proposed Development does not fully align with the LDP2 supplementary guidance (2025 Landscape Sensitivity Study ("LSS")), these concerns are not so significant as to justify a formal objection. With regards to the night time landscape and visual impacts they state that "*Although the introduction of aviation lighting into an otherwise dark area of the landscape would give rise to adverse effects as explained above, whether or not in cumulation with lighting from other schemes, in this instance it is not considered to promote an unacceptable principle, and therefore would not give rise to reasons to object*". The Planning Authority's overall conclusion is that the nature of the significant adverse effects by day and night and the mitigation proposed by the Company are such that on balance, the proposed Development is considered acceptable from a landscape and visual perspective both by day and by night.

106. The Scottish Ministers acknowledge that the proposed Development would give rise to some significant landscape and visual effects. Daytime effects are expected to be experienced they are likely to remain relatively localised. Night-time effects, which have the potential to extend further, could be reduced to an acceptable level through the implementation of an effective and appropriate aviation lighting mitigation strategy. It is further acknowledged that no nationally designated landscapes would be significantly affected by the proposed Development.

107. Given the nature of the proposed Development, the Scottish Ministers accept that it is inevitable that there will be landscape and visual impacts. However, having considered the EIA Report, the AEI, the consultation responses and the representations, the Scottish Ministers consider that the landscape and visual impacts of the proposed Development, including cumulative impacts and the impacts of nighttime lighting, are acceptable. This is applicable both singularly and cumulatively

with other operational and consented Developments in the area. The Scottish Ministers consider that the proposed Development can be accommodated within the chosen landscape.

Ornithological Effects

108. In chapter 8 of volume 1 of the EIA Report the Company provided a detailed assessment of the ornithological impacts of the proposed Development. This was supported by various figures and appendices. These were revised and updated in the AEI submitted in November 2024.

109. The EIA Report contains details of embedded mitigation which would minimise the risk of disturbance, displacement and collision of key species. A Bird Disturbance Management Plan (“BDMP”) will be implemented during construction of the proposed Development to ensure that ornithological related legal responsibilities to safeguard birds are complied with. The BDMP would be extended to include protection of lek sites and specific construction control measures to minimise disturbance.

110. The Company state that a Biodiversity Enhancement Management Plan (“BEMP”), will be prepared and implementing, outline measures for biodiversity conservation, restoration and enhancement. The plan identifies Black Grouse and Curlew as key species.

111. The EIA Report – Volume 1, Chapter 8 concludes that there will be no significant effects to any bird interests using the site. The conclusion of the Company’s assessment of the ornithological impacts of the proposed Development was that “alone or cumulatively” the effects of the proposed Development are considered to be “*no more than minor adverse and therefore not significant in the context of the EIA regulations*”. The Company also stated that in the longer-term with the implementation of the BEMP, “*effects are likely to further reduce in severity and may result in a beneficial net gain*”.

112. NatureScot did not object to the proposed Development and agreed that significant effects on key ornithological species are unlikely, despite some limitations in the survey data. NatureScot welcomed the biodiversity mitigation measures, particularly those targeting Black Grouse, and expressed interest in shaping the final Biodiversity Enhancement Management Plan. NatureScot also advised that predator control be considered to support successful habitat restoration for Black Grouse and breeding waders.

113. RSPB Scotland objected to the proposed Development due to potential impacts on Black Grouse, maintaining their objection following submission of the AEI and further clarification. They recommended turbine relocation to maintain a 500m buffer from lek sites, seasonal restrictions, and cumulative impact assessment. RSPB Scotland also questioned the adequacy of the BEMP and advocated for a strategic, landscape-scale approach to Black Grouse conservation.

114. The Scottish Ministers have taken into account the EIA Report, the AEI and consultation responses, particularly from NatureScot and RSPB Scotland, and consider that with the mitigation proposed, including the adherence to and ongoing

management of a Bird Displacement Management Plan and Biodiversity Enhancement Management Plan, the impacts on ornithology are acceptable. The Scottish Ministers have imposed appropriately worded conditions to secure these measures.

Benefits of the proposed Development

Economic Benefits

115. The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Company states that the proposed Development will result in significant investment in the local area and in Scotland. It is expected that the proposed Development will generate economic benefits during the development and construction phase and will result in approximately £2.7 million Gross Value Added (GVA) in the local economy and an estimated £8.1 million GVA contribution in the Scottish economy.

116. The Company estimates that in its construction phase, the proposed Development will directly support approximately 175 full-time equivalent ("FTE") jobs in Scotland, approximately 58 being in Dumfries and Galloway and East Ayrshire. The operational phase of the proposed Development is expected to support between 13 FTE jobs per annum in Scotland, 9 of these within Dumfries and Galloway and East Ayrshire.

117. Whilst the overall net economic benefits are estimations, the Scottish Ministers are satisfied the potential for positive net economic benefits for the local community, Dumfries & Galloway, East Ayrshire and Scotland, weigh in favour of the proposed Development.

Scottish Government Policies and the Local Development Plan

Climate Change and Renewable Targets

118. The seriousness of climate change, its potential effects, and the need to cut carbon dioxide emissions, remain a priority of the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024 sets a target for Scotland to be carbon-neutral, meaning net zero emissions by 2045 at the latest. The 2024 Act establishes legally binding limits on the amount of greenhouse gases Scotland can emit, over 5 year periods, up to 2045.

119. With an anticipated installed capacity of approximately 56 MW, and an operational life of 35 years, the proposed Development would make a valuable contribution to the Scottish Government's energy targets. The deployment of this 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 date for net-zero emissions of all greenhouse gases by 2045.

120. The carbon payback time is the measurement indicator to assess the influence of the proposed Development on climate change. The shorter the payback period, the greater the benefit the proposed Development would have in displacing emissions

associated with electricity generated by burning fossil fuels. It is acknowledged that the proposed Development has been designed to minimise disturbance to peat and carbon losses by avoiding deep peat where possible.

121. Following submission of the AEI design changes and subsequent clarification letter omitting the BESS, an updated carbon assessment was received from the Company in July 2025, which sets out the carbon balance, showing a payback period of 3.3 years, compared to grid-mix electricity generation, and an expected total carbon saving of approximately 1,135,000 tonnes (tCO₂ eq) over the lifetime of the proposed Development. These savings illustrate that the proposed Development has the potential to contribute significantly towards the reduction of greenhouse gas emissions from energy production.

122. Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

123. The Scottish Ministers are satisfied that the proposed Development would provide carbon savings, and that these savings would be of an order that weighs in favour of the proposed Development.

124. It is noted by the Scottish Ministers that the proposed Development will make a valuable contribution to Scotland's renewable energy, electricity, and emissions reductions targets.

Scottish Energy Strategy and Onshore Wind Policy Statement

125. Scottish Energy Strategy ("SES") 2017 sets a 2030 target for the equivalent of 50% of Scotland's heat, transport, and electricity consumption to be supplied from renewable sources (the Draft Energy Strategy and Just Transition Plan (2023) maintains this target).

126. The Onshore Wind Policy Statement ("OWPS") reaffirms the vital role for onshore wind in meeting Scotland's energy targets within the context of the Scottish Government's 2045 net zero emissions commitment. The OWPS sets out the Scottish Government's position for the ongoing need for more onshore wind development and capacity across Scotland where it can be accommodated in appropriate locations.

127. The Scottish Ministers are satisfied that the proposed Development will provide a contribution to renewable energy targets and carbon savings in support of the ambitions of the SES and OWPS.

Scotland's National Planning Framework

128. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of sustainable places, liveable places, and productive places. The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must

contribute to making Scotland a more sustainable place. The strategic renewable electricity generation and transmission infrastructure is a national development within NPF4 and supports renewable electricity generation, repowering, and expansion of the electricity grid.

129. The energy policy principles encourage, promote, and facilitate all forms of renewable energy development onshore and offshore, including energy generation and storage. Development proposals for all forms of renewable technologies will be supported including wind farms and where they maximise net economic impact. Wind farms will not be supported in National Parks and National Scenic Areas.

130. The energy policy sets out the matters that are to be addressed in the design and mitigation of a development which include impacts (including cumulative) on communities and individual dwellings; significant landscape and visual impacts; historic environment; biodiversity; trees and woodlands; public access; aviation and defence interests; telecommunications and broadcasting; road traffic; water environment; decommissioning of developments and site restoration. The policy requires that in considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. The policies within NPF4 require to be considered and balanced when reaching a decision on applications for wind energy development.

131. The Scottish Ministers are satisfied that the matters pertaining to NPF4 have been assessed in the Application, EIA Report, AEI and considered in responses from the Planning Authority, HES, SEPA, NatureScot and other relevant bodies.

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

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

134. The Scottish Ministers acknowledge that the proposed Development would result in some mainly localised visual and landscape effects, inclusive of aviation lighting, cumulative impacts and the impacts on ornithology. Having considered the Application, EIA Report, the AEI, consultation responses and public representations, the Scottish Ministers consider that appropriate design mitigation has been applied, reducing the significance of the landscape and visual effects and impacts on ornithology to an acceptable level. On balance, the Scottish Ministers find that the proposed Development is supported overall by NPF4 policies. The mainly localised

visual and landscape effects, inclusive of aviation lighting, cumulative impacts and the impacts on ornithology are considered acceptable, in the context of the net economic benefits of the proposed Development and it's contribution to renewable energy and climate change targets.

Local Development Plan

135. The Planning Authority considered the application against its Development Plan, LDP2, and concluded that while the proposed Development does not fully comply with all relevant policies, on balance it is not considered to be in conflict. The Planning Authority consider the proposal to be acceptable in terms of the Development Plan, national policy and all other applicable material considerations. The Planning Authority raised no objection, subject to appropriate conditions.

136. The Scottish Ministers in making their determination on the Application, have balanced the above considerations, decided what weight is to be given to each and reached a view as to where the balance of benefit lies. On balance, it is considered that the proposed Development is acceptable.

137. The Scottish Ministers have considered the conditions as proposed by the Planning Authority and have imposed appropriately worded conditions to this consent.

The Scottish Ministers' Conclusions

Reasoned Conclusions on the Environment

138. The Scottish Ministers are satisfied that the Application, EIA Report and AEI have been produced in accordance with the Consent Regulations and the EIA Regulations, and that the procedures regarding publicity and consultation laid down in those Regulations have been followed.

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

140. The Scottish Ministers have fully considered the Application, including the EIA Report and it's AEI, consultation responses, representations, and all other material information, and are satisfied that the environmental impacts of the proposed Development have been assessed. The Scottish Ministers acknowledge that there are environmental effects from the proposed Development including mainly localised visual and landscape impacts, effects from aviation lighting and cumulative effects. Taking into account the environmental information and assessments, and subject to conditions to secure mitigation measures, the Scottish Ministers consider the environmental effects of the proposed Development are acceptable.

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

Acceptability of the proposed Development

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

143. The Scottish Ministers have considered the environmental effects of the proposed Development, including the landscape and visual impacts inclusive of aviation lighting, cumulative effects and the impacts on ornithology.

144. Although it is acknowledged that there would be significant localised landscape and visual effects, the Scottish Ministers are satisfied that the proposed Development has been appropriately designed and sited to minimise impacts on the environment. The Scottish Ministers are also satisfied that the proposed Development will not have any significant effects on any protected species, National Scenic Areas or National Parks.

145. The Scottish Ministers accept that the effects, including the landscape and visual impacts inclusive of aviation lighting, cumulative effects and the impacts on ornithology, of the proposed Development will result in some environmental impacts but these are considered acceptable in the context of the benefits that the proposed Development will bring in terms of its contribution to renewable energy and climate change targets.

146. Taking all of the above into account, the Scottish Ministers are content that the proposed Development is supported by Scottish Government policies and should be granted consent.

The Scottish Ministers' Determination

147. Subject to the conditions set out in **Annex 2 – Part 1**, the Scottish Ministers grant consent under section 36 of the Electricity Act 1989 for the construction and operation of the Cloud Hill Wind Farm electricity generating station in the Dumfries and Galloway Council Planning Authority area as described in the Application and at **Annex 1**.

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

Section 36 consent and Planning Permission

149. The consent hereby granted will last for a period of 35 years from the earlier of:

- the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or

- the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

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

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

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

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

154. Copies of this letter have been sent to the public bodies consulted on the Application including the Planning Authority, NatureScot, SEPA and Historic Environment Scotland. This letter has also been published on the Scottish Government Energy Consents website at. <http://www.energyconsents.scot>.

155. The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Court: [chapter-58-judicial-review.pdf \(scotcourts.gov.uk\)](http://scotcourts.gov.uk)

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

Yours sincerely

PP. *Nicola Soave*

Alan Brogan

A member of the staff of the Scottish Government

Annex 1 Description of the Development;

Annex 2 (Part 1) Section 36 conditions and

(Part 2) Deemed Planning Permission conditions;

Annex 3 Site Layout Plan

ANNEX 1

Description of the Development

The Development comprises a wind-powered electricity generating station known as Cloud Hill Wind Farm and is located on land approximately 4.5 kilometres (“km”) south of Sanquhar, and approximately 4 km south-east of Kirkconnel respectively. The site is within the planning authority area of the Dumfries and Galloway Council.

The installed generating capacity will exceed 50 megawatts (“MW”).

The principal components of the Development comprise:

- 10 wind turbines, with a maximum tip height not exceeding 180 m;
- Turbine foundations and hardstandings;
- Electrical Infrastructure (substation and control room, with underground cabling between each turbine and the substation);
- Access tracks (existing, upgraded and new);
- Up to 3 borrow pits;
- A permanent met mast; and
- Temporary construction compound.

All as more particularly shown on Figure 1.2 B ‘Amended Revised Development Site Layout’ attached at Annex 3

Annex 2 – Part 1 Section 36 Conditions

1. Notification of Date of First Commissioning and Final Commissioning

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

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

2. Commencement of Development

- (1) The Development shall be commenced no later than five years from the date of this consent, or such other period as the Scottish Ministers may approve in writing.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authority as soon as is practicable after deciding on such a date and in any event no later than one calendar month prior to the Commencement of Development.

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

3. Assignment

- (1) This consent shall not be assigned, alienated or transferred without the prior written authorisation of the Scottish Ministers.
- (2) In the event that the assignation is authorised, the Company shall notify the Planning Authority and Scottish Ministers in writing of the principal named contact at the assignee and contact details within fourteen days of the consent being assigned.

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

4. Serious Incident Reporting

In the event of any serious breach of health and safety or environmental obligations relating to the Development causing harm to the environment (including harm to humans) during the period of this consent, written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four

hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

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

5. Aviation RADAR- NATS

- (1) No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Scottish Ministers in order to avoid the impact of the development on the Primary Radar of the Operator located at Lowther Hill and Cumbernauld and the associated air traffic management operations.
- (2) No blades shall be fitted to any turbine until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

Definitions- Condition 7:

"Operator" means NATS (En Route) Plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

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

Reason: *In the interests of aviation safety*

Part 2 - Deemed Planning Permission Conditions

6. Commencement of Development

- (1) The Development must be commenced no later than 5 years from the date of this consent.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

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

7. Design of Wind Turbines

- (1) No turbines shall be erected until details and specification of the proposed wind turbines, (including the size, make and model, power rating and sound power levels, nameplate generating capacity, type, external finish and colour) any anemometry masts and all turbine associated apparatus have been submitted to and approved in writing by the Planning Authority.
- (2) For the avoidance of doubt the scale of the turbines shall not exceed the parameters assessed in the EIA Report and set out in the description of the Development at Annex 1.
- (3) The submission shall demonstrate that all wind turbine blades shall rotate in the same direction.
- (4) Thereafter the wind turbines, any anemometry masts and all associated apparatus shall be constructed and operated in accordance with the details approved under part (1) and shall be maintained in the free from external rust, staining or discolouration, until such time as the Development is decommissioned unless otherwise agreed in writing by the Planning Authority.

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

8. Design of Sub-station and ancillary development

- (1) There shall be no Commencement of Development on the sub-station until final details of the location, layout, external appearance, dimensions, and surface

materials of the substation and control room buildings, any above ground electrical equipment, associated compounds, construction compound, boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the details of the sub-station dimensions shall not exceed the parameters assessed in the EIA Report unless otherwise agreed in writing by the Planning Authority.

- (2) Thereafter, the substation and control room buildings, any above ground electrical equipment, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under part (1).

Reason: *To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.*

9. Signage

No part of the Development shall display any text, logo, sign or advertisement (other than health and safety signage as required by law) or be illuminated [with the exception of aviation safety lighting] unless otherwise approved in writing by the Planning Authority.

Reason: *In the interests of health and safety on site and the visual amenity of the area.*

10. Micro-siting

- (1) All wind turbines, buildings, masts, areas of hardstanding, associated infrastructure and tracks shall be constructed in the locations shown on plan reference [Amended Revised Development Layout Plan Figure 1.2b(20 March 2025)] and at the grid references for the turbines set out in [Table 4.2 'Revised Development Wind Turbine Co-ordinates', Volume 1, Chapter 4 'Description of the revised development' of the AEI Report, October 2024]. The locations of wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the redline boundary shown on plan reference [Amended Revised Development Layout Plan Figure 1.2b(20 March 2025)]. Any such micro-siting is subject to the following restrictions unless otherwise approved in advance in writing by the Planning Authority

- (a) no wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on plan reference [Amended Revised Development Layout Plan Figure 1.2b(20 March 2025)] and at the grid references set out in [Table 4.2 'Revised Development Wind Turbine

Co-ordinates', Volume 1, Chapter 4 'Description of the revised development' of the AEI Report, October 2024];

- (b) no access track shall be moved more than 50m from the position shown on plan reference [Amended Revised Development Layout Plan Figure 1.2b(20 March 2025)] and at the grid references set out in [Table 4.2 'Revised Development Wind Turbine Co-ordinates', Volume 1, Chapter 4 'Description of the revised development' of the AEI Report, October 2024];
- (c) No micro-siting shall take place with the result that infrastructure (excluding floating tracks or hardstanding) has a greater overall impact on peat than the original location;
- (d) no micro-siting shall take place to a position where: i) the peat depth is greater than the location shown in the finalised / approved Peat Management Plan referred to in Condition 24, and ii) the peat depth at the proposed new location is more than 1.5 m, without the prior written approval of the Planning Authority in consultation with SEPA;
- (e) No infrastructure other than as required for a watercourse crossing shall be microsited to within 50 metres of a watercourse, unless approved in advance in writing by the Planning Authority in consultation with SEPA.
- (f) No wind turbine foundation shall be positioned higher than 5 metres Above Ordnance Datum (AOD) than the position for that turbine shown on the Site Layout Plan;

(2) All micro-siting permissible under this condition shall be submitted to, and approved in writing by the Environmental Clerk of Works ("EnvCoW") in advance of any works or development associated with the micro-siting request being implemented.

(3) No later than six months after the Date of First Commissioning, an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the EnvCoW or Planning Authority's approval, as applicable.

(4) Any proposed micro-siting that does not meet the criteria set out in part (1) of this condition may be permitted with the prior written approval of the Planning Authority in consultation with SEPA.

Reason: *To control environmental impacts while taking account of local ground conditions.*

11. Implementation of mitigation measures

- (1) No development shall commence until a Schedule of Mitigation has been submitted to and approved in writing by the Planning Authority. This Schedule shall encompass a list of all mitigation measures from the EIA Report, AEI Report, any other commitments made by the applicant and all relevant mitigation secured by conditions attached to this permission with defined timescales for implementation of each mitigation measure.
- (2) The approved Schedule of Mitigation, as detailed in the application, shall be implemented in full unless otherwise approved in writing by the Planning Authority.

Reason: *to ensure that the identified mitigation through the EIA Report is carried out in accordance with the approved details.*

12. Planning Monitoring Officer

- (1) There shall be no Commencement of Development until the terms of appointment by the Company of an independent and suitably qualified environmental consultant as Planning Monitoring Officer (PMO) have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
 - (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
 - (b) impose a duty to monitor compliance with the approved Traffic Management Plan and Abnormal Loads Route Assessment;
 - (c) require the PMO to submit a bi-monthly report to the Planning Authority summarising works undertaken on site, alongside a summary of the incidents recorded and reported by the Environmental Clerk of Works (EnvCoW); and
 - (d) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity, and no later than 10 working days following the incidence of non-compliance.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.
- (3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of an independent and suitably qualified consultant as PMO by the Company throughout the

decommissioning, restoration and aftercare phases of the Development shall be submitted to, and approved in writing by the Planning Authority.

(4) the PMO shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To ensure compliance with the planning permission and the conditions attached to it.*

13. Environmental Clerk of Works

(1) There shall be no Commencement of Development until the terms of appointment of an independent Environmental Clerk of Works (“EnvCoW”) by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- (a) impose a duty to monitor compliance with the environmental commitments provided in the EIA Report, AEI Report, any micrositing under condition 10, the Construction and Environmental Management Plan approved under condition 14, the Peat Management Plan; the Peat Landslide Risk Management Plan; approved under condition 24 the Biodiversity and Habitat Management Plan approved under condition 20, the Bird Protection Plan approved under condition 22, any species protection plans approved under condition 37; and consider and approve any micro-siting requests in accordance with the provisions of condition 10 (“the EnvCoW works”);
- (b) require the EnvCoW to report to the nominated construction project manager, developer and Planning Authority any incidences of non-compliance with the EnvCoW works at the earliest practical opportunity;
- (c) require the EnvCoW to submit a monthly report to the construction project manager, developer and Planning Authority summarising works undertaken on site.

(2) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified, experienced, and independent EnvCoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to, and approved in writing by the Planning Authority.

(3) The EnvCoW shall be appointed on the terms approved under part (2) throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To secure effective and transparent monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction, decommissioning, restoration and aftercare phases*

14. Construction and Environmental Management Plan

- (1) There shall be no Commencement of Development until a Construction and Environmental Management Plan (CEMP) containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, and approved in writing by, the Planning Authority. The CEMP shall be informed by the site and ground investigation works and best practice guidance and ensure construction works are carried out in line with the measures prescribed in the submission, adherence to the Schedule of Mitigation (EIAR Table 17.1). The CEMP shall provide:
 - (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat and other carbon rich soils), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment, evidencing all proposals comply with SEPA's guidance and the requirements of the waste management licensing regime as appropriate;
 - (b) details of the location, layout, formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil, fuel and chemical storage, lighting columns, and any construction compound boundary fencing required for the construction period;
 - (c) a dust management plan detailing all mitigation/dust suppression measures intended to reduce the impacts of dust on site, including measures to reduce dust on roads;
 - (d) site specific details for management and operation of any concrete batching plant (including disposal of pH-rich waste water and substances);
 - (e) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - (f) a Pollution Prevention and Incident Plan incorporating a Pollution Prevention Plan, Pollution Incident Plan and a Pollution Control Monitoring Plan, this shall provide measures to protect watercourses, groundwater, management of natural surface hydrological flows (flushes, springs, etc.) and protection of peatland/soils, arrangements

for the storage and management of oil and fuel and other chemicals on the site and sewage disposal and treatment;

(g) details of soil storage and management including outline quantities, locations (other than peat and other carbon rich soils) management of long term storage of construction generated to facilitate future site restoration;

(h) a drainage management strategy, demonstrating how all surface and waste water arising during and after construction is to be managed and prevented from impacting on the water environment and to mitigate flood risk;

(i) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;

(j) details of temporary site illumination, including measures to ensure light spill/pollution is minimised and avoids habitats within the site and does not extend beyond the immediate working area, and not beyond the site boundary;

(k) details of the construction of the access into the site, including associated drainage and the creation and maintenance of associated visibility splays;

(l) Site-specific Construction Method Statements for the following:

- i. crane pads;
- ii. turbine foundations;
- iii. working cable trenches;
- iv. erection of the wind turbines and meteorological masts;
- v. energy storage compound formation and installation of energy storage equipment;
- vi. substation compound formation, erection of associated buildings and ancillary infrastructure;
- vii. watercourse crossings including full details and plans of the design and specification of all new and upgraded watercourse crossings to be constructed, ensuring continuous flow and fish passage with no hanging culverts, noting all crossings shall be oversized bottomless arched culverts or traditional style bridges; and
- viii. confirmation WC03 is formed by a bottomless arch culvert unless otherwise agreed with SEPA.

(m) details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development;

(n) Historic Environment Protection Plan including details of protective fencing of the location of the historic environment features to be protected during construction works, including appropriate buffers;

(o) a wetland ecosystems survey and mitigation plan;

(p) a tree felling and management plan;

- (q) A Construction Noise Management Plan including details of the management of noise and vibration during construction and post-construction restoration, including that caused by construction traffic, to the lowest practicable levels and in accordance with BS 5228:2009 “Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise and Part 2: Vibration” (or any updated version/document which superseded this document) and how any properties likely to be affected by construction noise will be kept informed;
- (r) Construction Method Statements for all roads/tracks to be altered/formed within the development site including their width, likelihood of widening or passing places, means of drainage (which shall have regard to SUDS principles), means of construction, and edge reinstatement including verge width. The specification shall be accompanied by relevant plans at a scale sufficient;
- (s) the cable trenches;
- (t) a phasing plan for the construction works; and
- (u) a written scheme which details the methodology for dealing with any revisions to any of the documents required under this part (3). Any revised documents will require to be submitted to and approved in writing by the Planning Authority prior to the revisions being implemented on site.

(2) The Development shall be implemented in accordance with the CEMP approved under part (1) unless otherwise approved in advance in writing by the Planning Authority.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report accompanying the application, or as otherwise agreed, are fully implemented.*

15. Borrow Pits – Scheme of Works

(1) There shall be no Commencement of Development until a scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The scheme shall provide:

- (a) a detailed working method statement based on site survey information and ground investigations;
- (b) precise location, extent and means of working;
- (c) proposed volume of material to be extracted;

- (d) details of the handling of any overburden (including peat and any other carbon rich soils, soil and rock);
- (e) drainage measures, including measures to protect and manage surrounding areas of peatland, water dependant sensitive habitats and ground water dependent terrestrial ecosystems from drying out;
- (f) a programme of implementation of the works described in the scheme;
- (g) outline details of the reinstatement, restoration and aftercare of the borrow pits to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles;
- (h) assessment of the potential for air overpressure or ground vibration to disturb nearby buildings as a result of any aspect of use of the borrow pits, with proposals for mitigating any nuisance that might arise;
- (i) details of any need for blasting and, if proposed, a scheme for publicising the times and dates of any such blasting; and
- (j) a fully detailed restoration scheme with landscaping, planting and timescale information.

(2) The scheme approved under part (1) shall thereafter be implemented in full following Commencement of Development.

(3) Rock crushing will at all times be confined to inside the borrow pits.

Reason: *To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and to secure the restoration of borrow pits at the end of the construction period*

16. Borrow Pits – Blasting

- (1) No blasting shall take place until a scheme specifying blast monitoring locations is submitted to and approved in writing by the Planning Authority.
- (2) Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at the blasting monitoring locations approved in the scheme. The measurement is to be the maximum of three mutually perpendicular directions taken at the ground surface.
- (3) Unless otherwise approved in writing in advance by the Planning Authority, blasting shall only take place between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.
- (4) The scheme shall be implemented as approved.

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

17. Construction Hours and Timing

- (1) Construction work shall only take place between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on a Public Holiday unless approved in writing in advance by the Planning Authority.
- (2) There shall be no construction activity, including vehicle movements along tracks, within 750m of an active Black Grouse lek, identified during pre-construction surveys, before 9 am in the months of April and May, unless otherwise agreed with NatureScot.
- (3) Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection and delivery, maintenance, emergency works, dust suppression, and the testing of plant and equipment unless otherwise approved in advance in writing by the Planning Authority. In addition, access for security reasons, emergency responses or to effect any necessary environmental controls is permitted outwith these hours.
- (4) HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall not take place outwith the hours of 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on a Public Holiday, unless otherwise approved in advance in writing by the Planning Authority

Reason: *In the interests of local amenity.*

18. Traffic Management Plan

- (1) There shall be no Commencement of Development until a Traffic Management Plan has been submitted to, and approved in writing by, the Planning Authority in consultation with Transport Scotland. The Traffic Management Plan shall provide:
 - (a) the routeing of all traffic associated with the Development on public roads;
 - (b) measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - (c) details of all signage and lining arrangements to be put in place;
 - (d) provisions for emergency vehicle access;
 - (e) provision for the submission and agreement of a roads condition survey pre-and post construction accompanied by an appropriate agreement

between the Planning Authority and the Company to ensure the delivery of any post-construction public road restoration that may be required; and

(f) identification of a nominated person to whom any road safety issues can be referred.

(2) The approved Traffic Management Plan shall be implemented in full, unless otherwise approved in advance in writing by the Planning Authority.

Reason: *In the interests of road safety.*

19. Abnormal Loads

(1) There shall be no abnormal load deliveries to the site until an Abnormal Load Route Assessment Report, including proposed trial runs, has been submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The Abnormal Load Route Assessment Report shall provide:

- (a) Details of a communications strategy to inform the relevant communities of the programme of abnormal load deliveries;
- (b) Details of any accommodation measures required for the local road network including the removal of street furniture, junction widening and traffic management;
- (c) Any additional signing or temporary traffic control measures deemed necessary on the trunk road network due to the size or length of any loads being transported must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland;
- (d) Details of the route for abnormal loads on the local and trunk road networks and any recommendations for delivery of abnormal loads;
- (e) An assessment of the capacity of any bridge crossings on the route to cater for abnormal loads, and details of proposed upgrades and mitigation measures required for any bridge crossings; and
- (f) A plan for access by vehicles carrying abnormal loads, including but not limited to the number and timing of deliveries and the length, width and axle configuration of all such traffic associated with the Development.

(2) Prior to the first delivery of an abnormal load, a programme for abnormal load deliveries shall be submitted to, and be approved in writing by the Planning Authority in consultation with Transport Scotland.

(3) Prior to any movement of abnormal loads (including trial runs) the Company must complete any mitigation works set out in the scheme approved under part (1)

of this condition, and maintain such measures during the period of abnormal load deliveries.

- (4) The trial-run shall be undertaken in accordance with the details approved under part (1) prior to the movement of any abnormal loads.
- (5) The details in the approved report shall thereafter be implemented in full prior the first delivery of an abnormal load.

Reason: *In the interest of road safety and to ensure that abnormal loads access the site in a safe manner.*

20. Biodiversity and Habitat Management Plan

- (1) There shall be no Commencement of Development until a Biodiversity and Habitat Management Plan (BHMP) [taking account of the Outline/Draft Biodiversity Enhancement Management Plan(OBEMP) (Technical Appendix 7.6 of the EIA Report)], has been submitted to, and approved in writing by the Planning Authority, in consultation with NatureScot and Royal Society for the Protection of Birds.
- (2) The BHMP shall set out proposed habitat management of the site during the period of construction, operation, and decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of those species and habitats identified within Technical Appendix 7.6 OBEMP of the EIA Report on site.
- (3) The BHMP shall provide provision and details for regular monitoring and review to be undertaken against the BHMP objectives and reasonable measures for securing amendments or additions to the BHMP in the event that the BHMP objectives are not being met.
- (4) Until otherwise approved in advance in writing by the Planning Authority, the approved BHMP (as amended from time to time with written approval of the Planning Authority) shall be implemented in full in line with the timescales set out in the approved plan.

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

21. Water Quality and Fish Monitoring Plan

- (1) There shall be no Commencement of Development until an integrated Water Quality and Fish Monitoring Plan (WQFMP) has been submitted to and approved

in writing by the Planning Authority in consultation with SEPA and Nith District Salmon Fishery Board .

- (2) The WQFMP must take account of the Marine Directorate's guidance and shall provide:
 - a) provision that water quality sampling should be carried out for at least 12 months prior to Commencement of Development, during construction and for at least 12 months after construction is complete ;
 - b) key hydrochemical parameters (including turbidity and flow data), the identification of sampling locations (including control sites), frequency of sampling, sampling methodology, data analysis and reporting;
 - c) fully quantitative electrofishing surveys at sites potentially impacted and at control sites for at least 12 months prior to the Commencement of Development, during construction and for at least 12 months after construction is completed to detect any changes in fish populations; and
 - d) appropriate site specific mitigation measures including those detailed in the EIA Report.
- (3) Thereafter, the WQFMP shall be implemented in full within the timescales set out in the WQFMP.

Reason: *To ensure no deterioration of water quality and to protect fish populations within and downstream of the development area.*

22. Bird Protection Plan

- (1) There shall be no Commencement of Development until a Bird Protection Plan ("BPP") has been submitted to and approved in writing by the Planning Authority, in consultation with NatureScot and the Royal Society for the Protection of Birds. The BPP shall include a finalised Breeding Bird Protection Plan and Bird Disturbance Management Plan ("BDMP") informed by Chapter 8 of the EIA report, Chapter 8 of the AEI report and by pre-commencement bird surveys.
- (2) The plan shall set out:
 - a) Survey methods for identifying sites used by protected and sensitive breeding birds during construction; and
 - b) Operational protocols to prevent or minimise disturbance during construction.
- (3) The plan shall also set out:
 - a) Measures to protect black grouse and breeding waders throughout construction, operation, and decommissioning; and
 - b) Post-construction ornithology surveys at intervals to be agreed with the Planning Authority.

- (4) The plan shall include that a buffer of 750m is applied around black grouse leks, identified during pre-construction surveys, during construction, unless otherwise agreed with NatureScot, in accordance with condition 17: Construction Hours and Timing.
- (5) Thereafter, the approved BPP shall be implemented in full within the timescales set out in the approved BPP

Reason: *In the interests of protecting ornithological interests through the construction, operational and decommissioning of the wind farm.*

23. Programme of Archaeological Works

- (1) There shall be no Commencement of Development unless an archaeological Written Scheme of Investigation (WSI) has been submitted to, and approved in writing by, the Planning Authority. The WSI shall provide details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the Written Scheme of Investigation will be provided throughout the implementation of the programme of archaeological works. The WSI shall also detail how any requirement for reporting, post-excavation analysis, archive deposition, publication of results, and the delivery of public benefit (including how this will be recorded and reported) will be undertaken.
- (2) A programme of archaeological works must be carried out in accordance with the approved WSI, and any addendums to it, as agreed under part (1).
- (3) Should the archaeological works carried out under part (2) reveal the need for post excavation analysis, the development hereby approved shall not be occupied or brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results, including additional public engagement, and archive deposition has been submitted to and approved in writing by the Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

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

24. Peat and Carbon Rich Soils Management Plan

- (1) There shall be no Commencement of Development until a detailed Peat and Carbon Rich Soils Management Plan (PMP), [taking account of the Draft Peat Management Plan (Technical Appendix 10.2 Outline Peat Management Plan of the EIA Report)] has been submitted to and approved in writing by the Planning Authority in consultation with SEPA.

(2) The PMP shall:

- (a) take account of site and ground investigations to minimise the loss of peat and other carbon rich soil and minimise carbon loss;
- (b) include actions, including micrositing, to minimise excavated peat and other carbon rich soils volumes;
- (c) encourage use of excavated peat and other carbon rich soils in an appropriate manner;
- (d) follow good practice for handling, storing and reinstating peat and other carbon rich soils; and
- (e) Confirm floating construction will be used for all access tracks located on peat which is above 1m in depth or deeper.

(3) The Peat and Carbon Rich Soils Management Plan shall thereafter be implemented as approved upon the Commencement of Development.

Reason: *To ensure that disruption to peat is minimised.*

25. Operational Noise

(1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) when determined in accordance with the Guidance Notes for this condition shall not exceed the values for the relevant integer wind speed set out in, or derived from, Tables 1 and 2 [the tables identified in these conditions (AEI Table 12.7 of the AEI Report)] at those properties identified or at any dwelling which is lawfully existing or has planning permission at the date of this consent.

Table 1 – Between 07:00 and 23:00 – Noise Limits expressed in dB LA90

| Location (including coordinates) | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|--|------|------|------|------|------|------|------|------|------|------|
| Barmoor Cottages | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 |
| Euchan Cottage | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 |
| Euchan Filter Station House | 43.2 | 44.0 | 44.4 | 44.1 | 43.6 | 45.3 | 46.6 | 47.5 | 47.8 | 47.8 |
| Glenmaddie | 45.0 | 44.9 | 44.8 | 44.7 | 44.4 | 44.4 | 44.4 | 44.3 | 44.3 | 44.3 |

Table 2 – Between 23:00 and 07:00 – Noise Limits expressed in dB LA90

| Location (including coordinates) | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|--|---|---|---|---|---|---|---|----|----|----|
|--|---|---|---|---|---|---|---|----|----|----|

| | | | | | | | | | | | |
|-----------------------------|------|------|------|------|------|------|------|------|------|------|------|
| Barmoor Cottages | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 |
| Euchan Cottage | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 |
| Euchan Filter Station House | 43.2 | 44.0 | 44.4 | 44.1 | 43.6 | 45.3 | 46.6 | 47.5 | 47.8 | 47.8 | |
| Glenmaddie | 45.0 | 44.9 | 44.8 | 44.7 | 44.4 | 44.4 | 44.4 | 44.3 | 44.3 | 44.3 | |

- (2) The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria.
- (3) The Company shall continuously log power production, wind speed and wind direction, all in accordance with guidance note 1(d). These data shall be retained for a period of not less than 24 months. The Company shall provide this information in the format set out in guidance note 1(e) to the Planning Authority on its request, within 14 days of receipt in writing of such a request.
- (4) Prior to the Date of First Commissioning, the Company shall have submitted to, and received written approval of the Planning Authority to, a list of proposed independent consultants who will undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- (5) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority in terms of paragraph (4) above to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached guidance notes. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (6) The assessment of the rating level of noise immissions in terms of paragraph (5) above shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise,

having regard to the written request of the Planning Authority under paragraph (5) above.

- (7) Where the dwelling to which a complaint is related is not listed in the Tables 1 and 2 (AEI Table 12.7) at part (1) of this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables 1 and 2 to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables 1 and 2 specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached guidance notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.
- (8) The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the guidance notes within two months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (7), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in guidance note 1(e). The instrumentation used to undertake the measurements shall be calibrated in accordance with guidance note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (9) Where a further assessment of the rating level of noise immissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (6) above unless the time limit has been extended in writing by the Planning Authority.

(10) The table attached to this Condition is AEI Table 12.7 "Revised Development Noise Limits – Derived Using Predicted Cumulative Noise Levels" and shall be subject to noise management measures as mentioned in Paragraph 12.8.2 (AEI Main Report) with respect to required mitigation for Cumulative Assessment

Reason: *to protect nearby residents from undue noise and disturbance and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.*

Guidance Notes relating to Noise Condition

These notes are to be read with and form part of the recommended noise condition (25).

Guidance Note 1

(a) Values of the LA90,10-minute noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1b)), using a sound level meter of EN60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurement) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurement). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60942:2018 "Electroacoustics – sound calibrators" Class (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

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

(c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed wind direction data and with operational data logged in accordance with Guidance Note 1d) and rain data logged in accordance with Note 1f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine, arithmetic mean power generated by each turbine and any data necessary to define the running mode a set out in the curtailment plan, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. Each 10-minute arithmetic average mean wind speed data as measured at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2 b). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the Planning Authority shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Planning Authority.

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1 d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Planning Authority prior to the commencement of measurements.

Guidance Note 2

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

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Planning Authority but excluding any periods of rainfall measured in accordance with Note 1 f).

(c) Values of the LA90, 10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2 b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed. If considered appropriate by the independent consultant, the least squares best fit approach may be substituted with using wind speed bin averaging, with each bin being of 1m/s width, centred on integer wind speeds.

Guidance Note 3

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

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

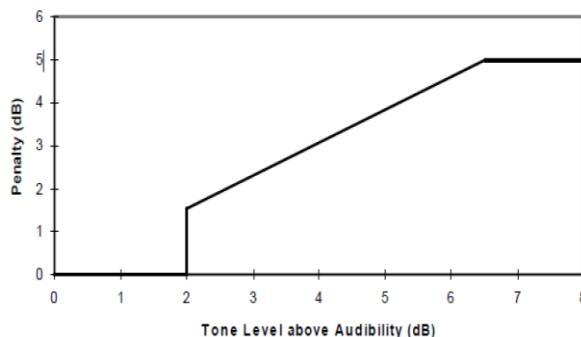
(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

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

(e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used.

This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range set out in the approved assessment protocol.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- (c) If the rating level lies at or below the noise limits approved by the Planning Authority then no further action is necessary. In the event that the rating level is above the noise limits, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
 - i. Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol.
 - ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty lies at or below the noise limits approved by the Planning Authority then no further action is necessary. If the rating level at any

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

26. Shadow Flicker

- (1) No turbine shall be erected until a scheme for the avoidance or mitigation of shadow flicker at residential properties which lawfully exist or for which planning permission has been granted as at the date of this section 36 consent, has been submitted to, and approved in writing by, the Planning Authority.
- (2) The approved mitigation scheme shall be implemented in full in line with the approved scheme.

Reason: *To offset any impacts of shadow flicker on residential property amenity.*

27. Access Management Plan

- (1) There shall be no Commencement of Development until a finalised Access Management Plan ("AMP") has been submitted to and approved in writing by the Planning Authority.
- (2) The AMP shall set out all measures relating to the preservation, adaptation or diversion of routes prior to, during and after development implementation, and at the decommissioning stage. It shall ensure that public access is retained within and across the Development site during construction, where appropriate, and that suitable public access is provided during the operational phase of the wind farm.
- (3) The approved AMP shall be implemented in full upon Commencement of Development.

Reason: *In the interests of securing public access rights*

28. Aviation Safety

- (1) Prior to the installation of any turbine, the Company shall provide the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the

following information in writing, and provide evidence to the Planning Authority that this has been done:

- (a) the dates of the expected stages of construction of the Development;
- (b) the height above ground level of the tallest structure forming part of the Development;
- (c) the maximum height of any construction equipment; and
- (d) the position of the wind turbines and masts in latitude and longitude.

(2) The Company shall, as soon as is practicable and in any event with 7 days prior to the event, provide to the Planning Authority and the Ministry of Defence and NATS written notice of any proposed changes to the information provided under part (1).

(3) Within 1 month of the erection of the final turbine, the Company shall provide written confirmation to the Planning Authority, the Ministry of Defence and NATS of the actual date on which construction was completed and the confirmed latitude and longitude of all turbines (in degrees, minutes and seconds) and the height above ground level of each turbine (in metres to blade tip).

Reason: *In the interests of aviation safety.*

29. Aviation and Other Lighting

(1) No wind turbines shall be erected until a scheme for aviation lighting (Aviation Lighting Scheme) for the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with the Civil Aviation Authority. The scheme shall provide details of aviation lighting which is to be applied.

(2) No later than the third and fifth anniversary of the Date of First Commissioning and every five-year anniversary thereafter, the Company shall submit a written review of the Aviation Lighting Scheme to the Planning Authority. Each review shall provide:

- (a) An assessment of options available for the reduction in the number of visible lights installed on turbines, the time period when lights are visible, and/or the intensity of the visible lighting;
- (b) An assessment of the potential for installation of an Aircraft Detection Lighting System (“ADLS”), including a statement setting out the current and anticipated regulatory environment in relation to ADLS; and
- (C) An assessment of whether it is technically feasible, through the regulatory framework to install an ADLS at the Development (taking into account installation and operational costs)

- (3) The review may propose amendment of the Aviation Lighting Scheme. Specifically regarding ADLS, if a review assesses that it is technically feasible to install ADLS, provided that such installation shall not require planning permission, such review shall also provide the Company's proposals for installation of ADLS together with a proposed timetable for installation. Any proposed amendment shall be compliant with the then current aviation lighting requirements of the Civil Aviation Authority and the Ministry of Defence.
- (4) Any proposed amendment to the Aviation Lighting Scheme under part (3) must be submitted to, and have received the written approval of, the Planning Authority in consultation with the Civil Aviation Authority, Glasgow Prestwick Airport and the Ministry of Defence, and shall thereafter be installed in accordance with the approved details.
- (5) The Aviation Lighting Scheme, or such alternative scheme as may be approved under part (4), shall thereafter be maintained throughout the operational life of the Development.
- (6) The Development shall be operated in accordance with the approved scheme, or any alternative scheme as may be approved under part (4), unless otherwise approved in advance in writing by the Planning Authority in consultation with the Civil Aviation Authority as a result of periodic reviews.

Reason: *In the interests of aviation safety and to minimise visual effects of the Development.*

30. Aviation Lighting of Construction Equipment or Temporary Structures

- (1) No development shall commence on the erection of any wind turbine generators until a scheme for the provision of aviation lighting of any temporary structures or construction equipment of 15.2m or more in height which is to be used during the construction period has been submitted to and approved in writing by the Planning Authority, in consultation with the Civil Aviation Authority and the Ministry of Defence.

The scheme shall provide:

- (a) details of any construction equipment and temporary structures (either static or mobile), including their proposed location(s), with a height of 15.2 metres or greater (above ground level) that will be fitted with aviation warning lighting identifying the position of the lights on the equipment / structures;
- (b) the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used; and
- (c) timescales during which the lighting of structures / equipment will be required.

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- (2) Thereafter, the scheme shall be implemented in line with the timescales set out in the approved scheme.

Reason: *To maintain aviation safety.*

31. Turbine Operation

- (1) The wind turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

Reason: *In the interests of the visual amenity of the area.*

32. Redundant Turbines

- (1) If one or more wind turbines fails to generate an electricity supply on a commercial basis to the public network for a continuous period of 12 months then, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA, the Company shall:

- (a) Within one month of the expiration of the 12-month period, submit a scheme to the Planning Authority setting out how the relevant wind turbine(s) and associated infrastructure will either be repaired or removed from the site and the ground restored to a condition agreed with the Planning Authority in consultation with SEPA; and
 - (b) Implement the approved scheme within 12 months of the date of its approval, all to the satisfaction of the Planning Authority.

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

33. Site Inspection Strategy

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

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

(3) At least one month in advance of submitting each SIR to the Planning Authority, the scope of the SIR shall be agreed with the Planning Authority.

(4) The SIR shall provide:

- (a) Details to demonstrate that the infrastructure components of the Development are still operating in accordance with condition 25 and condition 30; and
- (b) An engineering report which details the condition of tracks, turbine foundations and the wind turbines and sets out the requirements and the programme for the implementation for any remedial measures which may be required.

(5) The SIS and each SIR shall be implemented in full following the Date of Final Commissioning unless otherwise agreed in advance in writing by the Planning Authority.

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

34. Interim Decommissioning, Restoration and Aftercare Strategy

(1) There shall be no Commencement of Development until an Interim decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA and Transport Scotland. The interim decommissioning, restoration and aftercare strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall provide proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions in any instance that the site as a whole, or in part, ceases to operate prior to the approval of the Decommissioning, Restoration and Aftercare Plan required under the provisions of Condition 34.

Reason: *To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection when a detailed decommissioning, restoration and aftercare Plan has not yet been approved.*

35. Site Decommissioning, Restoration and Aftercare

- (1) The Development shall cease to generate electricity to the grid network by no later than the date falling 35 years from the Date of Final Commissioning.
- (2) No later than one year prior to the Date of Final Generation or the expiry of the section 36 consent (whichever is earlier) a decommissioning, restoration and aftercare plan shall be submitted for the written approval of the Planning Authority, in consultation with SEPA and Transport Scotland. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall provide:
 - (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases and, including details of measures to be taken to minimise waste associated with the Development and promote the recycling of materials and infrastructure components);
 - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) a dust management plan;
 - (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (f) details of measures for soil storage and management;
 - (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - (h) details of measures for sewage disposal and treatment;
 - (i) temporary site illumination;
 - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays; and
 - (k) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (3) The Development shall be decommissioned, the site restored and aftercare undertaken prior to the date falling three years after the Date of Final Generation

and in accordance with the approved detailed decommissioning, restoration and aftercare plan.

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

36. Financial Guarantee

- (1) There shall be no Commencement of Development until a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in conditions 34 and 35 has been submitted to and approved in writing by the Planning Authority.
- (2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 35.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in conditions 34 and 35.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the detailed decommissioning, restoration and aftercare plan approved under condition 34. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in conditions 33 and 34 and best practice prevailing at the time of each review.

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

37. Protected Species (Protection) Plan

- (1) There shall be no Commencement of Development unless and until a Protected Species Protection Plan (PSPP) has been submitted to and approved in writing by the Planning Authority, in consultation with relevant bodies including NatureScot and Royal Society for Protection of Birds.

- (2) The PSPP shall include mitigation measures to be implemented prior to, during and at decommissioning stage of the development.
- (3) The PSPP shall be informed by bat, bird, fish, otter and badger habitat surveys and baseline species surveys, and include suitable control sites for comparative monitoring, the location and methodology of which shall be agreed with the Planning Authority.

Reason: *To ensure that protected species and their habitat are adequately protected.*

38. Community Liaison Group

- (1) There shall be no Commencement of Development unless and until a Community Liaison Plan ("CLP") has been approved in writing by the Planning Authority in consultation with the relevant local community councils.
- (2) The CLP shall include the arrangements for establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the Company.
- (3) The terms and condition of these arrangements must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures as set out in the Traffic Management Plan approved in accordance with Condition 18, and keep under review the timing of the delivery of turbine components.
- (4) The approved CLP shall be implemented in full.

Reason: *To assist with the provision of mitigation measures to minimise potential hazards to road users including pedestrians, travelling on the road networks.*

Definitions

In this consent and deemed planning permission:-

“Commencement of Development” means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

“the Company” means Cloud Hill Windfarm Ltd having its registered office at 22 Chancery Lane, London, England, WC2A 1LS , Company No. 13180855, or such other person who from time to time may lawfully have the benefit of this consent.

“Date of First Commissioning” means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines constructed as part of the Development.

“Date of Final Commissioning” means the earlier of (i) date when electricity is first exported to the electricity grid network on a commercial basis from the last of the wind turbines being constructed as part of the Development; or (ii) the date falling eighteen months from the Date of First Commissioning.

“Date of Final Generation” means the date that the Development ceases to generate electricity to the grid network on a permanent basis.

“Development” means the development authorised by this section 36 consent and deemed planning permission as described in Annex 1 Part B.

“EIA Report” means the Environmental Impact Assessment Report in respect of the Development dated 23 August 2023.

“Planning Authority” means Dumfries and Galloway Council

“Public Holiday” means;

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.
- Good Friday.
- Easter Monday.
- The first Monday in May.
- The first Monday in August.
- The third Monday in September.
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.
- Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.
- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.

“SEPA” means the Scottish Environment Protection Agency.

