

REGULATORY PANEL.

Minutes of meeting held remotely
on 23 June 2021 at 2.00 p.m.

Present: Councillors Brian Connolly (Chair), Andy Campbell, Iain Campbell, Ian Cavana, Alec Clark, Ian Fitzsimmons, Mary Kilpatrick and Margaret Toner.

Apology: Councillor Craig Mackay.

Attending: K. Briggs, Service Lead – Legal and Licensing; J. Nicol, Service Lead – Planning and Building Standards; A. McGibbon, Supervisory Planner; K. Braidwood, Ayrshire Roads Alliance; and A. Gibson, Committee Services Officer.

1. Opening Remarks.

The Chair confirmed that today's meeting was not open to the press and public, which was permissible under the COVID-19 legislation. He also confirmed to Members the procedures to conduct this meeting.

2. Declarations of Interest.

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

3. Consultation under Section 36 of the Electricity Act 1989 - Dersalloch Windfarm - REF: 20/01085/DEEM.

There was submitted a report ([issued](#)) of 1 June 2021 by the Director - Place in respect of information submitted by the applicant regarding consultation, under Section 36 of the Electricity Act 1989, on an application by Scottish Power Renewables (UK) Ltd to install a battery energy storage system (BESS) within the operational Dersalloch Wind Farm site, near Straiton (ECU Case Reference ECU00002112).

Decided:

- (1) to submit the report by the Director - Place presented to this Panel as its observations on the proposed application and that no objections be raised subject to the conditions as set out in the report; and
- (2) to approve delegated authority to conclude planning conditions with the Energy Consents Unit should the Scottish Government be minded to grant consent.

Councillor Toner joined the meeting during consideration of the above item.

4. Applications for Planning Permission.

There were submitted reports (issued) of June 2021 by the Director - Place on planning applications for determination.

The Panel decided as follows:-

- (1) **21/00236/APP – AYR** - 8-46 High Street – Application deferred to the Regulatory Panel (Special) of 13 July 2021.
- (2) **20/01075/CON – AYR** – 8-10 High Street - Application deferred to the Regulatory Panel (Special) of 13 July 2021.
- (3) **21/00230/FURM – MAYBOLE** - Proposed wind farm, U62 from C29 junction at Wallacetown, north-west to Hallowshean Cottage - Further application to vary condition 1 of planning permission PPA-370-2086 (erection of 8 wind turbines with blade tip height not exceeding 115.5 metres above ground level, associated infrastructure and formation of associated access track).

The Panel heard from the Supervisory Planner in respect of the application.

The Panel confirmed that they had sufficient information before them to make a decision today.

Decided: that the application be approved subject to the following conditions:-

- (1) this planning permission shall lapse on the expiration of a period of six years from the date of the appeal decision notice, 16th February 2017 unless the development has been started within that period;
- (2) the permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported to the electricity grid network ("First Export Date"). Written confirmation of the First Export Date shall be provided to the planning authority within 1 month of the First Export Date;
- (3) 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 to Scottish Ministers and the planning authority, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, shall be submitted within 24 hours of the incident occurring;
- (4) no turbines shall be erected until the Turnberry DVOR is withdrawn from service;

- (5) prior to the erection of the first turbine, full details of the proposed wind turbines (including, but not limited to, the power rating, size, type, external finish and colour), any anemometry masts and all associated apparatus shall be submitted to and approved in writing by the planning authority. The blade tip height of the turbines shall not exceed 115.5 metres above ground level. The development 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. All wind turbine blades shall rotate in the same direction. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in writing by the planning authority;
- (6) prior to the construction of the sub-station building, full details of the external appearance, dimensions, surface materials, associated compounds, any construction compound boundary fencing, external lighting, landscaping and parking areas shall be submitted to and approved in writing by the planning authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.
- (7) all wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on the approved plans. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site subject to the following restrictions unless otherwise approved in writing by the planning authority:-
- a) no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum, than the position shown in Figure 2.1 of the Environmental Statement;
 - b) no wind turbine, building, mast, hardstanding or access track shall be moved more than 50 metres from the position shown on the original approved plans;
 - c) no micro-siting of the northernmost turbine (T8) closer to the Chapelbar and Hollowshean farm private water supply;
 - d) no micro-siting shall take place within areas of peat of greater depth than the original location shown on the Peat Depth Contours drawing, number ED11384/008 in the Environmental Statement;
 - e) no micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
 - f) all micro-siting permissible under this condition shall be approved in advance in writing by the Ecological Clerk of Works (ECoW).

No later than one month after the First Export Date, an updated site plan shall be submitted to the planning authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW and/or planning authority's approval, as applicable;

- (8) prior to the commencement of development a site-specific scheme for the working and restoration of the borrow pit forming part of the development shall be submitted to and approved in writing by the planning authority. 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, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
 - d) a programme of implementation of the works described in the scheme;
 - e) provision of a temporary access track from the unclassified road [U62] to the borrow pit (s) as shown in the Plan Ref [Fig 2.1A] unless otherwise agreed in writing with the planning authority; and
 - f) full details of the reinstatement, restoration and aftercare of the borrow pit(s).

The approved scheme shall thereafter be implemented in full within 6 months of the First Export Date;

- (9) no blasting shall take place until a monitoring scheme to address borrow pit blasting has been submitted to and approved in writing by the planning authority. The scheme shall include:-
- a) blasting monitoring locations;
 - b) type of monitoring equipment to be used;
 - c) frequency of monitoring;
 - d) the methods to be employed to minimise the effects of overpressure arising from blasting, having regard to blast design, methods of initiation and the weather conditions prevailing at the time;
 - e) limits to over pressure levels at specified properties; and
 - f) submission of blasting records to the planning authority

Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise agreed in writing by the planning authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

- (10) no development shall commence until an Ecological Clerk of Works (ECoW) has been appointed and the identity and terms of appointment of the ECoW has been submitted to and agreed in writing by the planning authority. The ECoW shall be employed for the periods of:-
- a) wind farm construction, including site preparation, micro-siting and post-construction restoration; and
 - b) wind farm decommissioning and site restoration.
 - c) In relation to (a) the terms of appointment shall be submitted prior to the commencement of the development and in relation to (b), prior to the commencement of any decommissioning works;
- (11) the Ecological Clerk of Works required under the terms of condition 10 above shall have a duty to:-
- a) carry out pre-construction surveys to inform the Construction Environmental Management Plan required in terms of condition 12;
 - b) monitor compliance with ecological and hydrological aspects of the Construction Environmental Management Plan required in terms of condition 12, the Habitat Management Plan required in terms of condition 16, the Species Protection Plan required in terms of condition 17, the decommissioning, restoration and aftercare plan required by condition 27, and the scheme for the working and restoration of the borrow pit(s) required by condition 8; and
 - c) fulfil all other specific responsibilities of the ECoW as required by other conditions.
- The Ecological Clerk of Works shall report to the planning authority and the developer's nominated construction project manager (during the construction period) or decommissioning project manager (during decommissioning) any non-compliance with the hydrological or ecological aspects of the plans referred to above at the earliest practical opportunity;
- (12) prior to the commencement of development a Construction and Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling shall be submitted to and approved in writing by the planning authority. The CEMP shall include (but shall not be limited to):
- a) a site waste management plan;
 - b) a dust management plan;
 - c) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
 - d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network and site entrances;

- e) a pollution prevention and control method statement, including arrangements for the storage and management of oil, fuel and other chemicals on the site;
- f) soil storage and management;
- g) a peat management plan;
- h) a water and drainage management plan for all groundwater, surface and waste water;
- i) details of temporary site illumination;
- j) the method of construction of the access into the site and the creation and maintenance of associated visibility splays;
- k) the method of construction of the crane pads;
- l) the method of construction of the turbine foundations;
- m) the method of working cable trenches;
- n) the method of construction and erection of the wind turbines and meteorological masts;
- o) details of any watercourse crossings, which shall be designed to convey the 1 in 200 year flow plus an appropriate allowance for freeboard;
- p) post-construction restoration/ reinstatement of the working areas;
- q) a wetland ecosystems survey and mitigation plan;
- r) a felling and tree management plan; and
- s) details of the methods to be adopted to reduce the effects of noise occurring during the construction period.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in writing by the planning authority;

- (13) construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 08.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, dust suppression, and the testing of plant and equipment, unless otherwise approved in writing by the planning authority. For emergency works outwith these specified hours where prior notification is not possible, details including the nature and requirement for these works shall be submitted in writing to the planning authority within 24 hours of any such works commencing. HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to for from site taking place on a Sunday or on national public holidays.

- (14) prior to the commencement of development a traffic management plan shall be submitted to and approved in writing by the planning authority. The traffic management plan shall include:-
- a) the routing of all traffic associated with the development on the local road network;
 - 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) identification of a nominated person to whom any road safety issues can be referred; and
 - f) a plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width and axle configuration of all extraordinary traffic accessing the site and a swept path analysis for the routing of abnormal loads.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in writing by the planning authority;

- (15) the proposed route for any abnormal loads on the trunk road network shall be submitted to and approved in writing by the planning authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, and traffic management shall similarly be submitted to and approved in writing by the planning authority. The agreed measures shall thereafter be fully implemented by a recognised Quality Assured traffic management consultant;
- (16) prior to the commencement of development, a habitat management plan shall be submitted to and approved in writing by the planning authority. The habitat management plan shall set out proposed habitat management of the development site during the period of construction, operation, decommissioning, and restoration of the site. The approved habitat management plan 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 habitat management plan shall be updated to reflect ground condition surveys undertaken following construction and prior to the First Export Date it shall be submitted to and approved in writing by the planning authority. The approved habitat management plan shall thereafter be implemented in full;

- (17) prior to the commencement of development a species protection plan shall be submitted to and approved in writing by the planning authority. The species protection plan shall be prepared and based on the findings of a protected species survey carried out by an ecologist and approved by the planning authority and shall include pre-construction surveys and mitigation measures designed to safeguard protected mammals and birds within and adjacent to the operational areas of the site. The species that should be surveyed for include, but are not necessarily limited to, badgers, otters, pine martens and breeding birds. The approved plan shall be implemented in full;
- (18) prior to the commencement of development a programme of archaeological works including a scheme of investigation shall be submitted to and approved in writing by the planning authority. The approved scheme shall thereafter be fully implemented;
- (19) prior to the commencement of development a woodland planting scheme to compensate for the removal of 19.01 hectares of existing woodland ("the replanting scheme") shall be submitted to and approved in writing by the planning authority. The replanting scheme shall include:
- a) details of the location of the area to be planted;
 - b) details of land owners and occupiers of the land to be planted;
 - c) the nature, design and specification of the proposed woodland to be planted;
 - d) details of all consents required for delivery of the replanting scheme and timescales within which each will be obtained;
 - e) the phasing and associated timescales for implementing the replanting scheme;
 - f) proposals for the maintenance and establishment of the replanting scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
 - g) proposals for reporting to the planning authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the replanting scheme.
- Prior to the First Export Date an approved replanting scheme shall be implemented in full, unless otherwise agreed in writing by the planning authority;
- (20) the rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:-

- a) the wind farm operator 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 wind farm operator 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 wind farm operator 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. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority;
- c) 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 wind farm operator 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 property 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;
- d) the assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously 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, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits;

- e) the geographical coordinates references set out in Tables 1 & 2 are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits apply. Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator 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 are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling;
- f) the wind farm operator 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. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. 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;
- g) where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator 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;

- h) once the Local Planning Authority has received the independent consultant's noise assessment required by this condition, including all noise measurements and any audio recordings, where the Local Planning Authority is satisfied of an established breach of the noise limits set out in the attached tables 1 & 2, upon notification by the Local Planning Authority in writing to the wind farm operator of the said breach, the wind farm operator shall within 21 days propose a scheme for the reasonable approval of the Local Planning Authority. The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as reasonably approved by the Local Planning Authority and according to the timescales within it. The scheme as implemented shall be retained thereafter unless otherwise agreed with the Local Planning Authority.

Table 1: Noise limits between 07:00 and 23:00 expressed in dB LA90, 10minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10-minute periods

Location		Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
Property name	Grid ref.	3	4	5	6	7	8	9	10	11	12
Chapelbar Cottage	E225176 N605832	38.0	38.0	38.0	38.0	39.2	41.4	43.6	45.8	48.0	50.4
High Mains Farm	E226673 N603804	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.4	50.6	53.0
North Threave	E224558 N604157	38.0	38.0	38.0	38.0	38.0	40.7	43.8	47.2	50.9	54.3
East Threave	E225072 N604408	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.2	50.9	54.3
Newlands Farm	E227550 N604369	38.0	38.0	38.0	38.0	38.0	40.3	43.8	47.4	50.6	53.0
South Threave	E224409 N603677	38.0	38.0	38.0	38.0	38.0	40.3	43.8	47.4	50.6	53.0
Craigdow	E227589 N605888	38.0	38.0	38.0	38.0	38.0	40.3	43.8	47.4	50.6	53.0

Table 2: Noise limits between 23:00 and 07:00 expressed in dB LA90, 10minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10-minute periods

Location		Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
Property name	Grid ref.	3	4	5	6	7	8	9	10	11	12
Chapelbar Cottage	E225176 N605832	43.0	43.0	43.0	43.0	43.0	43.0	45.6	49.2	52.3	54.5
High Mains Farm	E226673 N603804	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	49.6	53.9
North Threave	E224558 N604157	43.0	43.0	43.0	43.0	43.0	43.0	43.0	46.1	50.2	53.9
East Threave	E225072 N604408	45.0	45.0	45.0	45.0	45.0	45.0	45.0	46.1	50.2	53.9
Newlands Farm	E227550 N604369	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.7	49.6	53.9
South Threave	E224409 N603677	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.7	49.6	53.9
Craigdow	E227589 N605888	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.7	49.6	53.9

GUIDANCE NOTES FOR THE NOISE CONDITION

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSUR-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 BS 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 before and after each set of measurements, using a sound calibrator with type approval meeting IEC 60945:2003 Class 1 (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. The instrumentation shall have been verified for compliance with the above standards within two years of any measurement for the sound level meter and within one year of any measurement for the sound calibrator. 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 wind farm operator 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 wind farm operator shall continuously log arithmetic mean wind speed and wind direction at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods, unless otherwise agreed in writing with the Local Planning Authority. The mean wind speed data for the operating turbines 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, averaged across all operating wind turbines, 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 synchronised with Universal Coordinated Time and adjusted to local time where necessary.
- (e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

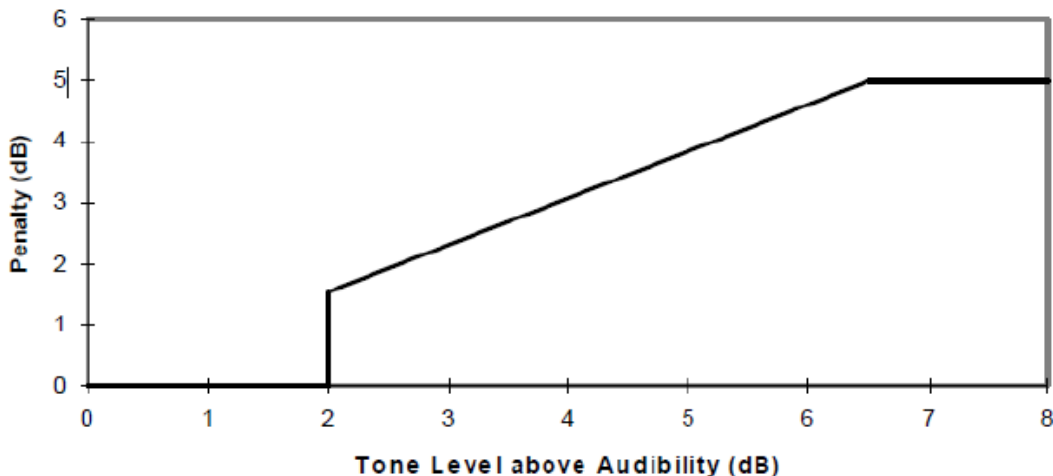
Guidance Note 2

- (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 measurements 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 tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be 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
- (c) In the event that the rating level is above the limit(s) set out in the Tables 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 wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- (e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining 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 the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) 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.
- (21) prior to the commencement of development, a scheme for the avoidance or mitigation of any shadow flicker that may be experienced by residential and commercial properties shall be submitted to and approved in writing by the planning authority. The approved mitigation scheme shall thereafter be implemented in full. At the request of the planning authority, following a complaint, the wind farm operator shall appoint a suitably qualified person who shall undertake an investigation into the incidence of shadow flicker at the complaint location. Where shadow flicker is confirmed, proposed mitigation measures shall be submitted to and agreed in writing by the planning authority. The mitigation measures shall be fully implemented within 3 months of the measures being agreed by the planning authority;
- (22) prior to the erection of the first turbine, details of the operational procedures to be put in place in the event of ice accumulation on wind turbine blades shall be submitted to and agreed in writing by the planning authority. The agreed procedures shall thereafter be fully implemented;

- (23) prior to the erection of the first turbine a Television Reception Mitigation Plan including a baseline television reception survey shall be submitted to and approved in writing by the planning authority. The approved Television Reception Mitigation Plan shall thereafter be implemented in full. Any complaint by any individual person regarding television picture loss or interference at their home, business premises or other building, made during the period from installation of any turbine forming part of the development to the date falling twelve months after the First Export Date, shall be investigated by a qualified engineer appointed by the wind farm operator and the results shall be submitted to the planning authority. Any impairment to the television signal attributable to the development shall be remedied by the wind farm operator within 3 months of being informed of being notified of the complaint, so that the standard of reception at the affected property is equivalent to the baseline television reception;
- (24) if one or more turbine fails to generate electricity for a continuous period of 12 months, unless otherwise agreed in writing by the planning authority, the wind farm operator shall prepare a scheme of work setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored, including timescales for the work, to be submitted to the planning authority by no later than the date of expiration of the 12 month period for its agreement in writing. The agreed scheme of work shall be fully implemented in accordance with the agreed timescales;
- (25) prior to the erection of the first turbine or mast, the following information shall be provided to the Ministry of Defence, Defence Geographic Centre and NATS, together with evidence of having done so to the planning authority:-
- the date of the expected commencement and completion of each stage of construction;
 - the height above ground level of the tallest structure forming part of the development;
 - the maximum extension height of any construction equipment; and
 - the position of the turbines and masts in latitude and longitude;
- (26) prior to the erection of the first turbine or mast, a scheme for aviation lighting for the wind farm consisting of Ministry of Defence accredited infra-red aviation lighting shall be submitted to and approved in writing by the planning authority. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of this consent. No lighting other than that described in the scheme may be applied at the site unless otherwise agreed in writing by the planning authority;
- (27) no later than 3 years prior to decommissioning of the development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, shall be submitted to the planning authority for its written approval. The plan shall provide detailed proposals for the removal of the development, the treatment of ground surfaces, the management and timing of the works, environmental management provisions, and a traffic management plan to address any traffic impact issues during the decommissioning period. The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing by the planning authority;

- (28) prior to the commencement of development a bond or other form of financial guarantee which secures the cost of undertaking all decommissioning, restoration and aftercare obligations that are conditions of this planning permission shall be provided, the details of which shall be submitted to and agreed in writing by the planning authority. The financial guarantee shall thereafter be maintained in favour of the planning authority until the date of completion of all restoration and aftercare obligations. The value of the financial guarantee shall be determined and then reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations this will include indexation costs, contingency provision, council fees and best practice prevailing at the time of each review;
- (29) all turbines shall be shut down for a period of three hours from sunset during the months of May to August when temperatures are above 10 degree Celsius and wind speeds are 6m/s or less. All measurements will be based on measurements at the turbine nacelle and wind speed based on a 10 minute average. This restriction to operation hours shall apply in perpetuity unless otherwise agreed in writing by the planning authority. Any request to the planning authority to vary this restriction shall be accompanied by a post-construction monitoring report;
- (30) there shall be no Commencement of Development unless a method statement has been submitted to and approved in writing by the Planning Authority, in consultation with Environmental Health, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development. Due to the sensitivity of the nature of the catchment area of Hallowshean private water supply, the method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

For the avoidance of doubt the method statement as a minimum shall include a robust site specific emergency plan of action procedures to be in place prior to commencement of any construction works for the windfarm, access roads or compounds etc. Written procedures should include the following details:

- Proposed buffer zones around the catchment area to PWS source and the supply lines, to be clearly marked on a plan;
- Proposed borrow pits and potential outer boundaries should they require alternate siting after investigation, site layout, clearly mapped;
- Proposed Compounds, substations and other structures, cables etc., laid on ground or underground, to be clearly marked on a plan;
- Site specific mitigation measures and where this will take place, who will take responsibility, what action required, when they will be taken, to be written into an emergency action plan for during and after construction, forestry etc.;
- Emergency contacts 24/7, with contact telephone numbers and email addresses detailing responsible persons. These require to be supplied to the PWS owners and users, as well as South Ayrshire Planning department and Environmental Health Department;

- Programme of water sampling to be carried out, commencing before, and continued, during and post construction works, with weekly monitoring analysis results being collated sent through on a monthly basis to the Planning Authority, South Ayrshire Council;
 - Forest removal/harvesting, details of start and end dates, notification of intended works, details of proposed phases, where, when, by whom, who responsible and emergency contacts (as above); and
 - Re-planting or compensatory planting, where, when, by whom, who responsible and emergency contacts (as above) also who will be responsible for maintenance on the replanted trees, and what chemicals are to be used;
- (31) there shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the Planning Authority in monitoring compliance with the terms of the planning permission and conditions attached to this consent ("PMO"). The terms of appointment shall;
- a) impose a duty to monitor compliance with the terms of the planning permission, the environmental statement and conditions attached to this consent;
 - b) require the PMO to submit monthly /quarterly/annual report(s) to the Planning Authority summarising works undertaken on site; and
 - c) require the PMO to report to the Planning Authority any incidences of noncompliance with the terms of the terms of the planning permission and conditions attached to this consent at the earliest practical opportunity.
- The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of operation, decommissioning, restoration and aftercare of the site; and
- (32) prior to commencement of abnormal load deliveries to the site, proposals for an abnormal delivery trial run to be undertaken with the involvement of Police Scotland shall be submitted to and approved in writing by the Planning Authority, in consultation with the trunk road authority.

Reasons:

- (1) for the avoidance of doubt and because section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) does not apply to any planning permission granted for a limited period;
- (2) to define the duration of the consent;
- (3) to keep the Scottish Ministers informed of any such incidents which maybe in the public interest;
- (4) to maintain the integrity of the operation of the Turnberry DVOR which is required in the interests of aviation safety;
- (5) to ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area;

- (6) 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 statement and in the interests of the visual amenity of the area;
- (7) to control environmental impacts while taking account of local ground conditions;
- (8) 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;
- (9) to ensure that blasting activity is carried out within defined timescales to minimise disturbance to residents and control impact on amenity;
- (10) in the interests of nature conservation and environmental protection;
- (11) to secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development;
- (12) to ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented;
- (13) in the interests of local amenity;
- (14) in the interests of road safety and to ensure that abnormal loads access the site in a safe manner;
- (15) to maintain safety for both the trunk road traffic and the traffic moving to and from the development, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network;
- (16) in the interests of good land management and the protection and enhancement of habitats and species;
- (17) in the interests of good land management and the protection and enhancement of habitats and species;
- (18) to enable the opportunity to identify and examine any items of archaeological interest which may be found on the site, and to allow any action required for the protection, preservation or recording of such remains;
- (19) to secure replanting to mitigate the effects of deforestation arising from the development;
- (20) to protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints;
- (21) to mitigate impacts of shadow flicker on residential and commercial property amenity;
- (22) in the interest of health and safety;
- (23) to ensure local television services are sustained during the construction and operation of this development;
- (24) to ensure that any redundant wind turbine is removed from site, in the interests of safety, amenity and environmental protection;
- (25) in the interests of aviation safety;
- (26) in the interests of aviation safety;
- (27) to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection;
- (28) 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 wind farm operator;
- (29) to ensure that the wind farm has no significant adverse effects on the conservation status of Nyctalus bats;
- (30) to maintain a secure and adequate quality water supply to all properties with private water supplies that may be affected by the development;

- (31) to enable the development to be suitably monitored to ensure compliance with the consent issued; and
- (32) to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

List of Determined Plans:

Drawing - Reference No (or Description): LOCATION PLAN Figure 1.1;
Other - Reference No (or Description): SUPPORTING STATEMENT;
Drawing - Reference No (or Description): PPA-370-2086 APPROVED PLANS;
Drawing - Reference No (or Description): 14/01646/APPM APPROVED PLANS;
Drawing - Reference No (or Description): 17/00746/FURM APPROVED PLANS; and
Drawing - Reference No (or Description): 19/00065/FURM APPROVED PLANS.

Reason for Decision:

The proposed variation to condition together with other conditions imposed through Appeal Decision Notice PPA-370-2086 are considered to accord with the Development Plan.

The meeting ended at 2.30 p.m.