



## Appeal Decision Notice – EIA Development

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Decision by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-340-2162
- Site address: 1.5Km north east of Earnieside Farmhouse, Dunning Glen, Dollar, FK14 7LB
- Appeal by Galileo 02 Limited against Perth and Kinross Council's failure to give a decision
- Application for planning permission 24/01193/FLM dated 05 August 2024
- The development proposed: erection of eight wind turbines and associated development on land situated at grid coordinates 302861, 705637
- Application drawings: listed in schedule 3 at the end of this notice
- Date of site visit by Reporter: 14 and 15 August 2025

Date of appeal decision: 07 November 2025

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### Decision

I allow the appeal and grant planning permission subject to the 28 conditions listed at the end of the decision notice. Attention is drawn to the 5 advisory notes at the end of the notice.

### Environmental impact assessment

The proposed development for the Craighead Windfarm is described as above, and at Chapter 5 of the EIA report. It is EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 EIA regulations").

I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the EIA report submitted in August 2024;
- Perth and Kinross Council's response to this appeal;
- consultation responses received by the council and the DPEA;
- representations from other stakeholders and members of the public; and
- further written submissions, correspondence and other evidence submitted as part of this appeal.

I am required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 4 below. My conclusions on the significant environmental effects of the proposal are set out in my reasoning below.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case is comprised of National Planning Framework 4 (NPF4) published in 2023, and the Perth and Kinross Local Development Plan 2 (the LDP) adopted in 2019, together with its associated supplementary guidance. In the event of any incompatibility between the provisions of NPF4 and the LDP, NPF4 would prevail as it is the most recent component of the development plan.
2. Having regard to the provisions of the development plan together with the matters raised in consultation responses and representations, the main issues in this appeal are:
  - the landscape and visual effects of the development, including residential visual amenity;
  - cultural heritage effects, and in particular the development's impact on the setting of the category A-listed Kinross House and its Inventory garden;
  - whether effects on aviation radar can be adequately mitigated; and
  - its impact on users of the Scottish Gliding Centre.
3. I note that there is a current application for a windfarm on land immediately to the north and east of the appeal site. The application for that proposal, known as 'Brunt Hill' windfarm, has been made under section 36 of the Electricity Act 1989. Whilst these proposals are necessarily being considered under different consenting regimes, I have had regard to the potential significant cumulative effects of the developments in the event that both developments were to go ahead. Cumulative considerations are however more pertinent to the assessment of Brunt Hill windfarm given this decision precedes the decision for that application.
4. I consider the main issues in turn below. My assessment is framed in the wider context of strategic energy and planning policy (including NPF4 which forms part of the development plan) which gives clear support in principle to renewable energy developments, including onshore windfarms. I consider this further in my overall conclusions at the end of this decision notice, but I do not engage with matters raised in representations which challenge the need for the development. It is not for individual development management decisions to question or examine the appropriateness of established government policy and strategy.

### Landscape and visual effects

5. A landscape and visual impact assessment (LVIA) is contained in chapter 6 of the EIA report. This predicts localised significant effects on landscape character, and a relatively limited range of significant visual effects for some representative viewpoints and receptors. A supplementary assessment of the development's visual effects on Kinross-shire was provided by the appellant in response to comments made by NatureScot. NatureScot has not objected to the development but considers that the appellant underestimates the effects on Kinross-shire. The Friends of the Ochils group has objected to the proposed development, with the main concerns raised also being reflected in individual representations.
6. NPF4 policy 11 'Energy' provides wide-ranging considerations that are potentially relevant to the assessment of renewable energy proposals, framed in the context of its clear support in principle for such developments. LDP policy 33 'Renewable & low carbon energy' outlines similar considerations.

7. Part e)(ii) of policy 11 expects project design and mitigation to demonstrate how significant landscape and visual effects have been addressed, but recognising that such impacts are to be expected. It advises that “Where impacts are localised and/ or appropriate design mitigation has been applied, they will generally be considered to be acceptable”.

8. The development would be located wholly within the Ochil Hills unit of the wider Lowland Hill Ranges landscape character type (LCT). This is an extensive LCT which applies to much of the Ochil Hills. It is a relatively expansive and large-scale landscape, comprising of open moorland and hills, together with coniferous plantations. Windfarms are not a dominant baseline characteristic but they are present within the LCT, most notably Green Knowes windfarm given its relative proximity to the appeal site.

9. I agree with the EIA report’s finding that significant effects upon landscape character of this LCT would result. Based on my site inspections and review of submissions, I also agree with the conclusion that significant effects within this LCT would be largely limited to 5-6km.

10. Indirect and localised significant effects on landscape character are predicted within the Lowland Basins LCT and Lowland Hills–Central LCT. In regard to the former, it is principally the contrast between the Ochil Hills and the flat, low-lying landform of the LCT which would contribute to the development’s significant effects. The windfarm would be visible from within large swathes of this LCT, from where the Ochil Hills provide a distinctive backdrop and setting. However, I consider that whilst at closer range the windfarm would be prominent from this LCT, its influence on the prevailing landscape character would lessen rapidly as the intervening distance increases. The windfarm would also be perceived as being situated beyond the valley area and within the more expansive landscape of the Ochils, which lends itself more readily to development of this nature and scale.

11. In contrast, The Lowland Hills-Central LCT is comprised of distinctive, steep hillsides and summits, in the southwestern part of the Ochil Hills. It is mainly the summits (including King’s Seat Hill and Ben Cleuch (viewpoint 11)) from where visibility of the proposed development would be achievable to the east. Significant landscape effects are predicted from the limited locations within this LCT with visibility of the windfarm. I consider that finding to be justified given the indirect influence the development would have upon how the landscape is perceived and experienced, but there is already an obvious presence of windfarms which lessen the overall effect on landscape character attributable to this proposal.

12. I find that significant landscape effects would, when taken in the round, be relatively localised. This is despite the open and low-lying character of the landscape immediately to the east / southeast relative to the appeal site’s elevation. The proposed development is relatively compact in terms of its horizontal spread, and its obvious position on open moorland would enable the scale of the turbines to be satisfactorily accommodated without undermining the main features and character of the surrounding landscape.

13. In terms of visual impact, the occurrence of significant visual effects predicted by the LVIA broadly aligns with a similar geographic area to where significant landscape effects are envisaged. By far the most extensive theoretical visibility is across the lowland landscape to the east of the proposed development, which comprises Loch Leven and communities surrounding it including Kinross, Milnathort, Crook of Devon, Carnbo, Kinnesswood, Wester Balgedie, Easter Balgedie, and Glenlomond. Significant visual effects are anticipated to occur at a distance of up to around 12-13km in this area.

14. The surrounding topography (and/or otherwise the intervening distances) effectively limit visibility and the extent to which significant visual effects may occur from the north and west, with significant visual effects being generally confined to an area of 5km or so from the proposed windfarm, with the exception of hill summits from where views of the development would be uninterrupted. That would be to the detriment of the amenity currently enjoyed by hillwalkers and other recreational users.

15. Overall I find that the development's significant visual effects can still accurately be described as localised, as although there would be a quite extensive visual influence in views from the east, the development would be otherwise well contained by the surrounding hills. I also do not generally find the visual effects of the development from the east to be particularly remarkable, despite being significant. The compact layout of the scheme limits both the overall magnitude of visual effects and its impact on the gentle scenic quality of the area.

16. In the context of policy 11 expectations as outlined above, I consider that the proposal's landscape and visual effects would be localised, with the design and layout of the proposal responding appropriately to its physical context. Having made extensive site inspections including to hill summits, and with reference to the submitted illustrative material, I am also satisfied that there are no landscape or visual effects which (regardless of being localised) would individually be particularly problematic, to the extent that this might become determinative in the overall planning balance.

17. The proposed development would be located within the Ochil Hills Local Landscape Area, designated by Perth and Kinross Council. NPF4 policy 4 'Natural places' states in part (d) that development proposals that affect local landscape areas will only be supported where (i) it will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or (ii) any significant adverse effects on the integrity of the area are outweighed by social, environmental or economic benefits of at least local importance. I have based my assessment on these specific criteria provided by NPF4 rather than the broader requirements of LDP policy 39 'Landscape', given NPF4 provides greater clarity on how impacts on local landscape areas ought to be assessed against the benefits of development.

18. The LVIA includes a thorough assessment of the proposed development's effects on six defined special qualities of the local landscape area, as provided by the Perth and Kinross Landscape Supplementary Guidance (2020). This concludes that four out of six special qualities would be subject to physical and/or perceived significant adverse effects, but it asserts that the integrity of the area would not be compromised, by virtue of the localised nature of the effects relative to the overall size of the designation.

19. The assessment has also considered the potential for indirect effects upon the special qualities and integrity of other local landscape designations. Of these, localised significant effects on one of the five special qualities of the Ochil Hills Special Landscape Area in Clackmannanshire is predicted. No significant effects are predicted in relation to any other landscape designations.

20. I find no reason to reach a different view to that outlined by the LVIA in regard to local landscape designations. Having visited these areas as part of my site inspections, I consider the LVIA provides a balanced, well-reasoned and justified series of findings.

21. A strict application of policy 4 is that it is only where the integrity of a local landscape area would be subject to significant effects that effects are to be weighed against the scale of benefits offered by a proposal. However, that would mean that significant effects on some special qualities but not the overall integrity would remain contrary to policy 4(d)(i), with no means by which this could be reconciled under part (d)(ii), despite it being a lesser effect than where integrity would be compromised. It seems to me to be logically necessary to consider whether the effects on special qualities would be outweighed by benefits of the development for this reason, and I return to this in my overall conclusions.

22. The potential for cumulative landscape and visual effects has been assessed in the LVIA, which has taken account of the proposed development together with other existing, consented and proposed windfarms. This considers whether the addition of the proposed development to possible cumulative scenarios would result in windfarm development becoming a more obvious characteristic of a view or area.

23. The presence of existing operational windfarms alongside the proposed development would largely only be simultaneously visible from elevated or distant views. From summits and ridges in the Ochil Hills, there would be the potential for significant cumulative effects, but there would be separation between windfarms, and some fields of view from these locations would remain unaffected by the presence of windfarms.

24. Without doubt, the greatest potential for significant cumulative effects would arise if both this proposed development, and the proposed Brunt Hill windfarm on land immediately to the north, were to become operational. The Brunt Hill windfarm proposal is the subject of a current application for consent made under section 36 of the Electricity Act 1989 (by virtue of its capacity exceeding 50 megawatts). The physical proximity of these two schemes to each other would potentially give the impression of a single, much larger windfarm than the eight turbines proposed in this case. I understand the Brunt Hill windfarm proposal to now comprise of 13 turbines (six being up to 185m and five being 200m to blade tip), rather than 18 turbines as depicted on the wirelines prepared as part of the Craighead LVIA. This may of course be subject to further change during the course of the application process, and this might further affect how it would physically relate to the Craighead scheme, which could have a bearing on the nature and extent of significant cumulative effects.

25. With these cautionary points in mind, based on the illustrative material before me which forms part of the appellant's LVIA, I consider that significant cumulative effects would be likely to arise, particularly where seen from the east and southeast, as well as from summits to the west in the Ochil Hills. This finding aligns with the conclusions of the LVIA. Given this appeal is being determined ahead of the Brunt Hill proposal, it will be for the decision-maker in that case to determine the acceptability of these cumulative effects, in the overall balance, for that proposal.

26. In regard to nighttime effects, four of the eight turbines would have a steady red aviation warning light installed on the nacelle. These would be capable of operating at 2000 candela, but would be dimmed to 10% intensity when visibility exceeds 5km. Should Brunt Hill windfarm be consented in its current form, there would be the potential for cumulative nighttime effects given lighting would also be required as part of that scheme.

27. Taking this proposal in isolation, I consider that whilst only four lights are proposed, there are no existing sources of light in the immediate area, and its position on the hills in an otherwise relatively dark part of the night sky would be an incongruous feature. However, from within towns and outlying settlements with street lighting and/or other sources of artificial light, it is unlikely that it would be a prominent feature in the night sky.

28. In my judgement the LVIA underplays the extent to which the lighting may be experienced and perceived by road users at night; whilst dashboard lights and headlights may reduce the perceived intensity of turbine lighting, in my experience they would still be clearly perceptible. Most road users and other receptors would not be gaining visibility of the turbine lighting from within a deeply rural area though, and there are many sources of lighting in the areas to the southeast with the most extensive theoretical visibility of the lit turbines at hub height. The angle at which the lighting would be seen would also reduce its perceived intensity, as illustrated in figure 6.16 of the EIA report. All told, I do not consider the proposed lighting scheme would give rise to significant adverse effects and this is not a matter which is capable of being pivotal in this instance.

29. In regard to residential visual amenity, there are eight outlying residential properties within a 2km radius of the proposed turbines. Appendix 6.2 of the EIA report contains a residential visual amenity assessment, which concludes that five of these eight properties would experience significant effects upon visual amenity, but none have been judged to be at or beyond a threshold where the windfarm would become overbearing or overwhelming in outward views, where amenity effects would become particularly pertinent to the overall planning balance.

30. Having regard to the orientation of the affected properties and their curtilages, together with the nature of the intervening landform and any screening by trees and vegetation, I am satisfied that the visual effects of the development would not compromise the living conditions or overall standard of residential amenity provided at any residential properties. I recognise that the development would detract from their rural setting, but as a relatively compact cluster of turbines, the affected outward horizontal field of view would be limited in all cases, and the full height and number of turbines would not be appreciable from these locations, despite their relatively close proximity.

#### Cultural heritage effects

31. Alongside my assessment of the proposal against the development plan, I must also have special regard to the desirability of preserving listed buildings or their settings, and any special features of historic or architectural interest which they possess.

32. Chapter 7 of the EIA report considers the cultural heritage and archaeology effects of the development. There are no designated cultural heritage assets within the site, and no significant effects upon the setting of any designated assets are predicted (with, at worst, a minor impact being identified on the setting of 22 assets). Nor are any significant cumulative effects predicted in the EIA report.

33. In contrast, Historic Environment Scotland (HES) objects to the proposed development on the basis of its assessment, which finds that the windfarm would have a significant adverse impact on views of the category A-listed Kinross House and its associated Inventory garden and designed landscape, from Lochleven Castle and Castle Island. HES considers that the effects would be of a severity that raise issues of national interest, impacting on a key view to these assets which forms an integral element of their settings and therefore a core element of their cultural significance. Consequently, it finds the proposal to be contrary to NPF4 policy 7 'Historic assets and places', and the HES publication 'Historic Environment Policy for Scotland' (HEPS). HES also considers that alongside the proposed Brunt Hill windfarm there would be significant cumulative effects in this same view. LDP policies 27 'Listed buildings' and 29 'Gardens and designed landscapes' are also of relevance but their provisions are aligned with NPF4.

34. The appellant has provided a detailed technical note and second expert opinion in response to the basis for the HES objection. I have also sought further written submissions on this matter, and I have visited Lochleven Castle and Castle Island as part of my site inspections. I have had regard to all of this information, and my own observations, in reaching my findings.

35. At its heart, the appellant's case is that Kinross House and garden were deliberately orientated on an east-west axis so the outward views to the east would be focused on Lochleven Castle, and there is nothing to suggest that the reciprocal view back towards the house from the castle was an intentional component of the overall layout and design.

36. There is no dispute between the appellant and HES that the historical relationship between the castle, house and garden can be clearly understood, appreciated and experienced from Castle Island, and that the house and garden are a focal point from this location. However, I do not consider that this necessarily means that this view is itself a component of the asset's cultural significance.

37. HES has directed me to the Kinross House conservation management plan, published in 2010, which refers (including diagrammatically) to the most important views being 'between' the house and castle, rather than just towards the castle. Whilst this intimates that the view from Lochleven Castle is also of importance, no explanation for why that is considered to be the case is provided. It is perhaps the case that this very specific matter was not subject to close scrutiny when the management plan was written, with reference to the existence of views being both a matter of fact and seemingly innocuous at face value.

38. The appellant's evidence draws upon a number of matters which challenge the assertions made by HES on the importance and cultural significance of the view from Castle Island toward Kinross House. In particular, evidence shows that the design emphasis of the house and garden was on the view towards Lochleven Castle. The core cultural significance lies in the architectural qualities of Kinross House and its designed axial views, including from the house to Lochleven Castle, but there is no clear evidence or suggestion that the composition of the view back towards the house was considered by Sir William Bruce when designing the house and garden.

39. Further weight is added to this assertion because Castle Island would have been much smaller at the time of the house and garden's design and construction. The loch was partially drained in the 19<sup>th</sup> Century, consequently enlarging Castle Island (as well as exposing islands such as Alice's Bower) meaning the view depicted in the appellant's illustrative material from Castle Island would not have been possible when the Kinross House was built. It cannot therefore have been a planned aspect of its design. I also note from the appellant's evidence that views from Kinross House to the castle appear to be widely documented and celebrated, but the views from Castle Island to Kinross House are rarely featured and not emphasised in official records or public imagery.

40. I recognise that Castle Island is the only publicly accessible location (other than from on the loch) from where the axial relationship between the house, garden and castle can be seen. In one sense I do consider this to elevate the overall value of the view from Castle Island, but the cultural significance attributable to the view is not increased simply because it is publicly accessible. HES 'Managing change' guidance on setting effects makes clear that tourism and leisure factors are not relevant to an assessment of setting, and I consider that principle applies here. The proposed development would be clearly visible in the

background of this view (albeit offset) but I do not consider this would have a significant impact on the setting of the listed building, as I consider the setting of Kinross House is provided by the designed garden in which it is situated, its surrounding policy woodland, and the outward views from the house and garden that are aligned with Lochleven Castle. None of these aspects of its setting would be interrupted by the windfarm.

41. I consider the development's impact upon the view from Castle Island should more accurately be categorised as a visual effect than an effect upon the setting and/or cultural significance of Kinross House and garden. This visual effect would be significant and adverse, being detrimental to the scenic quality of the view and to some degree having an impact on how Kinross House and garden are experienced from this location. This is a matter to be taken into account in the overall planning balance. However, I do not find that one's ability to understand and appreciate the key elements of Kinross House's setting would be compromised, when the weight of evidence before me suggests that Kinross House was not an intended focus of view from this location.

42. From Kinross House itself, the illustrative material and accompanying assessment demonstrate that the dense policy woodland would provide effective screening of the windfarm. Whilst blade tips may be just visible from upper storeys, any impact would be negligible, especially noting the intervening distance, and I do not consider this to warrant further consideration on this basis.

43. In conclusion, I consider the EIA report's findings relating to the setting of Kinross House to be well-founded. The magnitude of the significant visual effect in views from Castle Island would be exacerbated in the cumulative scenario of both Craighead and Brunt Hill windfarms being built, but for the same reasons as outlined above, I do not consider that significant cumulative effects upon the setting of Kinross House and Inventory garden would occur.

44. Having noted that no other setting effects on historic environment assets are deemed to warrant an objection from HES (despite some disagreement over the predicted magnitude of effects) I am satisfied that my assessment of cultural heritage effects can be appropriately confined to Kinross House and its Inventory garden. I find the development to be compliant with NPF4 policy 7 and LDP policies 27 and 29 on the basis that it would not have a significant impact on any historic assets or places. I also do not find the proposal to be contrary to any policy provisions within the non-statutory HEPS document.

#### Aviation radar mitigation

45. NATS (En Route) plc (NERL) is responsible for the safe and expeditious movement in the en-route phase of flight for aircraft operating in controlled airspace in the UK. It has been established that the proposed development would interfere with radar used for this purpose. This would be as a result of the wind turbines being detected by radar, causing false readings. It is also anticipated that the probability of detection for real aircraft would be reduced.

46. None of these predicted effects are disputed, and parties are also in agreement that mitigation would be necessary so that en-route air traffic control services are not in any way compromised. Agreement has not however been reached on the precise terms of the planning condition needed to ensure that necessary mitigation is put in place, with the appellant and NERL each respectively making a case for their preferred approach.

47. Fundamentally, any condition must satisfy all six tests outlined in planning circular 4/1998 'The use of conditions in planning permissions', meaning any condition must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

48. The appellant's proposed condition, at its simplest, requires a binding undertaking to be in place to pay NERL for implementing a mitigation scheme. Through further written submissions the appellant has put forward an expanded version which would also separately require the mitigation scheme to be implemented prior to the erection of any turbines. The condition sought by NERL would require a primary radar mitigation scheme to be agreed with NERL and then submitted to the planning authority for its written approval, prior to the erection of any turbines.

49. In either scenario, the appellant would wish there to be some certainty over what a mitigation scheme may entail, given it would ultimately need to bear the cost of its implementation. It proposes that this could be achieved through providing headline mitigation measures in the condition, so there would be some parameters to what may be deemed as reasonably related to the proposed development, and necessary in order to overcome its impact.

50. In this case I am not convinced that a condition requiring a radar mitigation scheme must also specify the measures which would need to be undertaken. It is not unusual for mitigation schemes, method statements and similar to be required for a wide range of purposes prior to the commencement of development (or prior to a certain part of it). The exact approach or details that may ultimately be agreed are almost always unknown or unspecified by the condition. That does not render a condition as imprecise, because the need for a mitigation scheme is itself a sufficiently precise requirement, as long as the purpose of the mitigation is clear.

51. NERL has explained that it does not own the commercial rights for using the Edinburgh Terma radar, the use of which is expected to be required to provide sufficient mitigation. There is no suggestion that the necessary rights might not be able to be secured, although I understand that there is a cost involved in doing so. Although it appears that NERL could not use the data feed from the Edinburgh Terma radar in order to mitigate the effects of the proposed development without the agreement of the third party that owns the commercial rights to it, this appears to be a question of who meets the cost (whether one-off and/or ongoing) of obtaining the data feed for this purpose, rather than a question of whether or not it is obtainable from a practical or technical perspective.

52. I can see that the appellant's proposed wording might be less capable of accommodating the potential need for a commercial agreement for use of this data feed. Whilst the issue appears to ultimately come down to who pays for the use of that data feed, the potential need for an agreement of this type would not be captured by an undertaking limited to paying sums incurred by NERL in implementing a mitigation scheme. I agree with NERL that a commercial agreement to secure the rights to use data for this purpose may well need to form part of the mitigation scheme. This is a materially different situation to the issue dealt with in the Clauchrie and Sanquhar II decisions cited by the appellant.

53. For this reason, a condition to require a mitigation scheme to be agreed and thereafter implemented, rather than simply securing a mechanism for reimbursement of the costs of implementation, seems to me to be the more appropriate option. I would note though that the primary focus of a mitigation scheme required by condition is concerned with the delivery of those measures needed to mitigate the direct effects of the

development. It does not go further than that, and the requirement for a mitigation scheme would not legitimise the appellant being required to meet any costs that would not be directly and reasonably related to this necessary mitigation. Should such a situation arise, that would be a matter for the council to consider in the first instance when considering whether to approve a mitigation scheme submitted to it. It is solely the council's statutory responsibility to make that decision as planning authority, although it can choose to consult whoever it wishes beforehand and it would be a clear expectation that NERL would be consulted on this matter.

54. I consider the condition wording proposed by NERL would hinder the ability for any disagreement between the appellant and NERL over a mitigation scheme's terms to be reconciled by the council. This is because it requires an 'agreed' scheme to be submitted, which does not accommodate a scenario where agreement over its terms cannot be reached. By amending the wording to enable a mitigation scheme to be submitted for approval, regardless of whether prior agreement has been reached, this would allow the planning authority to determine whether any disputed terms were critical to the scheme and/or were over-reaching in terms of their relevance to the development. There would also be a right of appeal for the appellant if the submitted scheme were not approved.

55. All told I consider a condition based on that proposed by NERL, but amended to ensure that responsibility for approving a mitigation scheme rests solely with the planning authority, meets the circular tests. This requires the mitigation scheme to be approved and implemented before turbines are erected, whilst avoiding a scenario where any dispute between the appellant and NERL could become an insurmountable barrier in its own right.

#### Scottish Gliding Centre

56. The Scottish Gliding Centre (SGC) operates from Portmoak aerodrome, 14.5km to the southeast of the proposed development. SGC has objected to the proposed development because the development would limit glider flight route options in some weather conditions when transiting the Ochil hills. For the same reasons, there is greater concern over the cumulative effect of this proposed development together with other proposed and operational windfarms. The consequential financial impact on SGC and the local visitor economy have also been raised.

57. No parties are contending that the proposed development would present a safety risk to glider pilots. The impact upon glider pilots is therefore one of broader amenity associated with the activity, in that the proposed development would lessen the range of route options available to them. This is because of the need to maintain minimum clearances from the wind turbines, and also the need to account for turbulent air in their wake.

58. I recognise that SGC at Portmoak is a highly regarded facility which provides access to cross-country gliding opportunities over the Scottish mountains. I understand that a component of gliding activity is aiming to set speed and distance flying records, and I can appreciate that in those specific circumstances, any additional potential limitation to the optimal 'racing line' such as that presented by the proposed development would be undesirable. The majority of flights are presumably however of a recreational nature rather than record attempts, given the numbers of SGC members and flights recorded annually.

59. The evidence before me demonstrates that the proposed development would not be an absolute constraint to the routing options available to glider pilots in this area. The limitations would most obviously present themselves when the combination of the height of the turbines relative to a low cloud base would effectively remove a route option that would

have otherwise been available. I acknowledge that this would have an amenity impact for glider pilots in this scenario, but critically this would not pose a safety risk, as other routing options would continue to be available which would be unaffected. Furthermore, in clear skies or when the cloud base is higher, glider pilots would be able to fly directly over the windfarm, maintaining the necessary minimum vertical clearance.

60. There is nothing before me which would enable the potential loss of flying time resulting from the proposed development to be quantified. Given alternative route options would exist even where conditions are such that the barrier effect of the windfarm would be at its greatest, I have difficulty with SGC's assertion that the presence of Craighead windfarm would lead to a perceptible reduction in the use of Portmoak, but I do agree that some loss of amenity for glider pilots could occur in some scenarios and weather conditions.

61. The proposed Brunt Hill windfarm would, if also consented and built, increase the overall airspace constrained by wind turbines. The cumulative effects upon glider route options has been taken into account in the appellant's assessment, but ultimately the combined effects of the Brunt Hill scheme together with Craighead windfarm would be a matter for the decision-maker in that case to assess, given that application has not yet been determined. I note that SGC's objection is principally in regard to the cumulative effects of these two schemes, rather than Craighead windfarm individually (and which is the smaller of the two proposals).

62. In terms of the potential financial implications for SGC, it has been contended that the development's impact on glider pilots' ability to fly across the Ochils would be anticipated to result in around 25% of members resigning from SGC. Having already concluded that the windfarm would reduce routing options in some weather conditions rather than it resulting in a loss of otherwise suitable flying days, I cannot see a reasonable basis for the assumption that 25% of members would resign from SGC if the windfarm were constructed. There are limited opportunities for launching gliders in Scotland and the UK more widely, and those who participate in the sport will have likely made significant investments in training, aircraft and equipment, so I find it implausible that individuals would abandon the pursuit and/or the use of Portmoak simply because a windfarm would limit a particular route to and from this aerodrome in certain conditions. In my judgement and in the circumstances of this case, I find it highly unlikely that this development would have any meaningful bearing on SGC membership numbers or the number of suitable flying days at Portmoak. It logically therefore follows that there would not be any likely discernible indirect adverse impact on the local visitor economy stemming from a decline in SGC membership.

63. All told, whilst the proposed windfarm would have some impact on the amenity of glider pilots, I am satisfied that gliding activity, and that of SGC, would not be compromised to a significant extent by the development. I find that in this regard the proposal would not be in conflict with NPF4 policy 11(e)(iv) and LDP policy 61 'Airfield safeguarding'.

#### Other matters

64. The EIA report assesses a wide range of other matters and the potential for impacts upon interests including noise; ecology; ornithology; hydrology; traffic and transport; shadow flicker; telecommunications and utilities infrastructure. Subject to mitigation measures being implemented where necessary, no significant residual effects are anticipated in regard to any of these matters. I note also that none of the key agencies have raised an objection to the development relating to these topics, in some cases subject to the imposition of conditions in order to provide appropriate safeguards and/or mitigation.

65. Ecology, ornithology and hydrology effects are to some extent interrelated. NPF4 policy 3 'Biodiversity' requires that in addition to addressing potential negative effects on biodiversity interests in line with the mitigation hierarchy, significant biodiversity enhancements are to be provided. The evidence before me (in the relevant chapters of the EIA report and its appendices) demonstrates that the principles of the mitigation hierarchy have been followed and necessary measures can be secured using conditions, and no significant effects on any protected species or habitats are predicted. An outline biodiversity enhancement plan has been prepared which sets out outline proposals for wider habitat and peatland enhancements, as well as the creation of hedgerows, woodland, scrub and grassland habitats. I consider that the proposals within this plan would represent significant enhancement, in accordance with NPF4 policy 3(b).

66. The plan also contains proposals for peatland restoration, read in conjunction with the outline peat management plan. NPF4 policy 5 'Soils' makes allowance for windfarm development to take place on peatland. LDP policy 51 adopts a similar approach. As required by policy 5, a detailed assessment has been undertaken, which demonstrates that the development would be positioned on the shallowest areas of peat within the site boundary, with floating tracks being utilised to minimise peat loss. Peatland restoration of more than ten times the area that would be lost is proposed, in line with good practice guidance.

67. In regard to woodland loss, 4.61ha of immature plantation would be required to be felled in order to provide a buffer between turbines 1 and 2 and adjacent woodland, in order to mitigate risk to bats. The biodiversity enhancement plan proposes to accommodate an equivalent area of replanting within the site boundary, avoiding areas of peatland. The provision of compensatory planting would satisfy NPF4 policy 6 'Forestry, woodland and trees' and LDP policy 40 with the same title, noting the wider public benefits of renewable energy.

68. There are a number of designated sites in the vicinity of the proposed development. These include Loch Leven Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Ramsar and National Nature Reserve (NNR); and the Glen Queich SSSI. As advised by NatureScot, below I have undertaken an appropriate assessment to take into account the conservation objectives of Loch Leven Special Protection Area (SPA) and Ramsar site.

69. I sought further information from NatureScot to inform this appropriate assessment. This was in view of NatureScot's advice that the development would be likely to have a significant effect on the qualifying interests of Loch Leven SPA, but that subject to mitigation the proposal would not adversely affect the integrity of the site.

70. The conservation objectives for Loch Leven SPA are:

- to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained;
- and, to ensure for the qualifying species that the following are maintained in the long term:
  - the population of the species as a viable component of the site;
  - distribution of the species within site;
  - distribution and extent of habitats supporting the species;

- structure, function and supporting processes of habitats supporting the species; and
- no significant disturbance of the species.

71. Loch Leven supports internationally important populations of non-breeding waterfowl. NatureScot has identified that the proposed development is in the catchment of the South Queich, and this watercourse flows into Loch Leven. If the development resulted in sediment and nutrients entering this watercourse, this could then contribute to altered water quality in Loch Leven. In turn, this would potentially alter the habitats which support qualifying bird species (for example, as a food resource).

72. In order to prevent deterioration of the habitats, and their structure, function and supporting processes, measures are necessary to ensure that the risk of sediment, nutrients and other contaminants entering the loch are minimised. This risk would be at its greatest during forestry and construction works given the extent of ground disturbance, as well as there being a residual pollution risk from plant and equipment that would be on the site. In order to mitigate these risks, a construction environmental management plan would be required to be agreed prior to any development taking place, as a condition of planning permission. By requiring detailed arrangements and working methods to be in place, this would minimise the potential for Loch Leven to be affected by the development, and I agree with NatureScot that the proposal would not affect the integrity of the SPA on this basis.

73. Since 9 July 2025, all features of Ramsar sites must be protected as though they are features of European sites. The SPA is a European site, and the conservation objectives of Loch Leven Ramsar align with those of the SPA considered above, but also introduces a further conservation objective: 'to avoid deterioration of the qualifying habitat thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for the qualifying feature'. This objective remains closely aligned to those of the SPA, and NatureScot's position in regard to the Ramsar is that with mitigation the proposal would not adversely affect the integrity of the site. For the same reasons as outlined above, I find no basis to reach a different conclusion on this matter.

74. Subject to mitigation measures (with responsibility for the implementation of which would rest with the required Environmental Clerk of Works), I conclude that the development would not have an adverse effect on the integrity of the SPA or Ramsar site. Accordingly, this appropriate assessment meets the requirements of NPF4 policy 4(b).

75. In terms of residential amenity, noise levels are not expected to be capable of exceeding limits calculated in accordance with the well-established ETSU-R-97 guidance at any residential property. A condition would nevertheless be necessary in order to provide a safeguard in the event of any exceedance above predicted levels. A review of the EIA report's conclusions on noise on behalf of the council recommended that a condition be included relating to amplitude modulation of noise. Amplitude modulation (which in the simplest terms relates to the tone of 'swishing' sounds as blades rotate) is not possible to predict. Whilst various studies into amplitude modulation have been carried out, as far as I am aware there is no established policy or guidance on if and how this ought to be factored into noise limits for windfarm development. Without any evidential basis that amplitude modulation may be likely to cause a distinct noise disturbance notwithstanding the noise limits that would be required to be adhered to, I do not consider a condition to restrict the development beyond ETSU-R-97 limits can be adequately justified. I note too that the council has not requested that the proposed noise condition prepared by the appellant be expanded to address amplitude modulation.

76. An assessment of shadow flicker has been undertaken, as set out in chapter 14 of the EIA report. It is predicted that four properties would experience shadow flicker, the worst affected being Earnieside Farmhouse. At this location, the theoretical maximum occurrence of shadow flicker would be just over 55 hours per year. With adjustments to take account of sunlight hours and likely hours of turbine operation, it is estimated that it is more likely that shadow flicker would be experienced at Earnieside Farmhouse for around 16 hours per year.

77. There are no established thresholds in Scotland for where shadow flicker may have a significant impact on residential amenity. The EIA report has applied a threshold of 30 hours per year. In my view, that is rather too high a threshold, and I consider that 16 hours a year (with the potential for this to be substantially greater depending on weather conditions) could be considered to be a significant effect. In order to safeguard residential amenity adequately, I consider that a mitigation scheme ought to be required in the event of a complaint being received, and this should relate to all four properties where shadow flicker may be experienced, noting the theoretical maximum occurrence at each. This would also provide surety that shadow flicker could not become more problematic as a consequence of micro-siting of turbines without means of redress. Mitigation capability is noted in the EIA report through programming of individual turbines.

78. Chapter 12 of the EIA report addresses traffic and transport matters. It does not identify any significant residual effects from traffic generated during construction (or thereafter during the operational phase when traffic generation would be negligible). This is based on a review of baseline traffic levels and the anticipated increase in traffic in a worst case scenario, including HGVs and abnormal loads, and a range of mitigation and traffic management measures such as specific routing and limiting hours of deliveries. I consider that there would be an obvious increase in the amount and type of vehicular movements at certain stages of the construction phase, and this may cause some inconvenience to other road users as well as some potential disturbance to those who live adjacent to the main access routes. However, this would be a temporary, short-term impact and good practice measures secured by condition would minimise the associated adverse effects.

79. The council's transport planning service has outlined some unresolved matters of detail relating to required junction geometry and visibility splays, but these can be appropriately secured using a suspensive condition. The potential need for third party land is a matter for the appellant to resolve in order to meet the requirements of any conditions and/or agreed details. I find no conflict with the relevant provisions of NPF4 policy 13 'Sustainable transport' or LDP policy 60 'Transport standards and accessibility requirements'.

80. Other objections raised in representations relate to various matters. The impact on tourism has been raised, but there is nothing before me to suggest that a windfarm in this location would compromise the wider area's appeal to visitors. In my judgement the recreational value of walking, cycling and driving routes as well as other outdoor pursuits in and around Kinross-shire and the Ochil Hills would not be compromised overall, despite the significant landscape and visual effects identified, as it would not affect the wider character of the area or compromise the underlying reasons to visit this area, such as its cultural heritage and nature.

81. Safety concerns have been raised. I have disregarded concerns over the safety of battery energy storage as this is not proposed. Other concerns such as blade failure and ice

throw are common to all windfarm operations but the risk is negligible and there are no safety matters which would be capable of influencing my decision in this case.

82. The potential for interference with telecommunications (excluding aviation radar) has been assessed in chapter 16 of the EIA report, and on the basis of the evidence before me I have no reason to question the findings that the development would not have any residual effects on any such infrastructure, including television reception.

83. I have had regard to the relevant planning history in this locality, specifically the refusal of the 'Mellock Hill' 14 turbine windfarm proposal in 2007. I have reviewed the reporter's findings in that case, but I consider that the planning policy context has materially and substantially changed since that decision was taken, altering the way in which the overall balance of acceptability of windfarm development must be reached. My findings align with that 2007 decision insofar as I have identified that significant adverse landscape and visual effects would arise, but the matters that are relevant to the overall planning balance today, and critically the relative weight to be afforded to them, are not comparable to 2007. That previous decision does not provide any indication of the acceptability or otherwise of this current proposal for that reason.

#### Development benefits

84. My assessment thus far has largely concentrated on the potential adverse effects of the proposed development. I have considered the objections and concerns raised, but there are also representations which support the windfarm proposal on the basis of the economic and renewable energy benefits it offers.

85. I have already alluded to the need-case for the development being established in principle, given the express support for renewable energy provided by UK-wide and Scottish energy and planning policy, including for onshore wind energy. This support is carried into the development plan by NPF4 policy 11, alongside which is NPF4 policy 1 which instructs that significant weight is to be given to the global climate and nature crises in decision-making.

86. Chapter 13 of the EIA report has calculated that over its 40-year operational life, the development would offer net greenhouse gas emission savings of around 1.2 million tonnes, with a carbon payback period of 32 months. Based on the expected installed capacity of the windfarm of 49.6 megawatts in this location, its electrical output would be expected to be around 151,000 megawatt hours per year. These figures would undoubtedly be greater if more turbines were proposed, but the adverse effects would also be likely to increase in that case. For an eight-turbine scheme the predicted output is relatively substantial, and I recognise the value of its contribution towards achieving emissions reduction targets and responding to the climate emergency.

87. NPF4 policy 11(c) states that development proposals will only be supported where they maximise net economic impact. I have disregarded the offer of community benefit funds and similar payments (and representations relating to these) as these are not relevant to an assessment of the planning merits of the proposal. Even so, the economic benefit of the development would be considerable, in terms of gross value added, spend, and the support to and creation of jobs particularly during the construction phase. For a proposal of this scale, I consider the terms of policy 11(c) to be adequately satisfied.

### Overall conclusions

88. As with any onshore windfarm proposal, this development would result in some significant landscape and visual effects. The policy support provided, particularly by NPF4, has been established with a full awareness of this. NPF4 policy 11 addresses this matter by indicating that where such effects are localised, this will generally be regarded as acceptable. In my assessment, the extent and nature of significant landscape and visual effects from this proposal would be localised overall.

89. Having identified that the special qualities of the Ochil Hills Local Landscape Area and Ochil Hills Special Landscape Area local landscape designations would be subject to localised but nevertheless significant adverse effects, NPF4 policy 4 would make allowance for such effects only where these would be outweighed by social, environmental or economic benefits of at least local importance. Having had regard to the benefits of the development, and framed in the broader overall context of the need to give significant weight to the climate crisis, I find that the effects on these local landscape designations would be outweighed by the development's benefits, thereby accords with policy 4.

90. I have assessed the effects of the development on the setting of Kinross House, and whilst there would be significant effects on the view from Castle Island towards the house and garden, for the reasons outlined I do not consider that this would have any bearing on the cultural significance of Kinross House and its gardens as derived from its setting. I find this would be a significant visual effect but not one which interferes with the special interest of the listed building and gardens.

91. I have had regard to other wide-ranging issues including matters raised in consultation responses and representations both for and against the proposed development.

92. Following my consideration of the environmental information, I have identified no additional significant effects, with the exception of shadow flicker, and I have included a condition to enable mitigation of this. I am also satisfied that my reasoned conclusions on the significant effects of the proposed development are up to date. I conclude that, subject to mitigation controlled by means of the conditions attached to this notice, there would be no unacceptable residual impacts in regard to any of the matters before me.

93. The conditions set out below also provide for monitoring measures where appropriate. In condition 7 I require the appointment of an Ecological Clerk of Works, who would have responsibility for monitoring compliance with wide-ranging environmental commitments in the EIA report. In condition 8, a component of the required construction and environmental management plan is pollution control monitoring. Blasting at borrow pits would require monitoring locations to be established to accord with condition 10. The traffic management plan required by condition 12 also requires monitoring measures to be agreed. There is no evidence to suggest that any other monitoring measures are required.

94. The conditions attached to this notice are based on those provided by the appellant, which the council has commented upon. I have also had regard to consultation responses and representations in finalising this schedule. I have made various amendments to these in the interests of clarity and enforceability. The time limit for the commencement of development had been suggested as five years, but I have reverted to three years in the absence of any material reason to extend the default period.

95. I agree with Fossoway Community Council that construction hours ought to be limited to those proposed by the appellant, rather than a more generous allowance suggested by the council. This would help to limit the extent to which the local community is disrupted by construction activity, particularly during less social hours. Other matters raised relating to the role of the environmental clerk of works and construction environmental management plan would already be capable of being addressed by measures required by the conditions as outlined, where deemed necessary by the council.

96. It would not be appropriate for matters specified in conditions to require the agreement of the community council. The responsibility for agreeing such matters rests solely with Perth and Kinross Council as planning authority. This principle applies to all conditions and ultimately no consultee has the power to determine whether the requirements of a condition have been satisfied. As already explained above, the condition I have included in relation to aviation radar mitigation reflects that it is only the council with a statutory role relating to conditions. I have also amended various other conditions to remove reference to bodies other than the planning authority for the same reason.

97. The noise condition suggested by the appellant and reviewed by the council did not include any nighttime noise limits, so I have added these to reflect the apportioned limits provided in appendix 8.3 of the EIA report.

98. I have not included precise visibility splay requirements in condition 13 as suggested by the council. This would be adequately addressed by part 1(b) of the same condition, whilst maintaining a degree of flexibility over final detailed arrangements. I have included a condition (14) relating to vehicular access construction details as requested by the council however, in order to ensure road safety would not be compromised.

99. All told, I find that the benefits of the development, and in particular its contribution to renewable energy targets in response to the climate crisis, outweigh the adverse effects of the development. I have not identified any policy conflict as the development plan makes allowance for some unavoidable adverse impacts from renewable energy developments, reflecting the importance of appropriate schemes being supported. I conclude that this proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Christopher Warren*

Reporter

## **Schedule 1: Conditions**

### **1. Commencement of Development**

(1) The Development must be commenced no later than 3 years from the date of this planning permission.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority no later than one calendar month before that date.

Reason: Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permissions limiting their duration. Three years is the default

period set by law and there is no material reason indicating that a different period should be set.

## **2. 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) and all turbine associated apparatus have been submitted to and approved in writing by the Planning Authority.

(2) The submission shall demonstrate that all wind turbine blades shall rotate in the same direction.

(3) Thereafter the wind turbines 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.

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.

## **3. Design of Sub-station and ancillary development**

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

(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.

## **4. 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).

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

## **5. Micro-siting**

(1) All wind turbines, buildings, areas of hardstanding, associated infrastructure and tracks shall be constructed in the locations shown on plan reference Figure 5.10 and at the grid references for the turbines set out in Table 5.1 of the EIA Report (Project Description). The locations of wind turbines, buildings, areas of hardstanding and tracks may be adjusted by micro-siting within the redline boundary shown on plan reference Figure 5.10. 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, hardstanding or access track shall be moved more than 50m from the position shown on Figure 5.10 and at the grid references set out in Table 5.1 of the EIA Report;
- (b) 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;
- (c) no infrastructure other than as required for a water course crossing or water crossing upgrading works shall be micro-sited to within 50 metres of a water course;
- (d) No wind turbine foundation shall be positioned higher than 5m Above Ordnance Datum (AOD) than the position for that turbine shown on Table 5.1. In addition, no turbine shall be positioned as to result in a tip height exceeding 614.4m AOD;
- (e) no micro-siting shall take place which will bring the wind turbine blade tips closer than 50m stand-off distance to high-value bat habitat.

(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 three months after the Date of Final Commissioning, an updated site layout plan showing the final position of all wind turbines, buildings, 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.

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

## **6. Planning Monitoring Officer**

(1) There shall be no Commencement of Development until the terms of appointment by the developer of an independent and suitably qualified 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 planning permission and the conditions attached to it;
- (b) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site, matters of compliance or otherwise with the terms of the planning permission and conditions attached to it, alongside a summary of the incidents recorded and reported by the ECoW; and
- (c) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms and conditions of the planning permission 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 planning permission (whichever is the earlier), details of the terms of appointment of a suitably qualified consultant as PMO by the Company/operator 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.

## **7. 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) 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, including any micro-siting under condition 5, the Construction and Environmental Management Plan approved under condition 8, the Biodiversity Enhancement Plan approved under condition 14, and any species or habitat management plans identified in the EIA Report, (“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 planning permission (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.

## **8. 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.

(2) The CEMP shall include:

- (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 adherence 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 concrete batching plant (including disposal of pH-rich waste water and substances), 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) 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 Incident Plan incorporating a Pollution Prevention Plan, Pollution Incident Plan and a Pollution Control Monitoring Plan, with 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;
- (f) 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;
- (g) 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;
- (h) 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;
- (i) 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;
- (j) Protected Species Plan, informed by any protected species surveys carried out. The Plan shall provide mitigation measures in line with Summary of Mitigation, as required, and a timetable for implementation.
- (k) details of the construction of the access into the site, including associated drainage and the creation and maintenance of associated visibility splays;
- (l) Construction Method Statements for the following: i. crane pads; ii. turbine foundations; iii. working cable trenches; iv. erection of the wind turbines; v. Substation compound formation, erection of associated buildings and ancillary infrastructure; vi. all roads/tracks to be altered/formed within the site including their width, means of drainage (which shall have regard to SUDS principles), means of construction, and edge reinstatement including verge width. vii. watercourse crossings including full details and plans of the design and specification of all new and upgraded watercourse crossings to be constructed;

- (m) details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development;
- (n) a wetland ecosystems survey and mitigation plan;
- (o) 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, 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;
- (p) 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;
- (q) the cable trenches;
- (r) A phasing plan for the construction works; and
- (s) A written scheme which details the methodology for dealing with any revisions to any of the documents required under this part (2). 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.

(3) 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

## **9. 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. The scheme shall provide:

- (a) a detailed working method statement based on site survey information and ground investigations;
- (b) details of the handling of any overburden (including peat, soil and rock);
- (c) drainage measures, including measures to protect and manage surrounding areas of peatland, water dependant sensitive habitats and ground water dependent terrestrial ecosystems from drying out;
- (d) a programme of implementation of the works described in the scheme; and
- (e) Outline details of the reinstatement, restoration and aftercare of the borrow pit(s) 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.

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

Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on amenity and the environment, and to secure the restoration of borrow pit(s) at the end of the construction period.

## **10. 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.

## **11. Construction Hours**

(1) Construction work shall only take place between the hours of 07.00 to 18.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no construction work taking place on a Sunday or Public Holiday. Outwith these specified hours, maintenance works, emergency works and construction works shall be limited to concrete pours, wind turbine erection, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority.

(2) HGV movements (excluding abnormal loads) to or from the site during construction of the wind farm shall be limited to 07.00 to 18.00 Monday to Friday (inclusive), and 07.00 to 13.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or Public Holiday. Outwith these hours, and subject to paragraph (1), HGV movements are to be limited to wind turbine delivery (unless otherwise approved in advance in writing by the Planning Authority).

Reason: In the interests of local amenity.

## **12. Traffic Management Plan**

(1) There shall be no Commencement of Development until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Planning Authority. The CTMP shall provide:

- (a) the routing 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, 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 CTMP shall thereafter be implemented in full, unless otherwise approved in advance in writing by the Planning Authority.

Reason: In the interests of road safety.

### **13. Abnormal Loads**

(1) There shall be no abnormal load deliveries to the site until an Abnormal Load Route Assessment Report has been submitted to and approved in writing by the Planning Authority. 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, visibility splays 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;
- (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.

(3) Prior to any movement of abnormal loads (including trial runs) the Company must complete any mitigation works set out in 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 to 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.

### **14 Vehicular Access**

No development in connection with the permission hereby granted shall commence unless the vehicular access has been provided and surfaced in accordance with Perth & Kinross Council's Road Development Guide Type E Figure 5.8 access detail, of Type B Road construction detail. The Type B Road construction detail shall continue into the entrance for a distance of 10.5 metres. Once provided, the vehicular and pedestrian access shall thereafter be permanently retained as such.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

## **15 Biodiversity Enhancement Plan**

(1) There shall be no Commencement of Development until a Biodiversity Enhancement Plan (BEP) taking account of the Outline BEP (Technical Appendix 9.4 of the EIA Report), has been submitted to, and approved in writing by, the Planning Authority.

(2) The BEP 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 and enhancement of the habitats set out in the Outline BEP on site.

(3) The BEP shall provide provision and details for regular monitoring and review to be undertaken against the BEP objectives for the full lifetime of the windfarm, and reasonable measures for securing amendments or additions to the BEP in the event that the BEP objectives are not being met.

(4) The approved BEP (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.

## **16 Forestry Felling Plan**

(1) No felling shall take place until a Forestry Felling Plan (FFP) has been submitted to and approved in writing by the Planning Authority. The FFP shall cover the Development site and shall provide:

- (a) details of felling and restocking proposals;
- (b) details of the management measures to reduce the amount of felling required to accommodate the Development;
- (c) measures to deal with forest waste including brash;
- (d) timelines for implementing the plan;
- (e) details setting out annual monitoring of the felled area and reporting procedures to be carried out by a qualified expert;
- (f) details of forestry management practices; and
- (g) details demonstrating compliance with The UK Forestry Standard and the Scottish Government's Policy on Control of Woodland Removal (as amended or replaced from time to time).

(2) The approved FFP shall be implemented in full upon Commencement of Felling.

Reason: to minimise and manage the effects of forestry felling required to accommodate the Development.

## **17. Programme of Archaeological Works**

Development shall not commence until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Archaeological Investigation (WSI) which has been submitted by the developer and agreed in writing by the Planning Authority. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation,

recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. Should the archaeological works, as required by the WSI, identify a requirement for post-excitation analysis, the development as approved shall not be brought into use until a Post-Excavation Research Design (PERD) has been submitted to and agreed 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.

## 18. 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 Peat Management Plan (Technical Appendix 11.1 of the EIA Report) has been submitted to and approved in writing by the Planning Authority.

(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; and
- (d) follow good practice for handling, storing and reinstating peat and other carbon rich soils.

(3) The PMP shall thereafter be implemented as approved.

Reason: To ensure that disruption to peat is minimised.

## 19. 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 attached 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 at those properties identified or 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)	Easting	Northing	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods								
			4	5	6	7	8	9	10	11	12
Earnieside Farmhouse	301604	705312	30.4	34.5	36.3	36.7	36.7	38.7	39.4	39.4	39.4
Earnieside Cottage	301460	705484	28.5	32.6	35.7	37.2	37.5	37.5	37.5	37.5	37.5
Littlerig	301266	707031	30.0	34.1	34.8	36.3	38.3	38.9	38.9	38.9	38.9
Myrehaugh House	301275	705255	28.4	32.4	35.9	36.3	37.3	37.3	37.3	37.3	37.3
Coulsknowe Farm	301060	705327	27.5	31.6	35.3	36.0	36.4	36.4	36.4	36.4	36.4
Craighead Farm	304399	703922	27.1	31.2	34.2	34.7	35.9	35.9	35.9	35.9	35.9

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

Location (including coordinates)	Easting	Northing	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods								
			4	5	6	7	8	9	10	11	12
Earnieside Farmhouse	301604	705312	30.4	34.5	38.2	39.4	39.4	39.4	39.4	39.4	39.4
Earnieside Cottage	301460	705484	28.5	32.6	36.3	37.5	37.5	37.5	37.5	37.5	37.5
Littlerig	301266	707031	30.0	34.1	37.8	38.9	38.9	38.9	38.9	38.9	38.9
Myrehaugh House	301275	705255	28.4	32.4	36.1	37.3	37.3	37.3	37.3	37.3	37.3
Coulsknowe Farm	301060	705327	27.5	31.6	35.3	36.4	36.4	36.4	36.4	36.4	36.4
Craighead Farm	304399	703922	27.1	31.2	34.9	35.9	35.9	35.9	35.9	35.9	35.9

(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 at each wind turbine all (in accordance with Guidance Notes). These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority, in the format set out in the Guidance Notes, within 14 days of receipt in writing of a request to do so.

(4) Prior to the Date of First Commissioning, the developer shall have submitted to, and received written approval of the Planning Authority of, 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 developer shall employ a consultant approved by the Planning Authority in terms of part (4) above to assess the level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing by the Planning Authority). 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 part (5) above shall be undertaken in accordance with the Guidance Notes and 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 property to which a complaint is related is not listed by name or location in Tables 1 and 2 at part (1) of this condition, the Company shall submit to the Planning

Authority, for its written approval, proposed noise limits selected from those listed in Tables 1 and 2 to be adopted at the complainant's property for compliance checking purposes, prior to compliance checking. The proposed noise limits are to be those limits selected from 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 property. The protocol shall include a justification of the choice of the representative background method to determine compliance at the complainant's property based on the noise environment provided by the independent consultant. levels measured at the agreed location and, where appropriate, any limit apportionment undertaken to consider cumulative impacts.

(8) The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the Guidance Notes and approved Noise Assessment Protocol shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.

(9) In the event that a complainant does not allow the Company access to undertake a compliance assessment, the assessment protocol shall set out details of the proposed alternative representative measurement position. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (e.g. to improve the signal to noise limits to ratio) .

(10) 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 and the approved Noise Assessment Protocol within two months of the date of the written request of the Planning Authority for compliance measurements to be made under part (5), 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 the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with the Guidance Notes and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

(11) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to (in accordance with the Guidance Notes), the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to part (8) above unless the time limit has been extended in writing by the Planning Authority.

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 for Operational Noise Condition**

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

IOA GPG is “A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise” (2013) and includes Supplementary Guidance Notes 1 to 5 of the IOA GPG.

## **20. Shadow flicker**

No development shall commence unless and until a Shadow Flicker Protocol has been submitted to, and approved in writing by, the Planning Authority. The Shadow Flicker Protocol shall set out a protocol for addressing any complaint received from a residential receptor within the study area defined in Chapter 14 of the EIA Report, and will set out mitigation and management options. Operation of the turbines shall take place in accordance with the approved Shadow Flicker Protocol and any mitigation measures that have been approved through the protocol shall be implemented.

Reason: In the interests of residential amenity.

## **21. Access Management Plan**

(1) There shall be no Commencement of Development until an Access Management Plan (AMP) has been submitted to and approved in writing by the Planning Authority. The AMP should ensure that, where appropriate and subject to health and safety requirements, public access along core path FSWY/156 is maintained across the Development site during construction, and thereafter that existing wider rights of public access are maintained during the operational phase of the wind farm.

(2) The approved plan shall be implemented in full.

Reason: In the interests of securing public access rights

## **22. Aviation Safety**

(1) At least 14 days prior to the Commencement of Development, the developer 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 date of the commencement of the erection of wind turbine generators and 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 to be used in the erection of turbines;
- (d) the position of the wind turbines and masts in latitude and longitude; and
- (e) the date any wind turbine generators are brought into use.

(2) The developer 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 developer 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.

### **23. Aviation and Other Lighting**

(1) No wind turbines shall be erected or other construction equipment or temporary structure of 50 metres or more (above ground level) in height shall be deployed 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 and the Ministry of Defence. The scheme shall provide details of aviation lighting which is to be applied defining how the Development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence, and must include:

(a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of the wind turbines and details of any aviation warning lighting that they will be fitted with;

(b) the locations and heights of all wind turbines in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbines; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used;

(c) Unless otherwise agreed by the Planning Authority:

i. medium intensity steady red (2000 candela) lights installed on the nacelles of Turbines 1, 3, 6 and 8;

ii. a second 2000 candela light installed on the nacelles of the turbines stated above to act as alternates in the event of failure of the main light;

iii. capability to be dimmed to 10% of peak intensity when visibility as measured at the Development exceeds 5km; and

iv. the selected light to include angle intensity reduction.

Thereafter, the developer must exhibit such lights as detailed in the approved scheme and keep such lighting installed and operational for the lifetime of the development.

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

### **24. Aviation radar mitigation**

(1) No part of any turbine shall be erected above the ground until a Primary Radar Mitigation Scheme prepared in liaison with the Operator has been submitted to and approved in writing by the Planning Authority, in order to avoid at all times the impact of the development on the Primary Radars of the Operator located at Lowther Hill, Kincardine, Cumbernauld and Edinburgh Terma and associated air traffic management operations.

(2) No part of any turbine shall be erected above ground until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

Reason: In the interests of aviation safety, and to ensure the impact of the development on the systems of the Operator is adequately mitigated.

## **25. Redundant Turbines**

(1) If one or more wind turbines fails to generate electricity on a commercial basis to the public network for a continuous period of 12 months, then the turbine or turbines shall be deemed to be surplus to requirement and the developer shall:

(a) within one month of the expiration of the 12 month period, submit a scheme to the Planning Authority for written approval setting out how and when 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; and

(b) implement the approved scheme to the timescales set out in the scheme and agreed in part a) above.

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

## **26. Interim Decommissioning, Restoration and Aftercare Strategy**

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. 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 27.

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.

## **27. Site Decommissioning, Restoration and Aftercare**

(1) The Development shall cease to generate electricity to the grid network by no later than the date falling 40 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 planning permission (whichever is earlier) a decommissioning, restoration and aftercare plan shall be submitted for the written approval of the Planning Authority. 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 any temporary infrastructure required for decommissioning such as compounds, welfare facilities, any areas of hardstanding, material stockpiles, oil storage, lighting columns, and any 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; and
  - (j) a species protection plan if surveys (carried out no longer than eighteen months prior to submission of the plan) identify any protected species (including birds).

(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.

## **28. Financial Guarantee**

(1) There shall be no Commencement of Development until a bond or other form of financial guarantee (hereafter "financial guarantee") in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in conditions 26 and 27 has been submitted to and approved in writing by the Planning Authority.

(2) The value of the financial guarantee shall be agreed between the developer 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 conditions 26 and 27.

(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 26 and 27.

(4) The value of the financial guarantee shall be reviewed by agreement between the developer 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 27. 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 26 and 27.

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 developer.

**Definitions of terms in conditions:**

In this planning permission:-

“Commencement of Development” means the implementation of the 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 (but shall not be taken to include (i) any felling operations or (ii) Site Investigations).

“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 the earlier of (i) the date falling 40 years from the Date of Final Commissioning and (ii) the date that the Development ceases to generate electricity to the grid network on a permanent basis.

“Development” means the development authorised by this planning permission.

“EIA Report” means the Environmental Impact Assessment Report in respect of the Development dated August 2024, and submitted to the Planning Authority 5 August 2024.

“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).

“Planning Authority” means Perth and Kinross Council or any statutory successor(s) as local planning authority under the Town and Country Planning (Scotland) Act 1997.

“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.

“Site Investigations” means ground (e.g. boreholes) or geotechnical investigation to obtain soil and rock samples, providing information on ground conditions such as peat presence or stone quality for the purpose of finalising the design of the Development infrastructure and the production of environmental management plans required by planning conditions.

## **Schedule 2: Advisory notes**

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).
4. **Right to challenge this decision:** This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.
5. **Notification of this decision by the planning authority:** The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating the in locality of the proposed development or by other reasonable means and (b) to make a copy of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

## **Schedule 3: Application drawings**

- APP6-024 Figure 1.1 Site Location Plan
- APP6-026 Figure 5.2 Site Constraints Plan with Layout
- APP6-027 Figure 5.3 AIL Route to Site
- APP6-028 Figure 5.4 Typical Details Foundation
- APP6-029 Figure 5.5 Typical Details Hardstanding & Road Details
- APP6-030 Figure 5.6 Turbine Elevations
- APP6-031 Figure 5.7 Drainage Details
- APP6-032 Figure 5.8 Substation Details

APP6-033 Figure 5.9 Site Location  
APP6-034 Figure 5.10 Site Layout  
APP6-035 Figure 5.11a Site Layout – Block Plan – Overview  
APP6-036 Figure 5.11b Site Layout – Block Plan 1  
APP6-037 Figure 5.11c Site Layout – Block Plan 2  
APP6-038 Figure 5.11d Site Layout – Block Plan 3  
APP6-039 Figure 5.11e Site Layout – Block Plan 4  
APP6-040 Figure 5.11f Site Layout – Block Plan 5  
APP6-041 Figure 5.11g Site Layout – Block Plan 6  
APP6-042 Figure 5.11h Site Layout – Block Plan 7  
APP6-043 Figure 5.11i Site Layout – Block Plan 8  
APP6-044 Figure 5.11j Site Layout – Block Plan 9  
APP6-045 Figure 5.12 Drainage Concept  
APP6-046 Figure 5.13a – Drainage Concept – Block Plan Overview  
APP6-047 Figure 5.13b – Drainage Concept – Block Plan 1  
APP6-048 Figure 5.13c – Drainage Concept – Block Plan 2  
APP6-049 Figure 5.13d – Drainage Concept – Block Plan 3  
APP6-050 Figure 5.13e – Drainage Concept – Block Plan 4  
APP6-051 Figure 5.13f – Drainage Concept – Block Plan 5  
APP6-052 Figure 5.13g – Drainage Concept – Block Plan 6  
APP6-053 Figure 5.13h – Drainage Concept – Block Plan 7  
APP6-054 Figure 5.13i – Drainage Concept – Block Plan 8  
APP6-055 Figure 5.13j – Drainage Concept – Block Plan 9  
APP6-056 Figure 5.14 Site Entrance Design & Visibility Splay  
APP6-057 Figure 5.15 Existing Site Plan Levels

#### **Schedule 4: Opportunities for public participation in decision-making**

There is the following evidence before me of opportunities the public had to take part in decision-making procedures on the application before I was appointed to this appeal:

- the appellant has provided a report on pre-application consultation. This indicates that four public consultation events were held, two of which were in Carnbo on 14 November 2023 and 23 January 2024, and two took place in Dunning on 15 November 2023 and 14 January 2024, where the public had an opportunity to comment to the appellant on the proposed development;
- an advertisement of the application was placed in the Perthshire Advertiser. It advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report;
- the EIA report was placed on deposit in Carnbo and Perth, and was available to view on the appellant's website and the Perth and Kinross Planning Portal;
- those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal; and
- the main points raised in representations made to the planning authority and the DPEA are addressed in this decision notice.