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Dear Mr Phillip

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF CUMBERHEAD WEST WIND FARM AND ENERGY STORAGE FACILITY WITHIN THE PLANNING AUTHORITY AREA OF SOUTH LANARKSHIRE COUNCIL

Application

I refer to the application (“Application”) made on 25 November 2020 under section 36 of the Electricity Act 1989 (“the Electricity Act”) made by Cumberhead West Wind Farm Ltd, a company incorporated under the Companies Acts with company number SC535501, and having its registered office at 320 St. Vincent Street, Glasgow, Scotland, G2 5AD (“the Company”) for the construction and operation of Cumberhead West Wind Farm, an electricity generating station comprising 21 wind turbines with a maximum tip height of 200 metres, and energy storage facility (“the proposed Development”). Cumberhead West Wind Farm Ltd is a joint venture between 3R Energy Solutions Ltd and ScottishPower Renewables (UK) Limited.

The proposed Development is located approximately 4.3km to the west of Coalburn, 5.6km to the south-west of Lesmahagow and 7.2km to the north-west of Douglas in the South Lanarkshire Council area, with a total generating capacity in excess of 50 Mega Watts (MW).

This letter contains the Scottish Ministers’ decision to grant Section 36 consent for the proposed Development as described at Annex 1.

Planning Permission

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 the Scottish Ministers, may on granting consent under section 36 of the Electricity Act for

the construction and operation of a generating station direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development.

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

Background

On 25 November 2020 the Company applied for consent under section 36 the Electricity Act and deemed planning permission to construct and operate the proposed Development.

The proposed Development comprises of 21 wind turbines with tip height not exceeding 200 metres with an installed capacity of approximately 126MW, and an energy storage facility with a capacity of approximately 40MW.

The proposed Development lies adjacent to an established cluster of wind farms around Hagshaw Hill (known as the 'Hagshaw Cluster') in rural South Lanarkshire and is located approximately 4.3km to the west of Coalburn, 5.6km to the south-west of Lesmahagow and 7.2km to the north-west of Douglas in the South Lanarkshire Council area. The site comprises a main development area of approximately 898 hectares (ha) of the existing Cumberhead Forest consisting primarily of commercial coniferous plantation. The surrounding land comprises open moorland to the west and south-west, farmland with some scattered individual properties to the north and north-east, with further coniferous plantation to the south and south-east.

The proposed Development lies in close proximity to the northernmost extent of the Muirkirk and North Lowther Uplands Special Protection Area (SPA) and its associated Site of Special Scientific Interest (SSSI).

Legislation

Under paragraph 2(1) of Schedule 8 to the Electricity Act, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") and The Electricity Works (Miscellaneous) (Coronavirus) (Scotland) Regulations 2020, the Company submitted an Environmental Impact Assessment report ("the EIA report") in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

In addition, to comply with the EIA Regulations, Scottish Ministers are required to consult the Planning Authority, as well as Scottish Natural Heritage, acting under its operating name NatureScot, the Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES) as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.

In accordance with requirements of both the Electricity (Applications for Consent) Regulations 1990 (the "Consents Regulations") and the EIA Regulations, a notice of

the proposed Development was published on the Company's website and advertised in local and national press. Notifications were sent to South Lanarkshire Council as the relevant Planning Authority as well as to NatureScot, SEPA and HES.

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

Scottish Ministers have given consideration to the extent to which the Company has demonstrated in the Application submitted that they have done what they reasonably can to mitigate any effect, which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites buildings or objects.

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

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

SEPA's advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development subject to conditions which are included in Annex 2. In their response to Scottish Ministers, they direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

Scottish Ministers are satisfied that the EIA report has been produced in accordance with the EIA Regulations. Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, being the Application, EIA report, consultation responses including those from NatureScot, SEPA, HES and South Lanarkshire Council (the "Planning Authority") into consideration in reaching their decision.

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

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

Scottish Ministers are satisfied that the Company has avoided so far as possible, causing injury to fisheries or to stock of fish in any waters.

Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations, EIA Regulations and The Electricity Works (Miscellaneous) (Coronavirus) (Scotland) Regulations 2020, and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development.

Consultation Responses

South Lanarkshire Council (the Planning Authority) raised no objection.

The Planning Authority considered landscape and visual impacts including cumulative effects, and set out their assessment in full in their Planning Committee report dated 23 March 2021. The assessment by the Planning Authority is in the context that the South Lanarkshire's Landscape Capacity Study for Wind Turbines 2016, and Tall Turbine Addendum 2019 identifies the area of the proposed Development, as having medium capacity for wind turbines at a scale of 150 metres to 250 metres in height. It is noted by the Planning Authority that the capacity study is a high level, strategic document and each site's context, and the nature of the proposals have to be fully taken into account when making assessments.

The Planning Authority noted that the immediate landscape surrounding the Application site has several operational and consented wind farms (known as the Hagshaw cluster). It is considered by the Planning Authority, the proposed Development reads visually as a part of the Hagshaw cluster as in this instance, that whilst the proposed Development is on the north west edge of this cluster, it would distinctly relate to the Hagshaw cluster and be associated with the forestry surrounding Nutberry Hill, which is a characteristic in common with several of the wind farms in the cluster.

The Planning Authority concluded that in cumulative landscape terms, the proposed Development does not lead to coalescence between multiple wind farm developments within the strategic area, and that the proposed height to tip of up to 200m turbines would not appear incongruous within the landscape, which is already characterised by wind farms, as the proposed turbines are located within this perceived gap on the western edge of the established cluster. The proposed Development is considered to be acceptable to the Planning Authority due to the surrounding wind farm developments, either operational or consented within the immediate area to the Application site, which is effectively a 'gap' site within a larger wind farm area. The Planning Authority consider the proposed turbines are suitable in terms of scale and siting and that, if constructed, they would be read as part of a larger wind farm group on the landscape.

The effects of aviation lighting were considered and the Planning Authority advise that a condition be attached if consent is granted to ensure that the design of the lighting scheme takes account of current lighting within the wind farm cluster and wider area.

The Planning Authority considered impacts on communities and individual dwellings in respect to shadow flicker, noise and visual impacts. The Planning Authority

consider the design and layout of the proposed turbines, and the separation distance and scale of the landscape minimise the visual impact that the proposed Development may have on the surrounding communities and individual residential properties. The Planning Authority concluded that the proposals accord with relevant national, strategic and local planning policy and subject to appropriate conditions, do not object to the proposed Development.

The Planning Authority raise no objection subject to the conclusion of a legal agreement covering community contribution payments and a Planning Monitoring Officer (PMO). In relation to the PMO this has been secured through a planning condition in Annex 2.

The community benefit is not a material planning consideration in the determination of this Application and therefore the Scottish Ministers do not require an agreement in place prior to determination.

Scottish Ministers have attached conditions within Annex 2, which give effect to the Planning Authority's recommendations.

SEPA – raised no objection.

SEPA considered the effects of the proposed Development and advised that appropriately worded conditions be attached if consent is granted to include the requirement for a Peat Management Plan including mitigation measures as well as use of excavated peat, a Construction Environmental Management Plan and micro-siting requirements. Scottish Ministers have attached conditions within Annex 2, which gives effect to the SEPA's recommendations.

Historic Environment Scotland (HES) – raised no objection.

HES considered the potential for significant effects on relevant historical assets in the vicinity including New Lanark World Heritage Site and The Falls of Clyde Inventory Garden and Designated Landscape. They concluded that the proposals would not have direct physical effects on any assets within their remit and there would not be significant adverse effect on the setting of any of the nationally important historic environment assets in the vicinity.

NatureScot - raised no objection.

NatureScot were generally in agreement with the assessment of ecological impacts presented in the EIA report and the proposals for managing and mitigating these including the schedule of mitigation presented in Chapter 18 of the EIA report and the assumptions contained in section 7.7.2 of Chapter 7 - Ecology. NatureScot provided advice in relation to protected species including bats and wider countryside birds, also in relation to geology, deer, access and decommissioning.

In their consideration of protected areas, they advised that the proposed Development is likely to have a significant effect on the qualifying interests of the Muirkirk and North Lowther Uplands SPA and advised that Scottish Ministers are required to complete an Habitats Regulations Appraisal in respect of the effect the proposed Development will

have on it. The Habitats Regulations Appraisal is set out at Annex 4 and considered further below on page 8.

NatureScot also noted that the impacts on Class 1 peatland raise issues of potential national interest and advised that compensatory measures set out in the Outline Habitat Management Plan (OHMP) would ensure that significant effects on Class 1 peat are substantially overcome and that detailed restoration and management proposals be included in a finalised Habitat Management Plan.

NatureScot considered that the scope and assessment of landscape and visual effects as set out in the Landscape and Visual Impact Assessment was well considered and noted that given the extent of wind turbine development within an 11km radius of the site, adverse and significant effects from the proposed Development would tend to occur within a relatively localised area. They further considered that the significance of night time effects on landscape and visual receptors was underestimated and advised that should the proposed Development receive consent, a detailed scheme of aviation lighting should be agreed.

Scottish Ministers have given consideration to the recommendations made by NatureScot and have attached conditions within Annex 2, which gives effect to the NatureScot's recommendations.

RSPB - raised no objection.

RSPB noted that due to breeding waders on adjoining land a precautionary approach should be taken relating to the potential for disturbance or displacement of breeding waders and black grouse from the site. They also supported habitat management proposals including those regarding deep peat habitats and forestry replanting, and the planting of native broadleaves, and advised that than Area B within the Habitat Management Plan be managed as bog/deep peat and should be extended to maximise the ecological potential for habitat restoration. Finally they asked that RSPB should be included in any future Habitat Management Group.

Overall, RSPB did not consider that the proposal was likely to have an adverse effect on the integrity of the Muirkirk and North Lowther Uplands SPA subject to recommendations relating to the above. Scottish Ministers have attached conditions within Annex 2, which gives effect to RSPB's recommendations as considered necessary.

Ministry of Defence (MOD) - raised no objection.

MOD advise that the proposed Development will occupy Low Flying Area and to address this impact it would be necessary for the Development to be fitted with MOD accredited aviation safety lighting in accordance with the Civil Aviation Authority Air Navigation Order 2016. In the interest of air safety, they request they be informed of the dates of when construction begins and ends, the maximum height of construction equipment and the latitude and longitude of every turbine. Scottish Ministers have attached conditions within Annex 2, which gives effect to MOD's recommendations.

NATS Safeguarding – raised no objection.

Having initially objected advising unacceptable impacts on radar, the Company subsequently entered into an agreement with NATS identifying suitable agreed planning conditions. The Scottish Ministers have included these in planning conditions at Annex 2.

Glasgow Airport – raised no objection.

To address the conflict with the safeguarding criteria an agreement has been entered into with the Company and Glasgow Airport do not object subject to conditions. Scottish Ministers have attached conditions within Annex 2, which gives effect to Glasgow Airport's requirements.

Glasgow Prestwick Airport (GPA) – raised no objection.

To address the conflict with Instrument Flight Procedure ("IFP") an agreement has been entered into with the Company and GPA do not object subject to conditions. Scottish Ministers have attached a condition within Annex 2, which gives effect to GPA requirements.

Civil Aviation Authority (CAA) – raised no objection.

The CAA advise that the proposed lighting requirements submitted for the proposed Development are in accordance with the Air Navigation Order (ANO) Article 222 section 6. Scottish Ministers have attached a condition within Annex 2, which gives effect to aviation lighting requirements.

Internal consultee responses

Transport Scotland – did not object. Transport Scotland advise on conditions relating to the impacts on the trunk road network covering Trunk Road safety and ensuring that transportation will not have any detrimental effect on the road and structures along the route during construction. Scottish Ministers have attached conditions within Annex 2, which gives effect to Transport Scotland's recommendations.

Scottish Forestry – did not object. Scottish Forestry are content to support the proposed Development subject to a Compensatory Planting Plan and a revised Long Term Forest Plan being provided in response to potential deforestation and the potential effects it could have on ecology and landscape of local and wider environs. Scottish Ministers have attached a condition within Annex 2, which gives effect to Scottish Forestry's recommendations.

Ironside Farrar advisors to Scottish Ministers on Peat Landslide and Hazard Risk Assessment (PLHRA). Ironside Farrar advised that following clarification information the revised PLHRA was considered to be sufficient.

The following consultees provided no objection: British Horse Society, Scottish Water, Edinburgh Airport, Aberdeen Airport/BAA aerodrome safeguarding, BT, Office of Nuclear Regulation, Highlands and Islands Airport, and Joint Radio Company.

The following consultees did not respond to the consultation: East Ayrshire Council, Douglas Community Council, Coalburn Community Council, Lesmahagow Community Council, VisitScotland, Scottish Wildlife Trust, Scottish Wild Land Group, Scottish Rights of way and Access Society, Mountaineering Scotland, John Muir Trust, Clyde River Foundation, Fisheries Management Scotland, and Crown Estates Scotland.

Representations

The Scottish Ministers received no public representations, either in support of, or objecting to the application.

Conservation of Habitats and Species Regulations

The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations.

The proposed Development lies adjacent to the Muirkirk and North Lowther Uplands Special Protection Area (SPA) and could affect the Muirkirk & North Lowther Uplands SPA, protected for its breeding hen harrier, merlin, peregrine, short-eared owl and golden plover, and for its non-breeding (wintering) hen harrier. Consequently, Scottish Ministers are required to consider the effect of the proposed Development on the SPA by carrying out a Habitats Regulations Appraisal (“HRA”).

The HRA concluded that the proposed Development is likely to have a significant effect on the qualifying interests of the SPA and therefore Scottish Ministers have undertaken an appropriate assessment in view of the site’s conservation objectives for its qualifying interests. The proposed Development lies within the core foraging ranges of the site’s qualifying interests, and the proximity of part of the Application site to the SPA, means that areas within the SPA could be influenced by disturbance arising from construction, operation or decommissioning of the proposed Development.

Scottish Ministers’ appropriate assessment has been carried out and the environmental information to inform the assessment was presented in the EIA report. The appropriate assessment has therefore been carried out using information already advertised in accordance with the EIA Regulations, and with the regard to advice from NatureScot.

Scottish Ministers appropriate assessment concluded, following advice from NatureScot, and in view of the conservation objectives being met, the proposed Development alone, and in combination with other projects or proposals that could have impacts on the SPA, will not have an adverse effect on the SPA’s integrity provided that mitigation measures proposed in the EIA report are implemented, which include a Habitat Management Plan, Peat Management Plan, Breeding Bird Protection Plan, Construction Environmental Management Plan and appointment of Environmental Clerk of Works.

Scottish Ministers have attached conditions within Annex 2, which secures the above mitigation through deemed planning conditions attached to this consent. The full appropriate assessment is provided in Annex 4 of this letter.

Public Inquiry

In accordance with paragraph 2(2) of Schedule 8 of the Electricity Act 1989, where the relevant Planning Authority objects to an application and the objection is not withdrawn, the Scottish Ministers shall cause a public inquiry to be held. The Planning Authority did not object to the application and no other objections have been received. Scottish Ministers are satisfied there is sufficient information to be able to make an informed decision on the Application and that it would not be appropriate to hold a public inquiry.

Scottish Government Policy Context

Climate Change and Renewable Energy Targets

The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of Scottish Ministers. The Scottish Government are committed to ensuring that an increased proportion of electricity is generated from renewable energy sources in order to meet carbon emission targets.

The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the “2019 Act”) sets a target for Scotland to be carbon-neutral, meaning net-zero CO₂, by 2045 at the latest. Additionally the 2019 Act sets out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

Scotland’s Climate Change Plan 2018-2032, sets out the roadmap for achieving those targets, and has set the goal of 50% of Scotland’s energy demand to be met by renewable energy generation by 2030.

Scottish Energy Strategy and Onshore Wind Policy Statement

Scottish Energy Strategy (SES) and Onshore Wind Policy Statement (OWPS) were published in December 2017. SES provides a long-term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland’s long-term energy and climate change targets. The OWPS reaffirms the vital role for onshore wind in meeting Scotland’s energy targets.

National Planning Framework 3 (NPF3) and Scottish Planning Policy (SPP)

NPF3 and SPP (published 2014) strongly support the roll-out of wind farms and a range of renewable energy technologies. Together they set out what is expected of the planning system, including a spatial strategy for low carbon place where an 80% reduction in greenhouse gas emissions is achieved by 2050.

NPF3 sets out the long term vision for the development and investment across Scotland over the next 20 to 30 years and is the spatial expression of the Scottish Government’s Economic Strategy and of our plans for infrastructure investment.

Amongst its wide-ranging policies, NPF3 sets out the need for a strategy to reduce reliance on fossil fuels and emphasises not just the challenges in embracing a renewable and low carbon economy while protecting and sustaining environmental assets but also the wider benefits that this will bring, especially in employment creation. It sets out that onshore wind will continue to make a significant contribution to the diversification of energy supplies.

SPP sets out that development plans should seek to ensure that an area's full potential for electricity and heat from renewable sources is achieved, in line with national climate change targets, giving due regard to relevant environmental, community and cumulative impact considerations. The aim is to achieve the right development in the right place, it is not to allow development at any cost. It also sets out that policies and decisions should be guided by certain principles giving due weight to net economic benefit; the contribution to renewable energy targets; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment.

Scottish Ministers acknowledge that the proposed Development would result in some cumulative landscape and visual impacts, which are considered acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit, contributing to renewable energy and climate change targets, while protecting the natural environment. On balance, it is considered that the proposed Development contributes to sustainable development.

Scotland 2045: Our Fourth National Planning Framework Draft ("Draft NPF4") was laid in Parliament on 10 November 2021. The Draft NPF4 sets out the spatial strategy with a shared vision that is to guide future development in a way which reflects the overarching spatial principles: sustainable places, liveable places, productive places and distinctive places. It does not reduce the current policy support for the proposed Development and given the Draft NPF4 is at the consultative draft stage, Scottish Ministers have given it limited weight.

Local Development Plan

The Planning Authority assessed the proposed Development against the approved Glasgow and Clyde Valley Strategic Development Plan 2017 (GCVSDP) Onshore Wind Spatial framework (paragraphs 7.8 and 7.9). The Planning Authority set out that the Onshore Wind Spatial Framework is aligned to increasing energy efficiency and reducing carbon emissions.

The Planning Authority assessed the proposed Development against the South Lanarkshire Local Development Plan 2015 as well as Proposed South Lanarkshire Local Development Plan 2 (2018) ("LDP2") and Supporting Planning Guidance - Renewable Energy. The Planning Authority set out in their response that the LDP2 is the Council's most up to date policy position and they afforded it significant weight in the assessment of the proposed Development. The Planning Authority raised no objection subject to conditions.

Following the examination of the LDP2 and its associated documents in 2020, the LDP2 was submitted to Scottish Ministers who approved it and it was then

subsequently adopted by South Lanarkshire Council on Friday 9 April 2021. The LDP2 is the Council's most up to date policy position and the Scottish Ministers have taken the adopted plan into account in the assessment of the proposed Development.

The Scottish Ministers Considerations

Main Determining Issues

Having considered the Application, the EIA report, responses from consultees, and Scottish Government policies, Ministers consider that the main determining issues are:

- the environmental impacts of the proposed Development, in particular the landscape and visual impacts and their cumulative effects and aviation lighting;
- the estimated economic and renewable energy benefits which the proposed Development is likely to bring; and;
- the extent to which the proposed Development accords with and is supported by Scottish Government policies.

These issues are considered in turn below.

Assessment of the Determining Issues

Landscape and Visual Impacts, including cumulative effects and aviation lighting

In consideration of the proposed Development, the Scottish Ministers have reviewed the Landscape and Visual Impact Assessment ("LVIA") presented within the EIA report, and comments made by consultees including the Planning Authority and NatureScot.

It is acknowledged that the proposed Development is located within the Hagshaw cluster. The cluster includes the operational Hagshaw Hill and its extension, Nutberry, Galawhistle, Hazelside Farm and Douglas West wind farms. In the cluster there are also consented developments for Dalquhandy, Cumberhead and Hagshaw Hill Repowering wind farms. At application stage there is Douglas West Extension and Hare Craig wind farms. These developments are set out in the EIA report Figure 1.2 Proposed Development in the context of the Hagshaw cluster.

The LVIA is presented within the EIA report at Chapter 6. The approach taken in the LVIA considered effects arising from the proposed Development on both the existing baseline (operational and under construction), and future scenarios taking into account consented development and then also proposals in planning. The LVIA identifies some significant landscape and visual effects will arise as a result of the proposed Development though the assessment demonstrates that the landscape has the capacity to accommodate the effects identified, particularly when the consented but as yet unbuilt wind farms are taken into account in the baseline. NatureScot and the Planning Authority concur with this assessment. NatureScot and the Planning Authority advise that where the existing and consented developments are all built out, the significant adverse effects of the proposed Development would be reduced in comparison to the scenario where the consented developments were not built.

NatureScot also add that were the current applications of Hare Craig and Douglas West Extension wind farms to be included in the scenario, the overall cumulative effects of the proposed Development would not be discernibly different to the existing and consented scenario.

The landscape and visual effects of aviation lighting has been considered. The aviation lighting scheme approved by the CAA requires 17 of the proposed 21 turbines to install visible aviation lighting. The Planning Authority and NatureScot refer to this matter in their consultation response. The LVIA provides an assessment of the effects of visible aviation lighting. It concludes there are significant effects on the character of the landscape in the immediate vicinity of the site during low-light levels, up to approximately 4km. The assessment identifies significant visual effects on the minor road network to the north-east of the site and a some residential properties with a view towards the proposed Development within approximately 4km. Coalburn would also experience effects from the visible aviation lighting more notably from the consented Dalquhandy Wind Farm when built. NatureScot consider that the significant night time effects would likely to occur on the rolling moorland landscape character type, parts of the minor road network located to the north-east and potentially the B745, some residential properties and parts of settlements - Lesmahagow, New Trows and Coalburn.

The Planning Authority assessment of the visible aviation lighting concludes that the landscape is not designated as being a 'dark sky' landscape and currently the nearby John Dewar complex has night time lighting that is visible within the wider area, as well as the lighting required by other turbines in the locale. The Planning Authority recognise that the Hagshaw Hill Repowering consented scheme introduces night time lighting into the area, however the proposed turbines are not immediately adjacent, and therefore there may be a perceptible gap between the lighting schemes. Scottish Ministers do not considered that this gap raises a significant detrimental visual impact but should be taken account of when lighting schemes are implemented with the construction of the developments in this area. The Planning Authority concur and require a condition ensuring further approval of the lighting scheme to design other lighting schemes in tandem. The Scottish Ministers proposed an aviation lighting condition to secure this approach in line with advice from NatureScot and the Planning Authority.

Scottish Ministers acknowledge that the proposed Development would result in some significant landscape and visual impacts and cumulative effects including those from aviation lighting. On the basis of the above considerations, Scottish Ministers agree with the Planning Authority and NatureScot, and are content the landscape and visual effects, and the cumulative effects are acceptable, and that the night time lighting effects are considered acceptable subject to a condition.

Economic Benefits

The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Company set out in the EIA report that the proposed Development during development and construction phase would invest approximately £152 million, that could generate up to £13.3 million Gross Value Added ("GVA") and 202 years of employment in South

Lanarkshire; and £42.6 million GVA and 657 years of employment in Scotland. Furthermore, during each year of the operational phase, the proposed Development would spend around £3.3 million on operations and maintenance which could generate up to: £0.7 million and 10 jobs in South Lanarkshire and £1.2 million GVA and 18 jobs in Scotland.

Whilst the overall net economic benefits are estimations of the effects of the proposed Development, Scottish Ministers are satisfied the proposed Development has the potential for significant positive net economic benefits both for the local community, South Lanarkshire and Scotland.

Scottish Government policies, renewable energy targets and carbon savings

Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development. NPF3, SPP, the Energy Strategy, and the OWPS, make it clear that renewable energy deployment remains a priority of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development. Draft NPF4 was laid in Parliament on 10 November 2021. It does not reduce the current policy support for the proposed Development and given the Draft NPF4 is at the consultative draft stage, Scottish Ministers have given it limited weight.

As previously set out, SPP contains guidance in respect of the granting of development consent for wind farm development. SPP is to be read and applied as a whole and policies require to be considered and balanced when reaching a decision on applications for wind energy development.

SPP is clear that development plans prepared by planning authorities should identify those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities. Paragraph 169 identifies a number of development management considerations to be taken into account when determining energy infrastructure developments including but not limited to, landscape and visual, cumulative impact, net economic impact, and contribution to the renewable energy generation targets. Scottish Ministers are satisfied that the matters pertaining to NPF3 and SPP have been assessed in the Application, EIA report, and responses to the consultation by the Planning Authority, NatureScot and other relevant bodies.

Scottish Ministers consider that this proposed Development makes a considerable contribution towards meeting greenhouse gas emission and renewable electricity targets, as well as the diversification of energy supplies with a generating capacity of approximately 126MW from the wind turbines and output of around 40MW from the energy storage facility.

The proposed Development is expected to generate around 325 GWh/year of power which would generate enough electricity to supply approximately 89,829 average UK households. The proposed Development is expected to save approximately 173,842 tonnes of carbon dioxide per year, resulting in a total saving of 5.2 million tonnes over the 30-year lifetime of the development, through displacing carbon-emitting generation.

The carbon payback for the proposed Development has been presented in the EIA report. The estimated payback period for the proposed Development is 2.5 years compared to grid-mix electricity generation. In comparison to fossil fuel mix and coal-fired electricity generation the payback period of the proposed Development reduces to 0.7 years and 1.4 years respectively.

Scottish Ministers are satisfied that the proposed Development accords with Scottish Government policies, makes a considerable contribution towards renewable electricity targets and carbon savings and will contribute to the Scottish Government's strategic priorities.

Conclusions

Reasoned Conclusions on the Environment

The Scottish Ministers are satisfied that the EIA report has been produced in accordance with the EIA Regulations, the Consents Regulations and The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and that the procedures regarding publicity and consultation laid down in the those regulations have been followed.

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

The Scottish Ministers have considered fully and carefully the Application, including the EIA report, consultation responses and all other material information and, are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision. Taking into account the above assessment and subject to conditions, the Scottish Ministers consider the environmental effects of the proposed Development are acceptable.

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

The Scottish Ministers' Determination

Subject to the conditions set out in **Annex 2 - Part 1**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Cumberhead West Wind Farm, in the South Lanarkshire Council area (as described in **Annex 1**).

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

Section 36 consent and expiry of Planning Permission

The consent hereby granted will last for a period of 30 years from the earlier of:

- i) The date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or
- ii) The date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Ministers consider that due to the constraints, scale and complexity of constructing such developments, and the timescales associated with grid connection, a 5 year time scale for the commencement of the development is typically appropriate. As a consequence of the potential delays the Covid 19 pandemic may have on predicted construction timescales the Scottish Ministers consider it is reasonable to add an additional year to typical timescales.

Scottish Ministers therefore direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission and that planning permission is to lapse on the expiry of a period of 6 years from the date of this direction if there has been no development within that period.

In accordance with the EIA Regulations, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

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

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

<https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12>

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

Yours faithfully

REDACTED

William Black

A member of the staff of the Scottish Ministers

Annex 1 – Description of Development

Annex 2 – Section 36 and Deemed Planning Conditions

Annex 3 – Site Layout Plan

Annex 4 – Appropriate Assessment

ANNEX 1

Description of the Development

The Development comprises an electricity generating station known as Cumberhead West Wind Farm comprising 21 wind turbines with a maximum tip height of 200 metres and an energy storage facility (“the proposed Development”).

The components of the generating station and ancillary development comprise:

- 21 wind turbines of up to a maximum tip height of 200 m;
- Energy storage facility;
- two temporary construction compounds and a temporary turbine laydown area;
- associated foundations and crane hardstandings at each wind turbine location;
- access tracks linking the turbine locations comprising of a combination of new, upgraded and existing tracks;
- a network of underground cables;
- substation and control building;
- three borrow pit search areas; and
- two new permanent meteorological monitoring masts.

Annex 2

Part 1

Conditions Attached to Section 36 Consent

1. Notification of Date of First Commissioning

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

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

2. Commencement of Development

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

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

3. Non-assignment

- (1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment, with or without conditions.
- (2) The Company shall notify the Planning Authority and Scottish Ministers in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

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

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

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

5. Storage Technology

- (1) No storage technology shall be constructed on the site unless and until details of the storage technology to be implemented have been submitted to and approved in writing by the Scottish Ministers.
- (2) Thereafter, once installed, the approved storage technology shall be implemented and maintained in accordance with the approved details, unless agreed in writing with the Scottish Ministers.
- (3) Written confirmation of when the Energy Storage Facility is installed and commissioned shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after those dates.
- (4) There shall be no further installation of any storage technology, unless and until details of the storage technology to be installed have been submitted to and approved in writing by the Scottish Ministers.

Reason: *In the interests of protecting the environment.*

Part 2

Conditions Attached to Deemed Planning Permission

6. Implementation in accordance with approved plans and requirements of the section 36 consent

- (1) Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application and the accompanying Environmental Impact Assessment (EIA) Report including all Appendices, dated November 2020, including all mitigation and monitoring measures stated in it, and other documentation lodged in support of the Application.

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

7. Design and operation of wind turbines

- (1) No development shall commence unless and until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour, which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority.
- (2) The wind turbines shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.
- (3) All wind turbine blades shall rotate in the same direction.
- (4) All electricity and control cables between the turbines, substations and control buildings shall be laid out underground.

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

8. Signage

- (1) No wind turbine, anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plant shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the planning authority.

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

9. Design of energy storage facility

- (1) No construction of the Energy Storage Facility shall commence unless and until details of the location, layout, external finishes and appearance, dimensions and surface materials of the Energy Storage Facility has been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented unless otherwise agreed by the Planning Authority.

Reason: *To ensure that the environmental impacts of the energy storage facility forming part of the Development conform to the impacts assessed in the environmental impact assessment and in the interests of the visual amenity of the area.*

10. Design of sub-station and ancillary development

- (1) Prior to the commencement of works in respect of each the following elements;
 - control building;
 - substation;
 - associated compounds;
 - any construction compound boundary fencing;
 - external lighting; and
 - parking areas.
- (2) Final details of the external appearance, dimensions, and surface materials of the relevant element shall be submitted to and approved in writing by the Planning Authority. The control buildings, substation, associated compounds, fencing, external lighting and parking areas approved shall be constructed in accordance with the approved details and maintained as such for the lifetime of the development, hereby approved, unless otherwise agreed in writing by the Planning Authority.

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 environmental impact assessment and in the interests of the visual amenity of the area.*

11. Micro-siting

- (1) Each turbine, building, compound, area of hardstanding, track and watercourse crossing shall be erected in the position indicated upon Figure 3.1 (Site Layout Plan) within the Environmental Impact Assessment Report, dated November 2020, a variation of the indicated position of any turbine or other development infrastructure detailed on the approved drawing shall be notified on the following basis:
 - (a) if the micro-sited position is less than 50 metres it shall only be permitted following the approval of the Ecological Clerk of Works (ECoW) .
 - (b) if the micro-sited position is of between 50 metres and 100 metres it shall only be permitted following written approval of the Planning Authority in consultation with SEPA.

- (c) Unless otherwise agreed in writing by the Planning Authority in consultation with SEPA said provisions relating to micro-sited positioning shall not have the effect such that any micro-sited position will:
- bring a turbine any closer to an uninvolved property than is already approved
 - bring a turbine outwith the planning application boundary
 - breach the 50 metre water buffer zones
 - take place within areas of peat of greater depth than the original location.
- (d) In respect of Turbine 19 and its associated length of access track, the micro-sited position must not be within Birkenhead Burn SSSI.

Reason: *to control environmental impacts while taking account of local ground conditions and in particular to Turbine 19 and its associated tracks to protect Birkenhead Burn SSSI.*

12. Geological Clerk of Works/Monitoring

- (1) No development shall commence unless and until the terms of appointment of an independent Geological Clerk of Works (GCoW) by the Company have been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot. The purpose of the GCoW shall be to monitor, examine and record bedrock exposed by excavations for the purposes of furthering geological interest and understanding.
- (2) No development shall commence until a Geology Management Plan (GMP) is submitted to the Planning Authority and NatureScot. The GMP shall set out the methodology to monitor, examine and record geology and fossil fauna within the application site in accordance with NatureScot response dated 4 May 2021. Thereafter GMP shall be adhered to and implemented within the timescales set out.

Reason: *In the interests of monitoring and recording geology.*

13. As Built Plan

Within 3 months of Date of Final Commissioning the Company shall submit to the Planning Authority an "as built plan" at an appropriate scale indicating the location of any track, turbine, crane pad and restored borrow pit within the Development.

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

14. Borrow Pits – Scheme of Works

- (1) No development shall commence unless and until a scheme for the working and restoration of borrow pits has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The scheme shall include:

- (a) a detailed working method statement based on site survey information and ground investigations;
- (b) details of the handling of any overburden (including peat, soil and rock);
- (c) drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out;
- (d) a programme of implementation of the works described in the scheme; and
- (e) 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.

The approved scheme shall be implemented in full.

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

15. Borrow Pits – Blasting

- (1) No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the Planning Authority.
- (2) The method statement shall include details of measures required to minimise the impact of blasting on residential and other noise-sensitive properties in the vicinity of the site. It shall also include the following measures:
 - Blasting shall be carried out using the best practicable means of ensuring that the resultant noise, vibration and air overpressure are minimised;
 - Blasting techniques and instantaneous charge levels shall be employed such that the predicted peak particle velocity shall not exceed 6 mm/s in any plane in 95% of all blasts in any one month period, and no individual blast shall exceed a peak particle velocity of 12 mm/s as would be measured on the ground adjacent to any vibration-sensitive building;
 - Under normal atmospheric conditions, the peak linear overpressure level shall not exceed 120dB as measured from any neighbouring noise sensitive premises;
 - Within the constraints of safe practice, blasting shall be avoided under weather conditions which are likely to direct or focus the blast air overpressure towards neighbouring noise sensitive properties; and
 - Blasting shall thereafter be carried out in accordance with the approved method statement, unless otherwise agreed in writing with the Planning Authority. No blasting shall take place except between the following times:
 - 10.00 - 12.00 and 14.00 - 16.00-Mondays to Fridays and;
 - 10.00 - 12.00 Saturdays.

- (3) For the avoidance of doubt, in any instance where a charge is set and it is expedient under Health Safety Executive regulations to carry out the blast outwith these times the Planning Authority shall be alerted via email no later than 2 hours after the blast.
- (4) Blasting shall be monitored with using a suitably calibrated seismograph. Any triggered measurements (exceeding a PPV of 0.5mm/s) shall be retained as trace recordings that on request shall be forwarded to the Planning Authority for their consideration.

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

16. Planning Monitoring Officer

- (1) No development shall commence unless and until the terms of appointment by the Company of an independent and suitably qualified environmental consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority.
- (2) The terms of appointment shall:
 - (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
 - (b) require to set out the frequency of PMO visits to site;
 - (c) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and (d) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity.
- (3) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: *To enable the development to be suitably monitored to ensure compliance with the planning permission and the conditions attached to it.*

17. Financial Guarantee

- (1) At least one month prior to the Commencement of Development, a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent will be submitted for the written approval of the Planning Authority. Such guarantee must:
 - (a) be granted in favour of the Planning Authority
 - (b) be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
 - (c) be for an amount which covers the value of all site restoration and aftercare liabilities as determined by the Planning Authority at the Commencement of Development.

- (d) contain provisions so that all the site restoration and aftercare liabilities as determined at the Commencement of Development shall be increased on each fifth anniversary of the date of this consent.
 - (e) come into effect on or before the date of Commencement of Development.
- (2) No work shall begin at the site until (1) written approval of the Planning Authority has been given to the terms of such guarantee and (2) thereafter the validly executed guarantee has been delivered to the Planning Authority.
- (3) In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Planning Authority.

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

18. Environmental Clerk of Works

- (1) No development shall commence unless and until the terms of appointment of an independent Environmental Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot. The terms of appointment shall:
- (a) impose a duty to monitor compliance with the ecological and hydrological commitments and mitigations measures provided in the EIA Report and other information lodged in support of the application, the Construction and Environmental Management Plan, the Habitat Management Plan approved;
 - (b) require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
 - (c) require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site;
 - (d) require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
 - (e) Advising the Company on adequate protection of nature conservation interests on the site; and
 - (f) Directing the micro-siting and placement of the turbines and infrastructure.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction and restoration phase.

19. Environmental Clerk of Works – Decommissioning phase

- (1) No later than eighteen months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted for the written approval of the Planning Authority in consultation with NatureScot.
- (2) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

20. Construction Environmental Management Plan

- (1) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Planning Authority in consultation with SEPA and NatureScot.
- (2) The CEMP shall be submitted a minimum of 2 months prior to works commencing on site and shall incorporate "good practice" methods from the Scottish UK wind farm industry to ensure that environmental impacts are reduced and incorporate all the mitigation measures identified in the EIA Report and Appendices dated November 2020. Thereafter, all the measures described in the approved CEMP shall be implemented within the timescales set out. The CEMP shall include the following:
 - (a) A plan of the construction operations at an appropriate scale;
 - (b) A plan to an appropriate scale showing the location of any contractor's site compound and laydown areas required temporarily in connection with the construction of the development.
 - (c) Method of defining track route and location (track corridors should be pegged out 500 - 1000m in advance of operations);
 - (d) Track design approach
 - (e) Maps of tracks indicating double and single tracks and position of passing places.
 - (f) The full extent of anticipated track 'footprint(s)' including extent of supporting 'geogrid' below roadstone and cabling at the edges of the track
 - (g) Track construction: Floating track construction over peat >1m deep and gradients of 1:10 or less. Track construction for peat 1:10, cross slopes or other ground unsuitable for floating roads.

- (h) Procedures to be followed when, during track construction, it becomes apparent that the chosen route is more unstable or sensitive than was previously concluded, including ceasing work until a solution is identified, informed with reference to advice from ECoW.
- (i) Details of peat/soil stripping, storage and re-use. All soils stored on site shall be in accordance with BS3882 and Nature Scot and SEPA guidance.
- (j) A management plan for minimising the emission of dust from the construction and operation of the development.
- (k) Specifying the means by which material to be used for the development is brought on site unless it has certification from a suitably UKAS accredited laboratory to confirm that the material is not contaminated.
- (l) Compliance with South Lanarkshire Council's Sustainable Drainage Systems (SuDs) design criteria guidance and inclusive sign off by the relevant parties carrying out the elements of work associated with the design criteria appendices 1 to 4.
- (m) A coloured plan showing the sustainable drainage apparatus serving the application site together with the contact name and emergency telephone number of the party responsible for its future maintenance. Details of the future maintenance regime in accordance with the latest Construction Design and Management (CDM) Regulations is to be provided on this drawing.
- (n) A description of and measures to mitigate impact on surface water courses, hydrology, and private water supplies.
- (o) Watercourse crossings should be kept to a minimum to ensure they do not adversely impact on natural flow pathways. These crossings shall be appropriately sized and overland flow routes shall be provided in the event of culvert blockage.
- (p) Measures to be taken to ensure that the work does not cause mud, silt, or concrete to be washed away either during the construction stage or as a result of subsequent erosion. Where possible construction works shall avoid road construction during periods of high rainfall.
- (q) Timing and extent of any necessary re-instatement.
- (r) Details of the site security gate, wheel wash facility and site entrance hard standing for the written approval of the Planning Authority. All work associated with construction of the access gate, access bell mouth (with associated abnormal load over run area) and wheel wash facility, vehicle parking on site for staff, visitors and deliveries to ensure that all vehicles can manoeuvre within the site and exit in forward gear shall be implemented on site prior to commencement of any internal site works. Details for wheel wash facility to maintain the public road network clear of any mineral/soils throughout the construction period.
- (s) Best practice mitigation for pollution prevention and Forest and Water Guidelines published by the Forestry Commission.
- (t) Ground Water and Surface Water Monitoring Plan shall be submitted to and approved by the Planning Authority in consultation with SEPA. All works require to be carried out by competent qualified professional. The methodology of such monitoring including locations frequency, gathering of information of baseline levels, etc shall be submitted to the planning authority for approval prior to the commencement of works on site.

Thereafter, the plan shall be implemented within the timescales set out to the satisfaction of the Planning Authority and the results of such monitoring shall be submitted to the planning authority on a 6 monthly basis, or on request.

- (u) A monitoring plan shall be submitted to the planning authority setting out the steps that shall be taken to monitor the environmental effects of the development, including the effects on noise and dust, during the construction phase and the operational phase. The methodology of such monitoring including locations frequency, gathering of information on background levels, etc shall be submitted to the planning authority for approval prior to the commencement of works on site. Thereafter, the plan shall be implemented to the satisfaction of the Planning Authority and the results of such monitoring shall be submitted to the planning authority on a 6 monthly basis, or on request.
 - (v) a site waste management plan.
- (3) The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with NatureScot and SEPA.

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

21. Construction Hours

- (1) All construction work associated with the development must be carried out in accordance with the current BS 5228, 'Noise control on construction and open sites' and all audible construction activities shall be limited to:

Monday to Friday 7.00am to 7.00pm,
Saturday 7.00am to 1.00pm;

with no audible activity taking place on Sunday, local and national bank holiday.

- (2) Outwith these periods, works at the site shall be limited to emergency works and dust suppression, unless otherwise approved in writing by the local planning authority. The local planning authority shall be informed in writing of emergency works within three working days of occurrence.
- (3) In relation to when borrow pits are operational as approved by condition 15, then the noise levels shall be restricted to 55dB LA eq (1hr) or background LA90 (1hr) + 10dBA, whichever is the lesser and any general construction noise, which is ongoing simultaneously with the Borrow Pit operation, shall be considered as Borrow Pit noise.

Reason: *In the interests of local amenity.*

22. Traffic Management Plan and Timber Transport Plan

- (1) No development shall commence unless and until a Traffic Management Plan (TMP) and a Timber Transport Plan (TTP) have been submitted to and approved in writing by the Planning Authority in consultation with Roads and Transportation Services, Transport Scotland, Police Scotland and the South Lanarkshire Council's Access Officer. Proposals shall include signage at conflicts with the South Lanarkshire Council's Core Path and Wider Network and arrangements for maintenance of such signage. The plans shall also include:
 - (a) The routing of all traffic associated with each phase of the Development (construction, operational and decommissioning) on the local road network generally in accordance with the phasing and vehicle movements as set out in Table 12.10 of the EIA Report dated November 2020. This shall provide the date when the access is no longer required other than for occasional intermittent use.
 - (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) Wheel washing facilities;
 - (f) Site staff car parking;
 - (g) Identification of a nominated person to whom any road safety issues can be referred;
 - (h) access routes for any turbine erection crane; and
 - (i) Details of monitoring and recording the vehicle movements and tonnage to and from site require to be submitted to the Planning Authority monthly or on request.
- (2) Following approval, the TMP and TTP shall be implemented as approved for the lifetime of the consent, hereby approved, unless otherwise agreed in writing by the Planning Authority.

Reason: *In the interests of road safety.*

23. Abnormal Load Route Assessment

- (1) No development shall commence unless and until an Abnormal Load Route Assessment taking account of the works undertaken at Junction 11 associated with Douglas West Windfarm has been submitted for the written approval of the Planning Authority in consultation with Transport Scotland. Details of all works and modifications to the local road network associated with this Abnormal Local Route Assessment including the removal of street furniture, junction widening and traffic management shall also be included.
- (2) Following approval of the Abnormal Load Route Assessment and details of any required, associated works, these shall be implemented as approved and maintained as such until all abnormal loads have delivered to the site.

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

24. Road safety

- (1) That all timber extraction vehicle movements associated with the wind farm development onto the public road shall be via the proposed windfarm construction route onto the western roundabout of the B7078 at Junction 11.
- (2) No development shall commence until a Road Safety Audit (Stage 2) for all infrastructure to be constructed and adopted, or altered, on any public road, undertaken in accordance with the Institute of Highways and Transportation Guidelines, is approved by the Planning Authority in consultation with the Roads Authority unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of road safety.

25. Access arrangements and road safety

- (1) No development shall commence until details showing safe crossing arrangements, where the proposed construction access meets the South Lanarkshire Council's core path CL/5735/3 and connecting wider network path CL/5157/1, along with arrangements where other paths are encountered. Once the details are approved for the safe crossings, these shall be implemented and maintained for the lifetime of the construction period.

Reason: In the interest of road safety and access.

26. Construction and Works Communication Strategy

- (1) No development shall commence until a communication strategy to inform the local community of the construction programme and ongoing works (to include developer contact points) is submitted for the approval of the Planning Authority.
- (2) Thereafter the approved strategy shall be implemented.

Reason: In the interests of road safety.

27. Access Management Plan

- (1) No development shall commence until a detailed Access Management Plan (AMP) in accordance with the Scottish Outdoor Access Code is submitted for the written approval of the Planning Authority. Thereafter the approved AMP shall be adhere to and implemented within the timescales set out.
- (2) The AMP shall be produced in consultation with the South Lanarkshire Council's Countryside and Greenspace Services and a programme of community consultation shall be undertaken on a draft AMP.
- (3) Proposals shall incorporate and identify the South Lanarkshire Council's Core Path and Wider Network and provide signage where the network identifies links.

No works shall commence on site until such times as the AMP has been approved in writing by the Planning Authority.

- (4) Where access requires to be restricted at any time, clear signage following the Scottish Outdoor Access Code branding guidelines should be used.

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

28. Habitat Management Plan

- (1) No development shall commence unless and until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot.
- (2) The HMP shall set out proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat improvements and creation of new habitats to aid biodiversity on site.
- (3) The HMP shall be based on the Outline Habitat Management Plan dated 24 November 2020 and shall detail restoration and management proposals for Management Units A & B. The finalised HMP shall include additional measures which would directly benefit the area of Class 1 peat. Consideration should also be given to proactive peatland enhancement measure such as restoration of peatland habitat within the turbine keyhole areas as referenced in the EIA Report dated November 2020.
- (4) The HMP shall include measures which would reduce the potential future attractiveness of the site to the SPA qualifying species. These measures, which are particular relevant to the Sitka spruce blocks that border the SPA (to the west of the site), should include:
- Sward management in the turbine key-hole and open areas created as part of the development; Management of planted areas to facilitate rapid canopy closure as a means of reducing attractiveness to foraging and nesting hen harrier and;
 - Other provisions with NatureScot guidance (Refer to NatureScot consultation response dated 4 May 2021 and NatureScot Guidance note – Wind farm proposals on afforested sites advice on reducing suitability for hen harrier, merlin and short-eared owl (January 2016) or as updated).
- (5) The HMP shall include methods for monitoring of deer impacts on peatland restoration and enhancement. Deer management should be reviewed and a deer management plan be submitted for the approval of the Habitat Management Group, should monitoring show that deer are having an adverse effect on the HMP aims and objectives.
- (6) The HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the

habitat plan objectives. In particular, the approved HMP shall be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted for the written approval of the Planning Authority in consultation with NatureScot.

- (7) The HMP shall set out details of the implementation of a Habitat Management Group.
- (8) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full and within the timescales set out in the approved HMP.

Reason: *In the interests of good land management and the protection of habitats, and reduce the attractiveness of the site to SPA qualifying species.*

29. Habitat Management Group

- (1) A Habitat Management Group (HMG) shall be established to oversee the preparation and delivery of the HMP and to review and assess the results from ongoing monitoring. The HMG shall include a representative of South Lanarkshire Council and NatureScot and shall have powers to propose reasonable changes to the HMP necessary to deliver its agreed aims, and notwithstanding the above,
 - (a) Site clearance activities and where possible, construction, will take place outwith the bird breeding season (March to July inclusive). If site clearance activities commence during this period ECoW supervision is required.
 - (b) The HMP will operate for the full lifespan of the wind farm, including decommissioning
 - (c) The agreed proposals identified in the HMP will be fully implemented
 - (d) Surveillance and monitoring results of species and habitat will be carried out in accordance with the approved plan and be submitted to the HMG in accordance with the timescales set out.

Reason: *To safeguard environmental impacts, ecology, species and habitats and maintain effective planning control.*

30. Peat Management Plan

- (1) No development shall commence unless and until a detailed Peat Management Plan (PMP), addressing all areas to be disturbed by construction, has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The PMP shall be submitted a minimum of 2 months prior to works commencing on site and shall incorporate "good practice" methods from NatureScot and the Scottish UK wind farm industry. The PMP shall include:
 - (a) Detail on how the mitigation proposed in the application documents will be incorporated into the construction activities and incorporate relevant best practice on handling and storage of peat and construction methods designed to minimise impacts on peatland habitats.

- (b) Further peat probing information in areas of infrastructure that has not previously been probed;
 - (c) Details of layout and management measures taken to reduce the volume of peat disturbance (including final expected volumes, depth and location of any peat disturbed);
 - (d) Updated disturbance and re-use calculations within the site (breaking the peat down into acrotelmic and catotelmic), including a plan showing volumes, location and usage; Details of any disposal of peat proposed, including volumes, detailed disposal proposals and details of how peat usage has been limited to undisturbed ground; and;
 - (e) Details of storage and handling of excavated peat, including a plan showing proposed storage areas;
- (2) All works on site must be undertaken in accordance with the approved Peat Management Plan unless otherwise agreed in advance in writing by the Planning Authority in consultation with NatureScot and SEPA.

Reason: *In the interests of ensuring the conservation of peat resources.*

31. Programme of Archaeological Works

- (1) No development shall commence unless and until the Company has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation, including archaeological walkover survey which has been submitted by the applicant, agreed by West of Scotland Archaeology Service and approved by the Planning Authority.
- (2) Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service. The approved programme of archaeological works shall be implemented in full.

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

32. Private Water supplies

- (1) No development shall commence unless and until a method statement and monitoring plan has been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt this shall:
 - (a) detail all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of the section 36 consent and which may be affected by the Development.
 - (b) include water quality sampling methods and shall specify abstraction points.
 - (c) be implemented in full.

- (2) Monitoring results shall be submitted to the Planning Authority on a quarterly basis or on request during the approved programme of monitoring.
- (3) If as a result of the operation, water scarcity to any private water supply occurs, the developer shall ensure the provision of an emergency water supply until that the system is fully restored.

Reason: *To maintain a secure and adequate quality water supply to all properties with private water supplies this may be affected by the Development.*

33. Redundant turbines

- (1) Unless otherwise agreed in writing by the Planning Authority, if one or more wind turbines fails to generate electricity for a continuous period of twelve months a scheme setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored shall be submitted for the written approval of the Planning Authority no later than one month after the date of expiry of the twelve month period. The approved scheme shall be implemented within six months of the date of its approval, to the satisfaction of the Planning Authority.

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

34. Aviation Safety

- (1) No development shall commence unless and until the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS have been provided with the following information, and evidence has been provided to the Planning Authority that this has been done:
 - (a) the date of the expected commencement of each stage of construction;
 - (b) the height above ground level of the tallest structure forming part of the Development;
 - (c) the maximum extension height of any construction equipment; and
 - (d) the position of the wind turbines and masts in latitude and longitude.

Reason: *In the interests of aviation safety.*

35. Aviation Lighting

- (1) No wind turbines shall be erected unless and until a scheme for aviation lighting for the Development has been submitted to, and approved by, the Planning Authority. The scheme shall include details of any aviation lighting required by Civil Aviation Authority and Ministry of Defence which is to be applied.

- (2) No lighting other than that described in the scheme shall be applied, other than that required for health and safety purposes, unless otherwise agreed in writing by the Planning Authority.
- (3) The required aviation lighting shall thereafter be maintained as approved for the lifetime of the Development.
- (4) The Development shall be operated in accordance with the approved scheme.

Reason: *In the interests of aviation safety and visual amenity.*

36. Aviation Radar - NATS

- (1) No part of any Turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Planning Authority in order to avoid the impact of the Development on the Primary Radars of the Operator located at Lowther Hill and Cumbernauld 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.

For the purpose of condition 36 above;

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

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

Reason: *To secure mitigation of impacts on the aerodrome navigations systems and radar station.*

37. Aviation Radar – Glasgow Airport

- (1) That, prior to the Commencement of Development, a Primary Radar Mitigation Scheme setting out measures to be taken to prevent the impairment of the performance of aerodrome navigation aids and the efficiency of air traffic control services at Glasgow Airport must be submitted to, and approved in writing by, the Planning Authority, in consultation with Glasgow Airport Limited.
- (2) No wind turbine forming part of the Development shall be erected other than in accordance with the approved Primary Mitigation Scheme.

- (3) The Development must be constructed, commissioned and operated at all times fully in accordance with the approved Primary Radar Mitigation Scheme.

Reason: *In the interests of aviation safety.*

38. Aviation – Instrument Flight Procedures – Glasgow Prestwick Airport

- (1) No turbine tower of any turbine may be erected, unless and until such time as the Planning Authority receive confirmation from the Airport Operator in writing that:
 - (a) an IFP Scheme has been approved by the Airport Operator;
 - (b) the Civil Aviation Authority has evidenced its approval to the Airport Operator of the IFP Scheme (if such approval is required); and
 - (c) the IFP Scheme is accepted by NATS AIS for implementation through the AIRAC Cycle (or any successor publication) (where applicable) and is available for use by aircraft.

Reason: *In the interests of aviation safety.*

For the purpose of Condition 38 above:

“AIRAC” means Aeronautical Information Regulation Control.

"Airport Operator" means Glasgow Prestwick Airport Limited or any successor as holder of a licence under the Commission Regulation (EU) No. 139/2014 (or any successor regulation) from the Civil Aviation Authority to operate Glasgow Prestwick Airport.

“AIS” means Aeronautical Information Services.

"IFP Scheme" means a scheme to address the potential impact of the turbines on the instrument flight procedures of Glasgow Prestwick Airport.

“NATS” means National Air Traffic Services.

39. Site Decommissioning, Restoration and Aftercare Strategy

- (1) No development shall commence unless and until an outline decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot.
- (2) The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site and shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

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.

40. Decommissioning, restoration and aftercare

- (1) The wind turbines shall cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning and the turbines shall be appropriately decommissioned thereafter. The total period for decommissioning and restoration of the Site in accordance with this condition shall not exceed 33 years from the date of Final Commissioning without the prior written approval of the Scottish Ministers in consultation with the Planning Authority.
- (2) No later than five years prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy (condition 39), shall be submitted for the written approval of the Planning Authority in consultation with NatureScot and SEPA. 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 include (but is not limited to):
 - (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) a dust management plan;
 - (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (f) details of measures for soil storage and management;
 - (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - (h) details of measures for sewage disposal and treatment;
 - (i) temporary site illumination;
 - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;

- (k) details of watercourse crossings; and
 - (l) a species protection plan based on surveys for protected species (i.e. otter, badger, water vole, red squirrel and pine marten) carried out no longer than eighteen months prior to submission of the plan.
- (3) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

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.*

41. Breeding Bird Protection Plan

- (1) No development shall commence unless and until a Breeding Bird Protection Plan (BBPP) has been submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot.
- (2) The BBPP shall:
- (a) be informed through survey work undertaken in the breeding season prior to construction commencing and further survey work and necessary adjustments to the plan should be carried out in each breeding season during construction period;
 - (b) avoid work within 500m of any occupied goshawk nest;
 - (c) detail Black grouse mitigation that will be put in place during the construction period, including;
 - 750m buffer around lek sites where no construction activity is permitted (including vehicle movements along tracks) before 9am in the months of April and May;restrictions on the timing of works and measures to minimise disturbance associated with general site access.
- (3) The approved BBPP shall be implemented in Full.

Reason: *In the interests of avoiding disturbance during sensitive breeding season and protecting birds and the SPA species..*

42. Site Inspection Strategy

- (1) Prior to the Date of Final Commissioning, the Company must submit a draft Site Inspection Strategy (SIS), for the written approval of the Planning Authority. This shall set out details for the provision of site inspections and accompanying Site Inspection Reports (SIR) to be carried out at 25 years of operation from the Date of Final Commissioning. At least one month in advance of submitting the SIR, the scope of content shall be agreed with the Planning Authority. The SIR shall include, but not be limited to:

- (a) Requirements to demonstrate that the infrastructure of the Development is still fit for purpose and operating in accordance with condition 7 and condition 47 and
 - (b) An engineering report which details the condition of tracks, turbine foundations and the wind turbine generators and sets out the requirements and the programme for the implementation for any remedial measures which may be required.
- (2) Thereafter the SIS and SIR shall be implemented in full unless otherwise agreed in advance in writing by the Planning Authority.

Reason: *To ensure the condition of the infrastructure associated with the Development is compliant with the EIA report, condition 7 and condition 45 and is to ensure the Development is being monitored at regular intervals throughout its operation.*

43. Bat Mitigation and Monitoring Plan

- (4) No development shall commence unless and until a Bat Mitigation and Monitoring Plan (BMMP) has been submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot.
- (5) The BMMP shall :
 - (a) Ensure turbine keyholes be suitably sized to ensure a minimum 50m buffer is maintained between any part of the turbine and the adjacent woodland edge and all turbines should have their blades 'feathered' to reduce rotation speed whilst idling during the active bat season from the outset of the operation of the development.
 - (b) monitor whether mitigation measures are being effective and inform any additional mitigation requirements such as turbine curtailment that may be required.
 - (c) set out the proposed programme of pre and post-construction monitoring, which should cover both acoustic monitoring and checking for carcasses using a method and sampling locations that will allow direct comparisons to be made with the results of surveys carried out pre-construction.
 - (d) Be in accordance with the guidance given in Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation or other such updated guidance as may be relevant.
 - (e) A minimum of 3 years post-construction monitoring should be carried out.
- (6) The approved BMMP shall be implemented in full.

Reason: *In the interests of ensuring the conservation of bats.*

44. Species Protection Plan

- (1) Pre-commencement surveys for legally protected species must be carried out, no more than eight months preceding Commencement of Development, and a watching brief will then be implemented by the ECoW during construction.

Surveys should be submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot. The surveys shall be carried out by a suitably experienced and licensed (if required) surveyor using recognised methods at the appropriate time of year for the species. Thereafter any required work must be carried out in accordance with the approved mitigation measures and timescales set out. The surveys shall include, but may not be limited to, badger, otter, water vole, red squirrel and pine marten.

- (2) The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activities and to allow for any micro-siting needs.
- (3) Should any otter, badger and/or water vole be recorded, a licence must be obtained from NatureScot prior to works commencing if this is required.
- (4) The ECoW must have a role in drafting any species protection plans that are required, using the information from the EIA Report and pre-construction surveys, and the ECoW must oversee implementation of the species plans and any licensing requirements.
- (5) Measures to ensure the safety of badgers and other mobile species, such as fencing off, covering or inserting a ramp in any excavations and the capping of large diameter pipes at the end of each working day, should be implemented on site.

Reason: *In the interests of ensuring the conservation of protected species.*

45. Water Quality and Fish Monitoring Plan (WQFMP)

- (1) No development shall commence unless a Water Quality and Fish Monitoring Plan (WQFMP) has been submitted to and approved in writing by the Planning Authority in consultation with SEPA, NatureScot and Marine Scotland Science (MSS).
- (2) The WQFMP must take account of the generic monitoring programme guidelines issued by MSS and shall include:
 - a) Water quality sampling carried out at least 12 months prior to construction commencing, during construction and for at least 12 months after construction is complete. The water quality sampling plan should include key hydrochemical parameters, turbidity, and flow data, the identification of sampling locations (including control sites), frequency of sampling, sampling methodology, data analysis and reporting etc.;
 - b) The fish monitoring programme should include fully quantitative electrofishing surveys in late summer/autumn at sites potentially impacted and at control sites at least 12 months before construction commences, during construction and for at least 12 months after construction is completed to detect any changes in the fish populations; and

- c) Appropriate site specific mitigation measures as outlined in the MSS generic scoping guidelines and in agreement with the Planning Authority and MSS.
- (3) Thereafter, the WQFMP shall be implemented within the timescales set out to the satisfaction of the Planning Authority in consultation with MSS and the results of such monitoring shall be submitted to the Planning Authority on a 6 monthly basis or on request.

Reason: *In order to ensure adequate monitoring of watercourse and groundwater quality and to ensure that all construction activities are monitored in relation to their impacts on fish.*

46. Woodland Planting

- (1) No Development shall commence unless and until a Woodland Planting Scheme to compensate for the removal of 61.96 hectares or otherwise required by Scottish Forestry of existing woodland (“the Replanting Scheme”) has been submitted for the written approval of the Planning Authority in consultation with Scottish Forestry. Where possible Woodland Planting shall take place within South Lanarkshire.
- (2) The approved Replanting Scheme (taking into account any revision to the felling and restocking plans prior to the commencement of operation of the development) shall be implemented in full, unless otherwise agreed in writing by the Planning Authority in consultation with Scottish Forestry.
- (3) The approved amended Replanting Scheme shall thereafter be implemented as approved and maintained as such for the lifetime of this consent, unless otherwise approved in writing by the Planning Authority in consultation with the Scottish Ministers.

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

47. Noise condition

- (1) The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
 - (a) The Company shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The Company shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

- (b) No electricity shall be exported until the Company has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition.
- (c) Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.
- (d) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's dwelling in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component or an amplitude modulation.
- (e) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall, prior to the commencement of any measurements, have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken 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 Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits. Within 21 days of a written request by the Local Planning Authority, following a complaint to it from a resident alleging noise disturbance at the dwelling at which they reside and where Excess Amplitude Modulation (AM) is considered by the Local Planning Authority to be present in the noise emissions at the complainant's property, the wind farm operator shall submit a scheme, for the approval of the local planning authority, providing for the further investigation and, as necessary, control of Excess AM. The scheme shall be based on best available techniques and shall be implemented as approved.
- (f) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the Company shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits shall be those limits selected from the Tables specified for a listed location which is the geographically nearest

dwelling to the complainant's dwelling, unless otherwise agreed with the Local Planning Authority due to location-specific factors.

- (g) The Company shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, the assessment shall be accompanied by all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes with the exception of audio data which shall be supplied in the format in which it is recorded. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (h) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Local Planning Authority.

Table 1 – Noise Limits 0700 – 2300 (dB LA90)

Derived wind speed at 10 m, (m/s)	4	5	6	7	8	9	10	11	12
Noise limit $L_{A90,10min}$ dB	35	35	37	39	41	43	45	47	48
financially involved properties	45	45	45	45	45	45	45	47	48

Standardised 10 metre height Wind Speed (m/s) (as defined in accordance with the attached Guidance Notes to the noise condition)

Table 2 – Noise Limits 2300 – 700 (dBLA90)

Derived wind speed at 10 m, (m/s)	4	5	6	7	8	9	10	11	12
Noise limit $L_{A90,10min}$ dB	43	43	43	43	43	43	43	43	43
financially involved properties	45	45	45	45	45	45	45	45	45

Table 3 – Coordinates of dwellings to which the limits in Tables 1 and 2 apply

Receptor name	Easting	Northing
Logan Farm*	273966	635236
Dunside Waterworks Cottages	275214	637174

Receptor name	Easting	Northing
Dunside	274918	637249
Auchrobert Farm	276459	638225
High Waterhead Farm	277040	638010
Lower Waterhead Farm	277112	637698
Loganbank Farm	277573	637535
Cleughead Farm	277174	637077
Scorrieholm Farm	278097	637212
Halfmerkland	277951	636843
Birkenhead Farm	277707	636497
Over Stockbriggs	279009	635642
Dalquhandy Farm	278789	635130
North Bankend Farm	278324	635161
Craighead Farm	278498	635313
Todlaw Farm	277924	635545
Broomknowe*	277864	634593
North Cumberhead*	277571	634574
Stockhill Farm	278446	634127
Blackhill Cottage*	277072	634373

* Financial involvement with the Proposed Development

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Reason: *To retain effective planning control and to safeguard the noise amenity of local residents in accordance with ETSU-R-97.*

Guidance Notes for Noise Conditions

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).

Guidance Note 1

- (a) Values of the LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Company shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres . It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.
- (e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

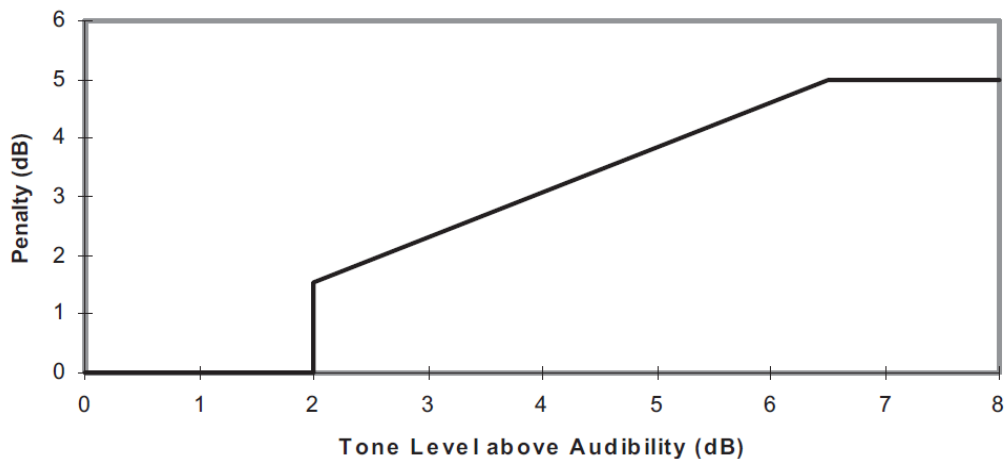
Guidance Note 2

- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (d) The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- (c) In the event that the rating level is above the limit(s) set out in the Table attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further

assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

- (d) The Company shall ensure that all necessary wind turbines in the development are turned off for such period as the independent consultant requires to undertake any further noise measurements required under Guidance Note 4(c). If the number of turbines to be turned off are less than the total number of turbines on the site then this shall be agreed in advance with the Local Planning Authority.
- (e) To this end, the steps in Guidance Note 2 shall be repeated with the required number of turbines shut-down in accordance with Guidance Note 4(d) in order to determine the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.
- (f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- (g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- (h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with Guidance Note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Definitions

In this consent and deemed planning permission:-

“Commencement of Development” means the date on which Development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997 (as amended). For the avoidance of doubt ground investigation and site investigation works and its associated tree felling does not constitute Commencement of the Development for the purposes of this consent.

“the Company” means Cumberhead West Wind Farm Ltd, and having its registered office at 320 St. Vincent Street, Glasgow, Scotland, G2 5AD, under the Company No. SC535501, or such other person who from time to time may lawfully have the benefit of this consent.

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

“Date of Final Commissioning” means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the Date of First Commissioning.

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

“HES” means Historic Environment Scotland.

“Planning Authority” means South Lanarkshire Council.

“SEPA” means Scottish Environmental Protection Agency.

“Site” means the area of land outlined in red on Figure 1.1 Site Boundary and Figure 3.1 site layout plan of the EIA report dated November 2021.

“NatureScot” means Scottish Natural Heritage now operating as NatureScot.

“storage technology” means the electricity storage technology type that is used by the Development.