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Dear Ms Barry,

APPLICATION FOR 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 BEAW FIELD WIND FARM AT THE SOUTH OF THE ISLAND OF YELL, CENTRED ON THE BURN OF HAMNAVOE, IN THE SHETLAND ISLANDS PLANNING AUTHORITY AREA.

Application

I refer to the application made by Peel Wind Farms (Yell) Limited, a company incorporated under Companies Acts with registered number 07551084 and having its registered office at Peel Dome Intu Trafford Centre, Trafford city, Manchester, M17 8PL (the "Company") dated 7 March 2016 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") for the construction and operation of the Beaw Field Wind Farm electricity generating station at the south of Yell, centred on the Burn of Hamnavoe, Shetland Islands.

The application is for construction and operation of a wind powered generating station with 17 wind turbines with an indicative generating capacity of approximately 57.8MW. **This letter contains the Scottish Ministers' decision to grant consent for the development as described at Annex 1.**

Planning Permission

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

Consultation

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("The 2000 Regulations") the company submitted on 7 March 2016 an Environmental Statement (ES) describing the development and giving an analysis of its environmental effects. It complied with statutory requirements, and advertised the application and Environmental Statement in the local and national press giving the public and interested parties the opportunity to make representations. The 2000 Regulations have subsequently (with effect from 16th May 2017) been replaced by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 Regulations"). The 2017 Regulations now apply to this application subject to certain modifications. These modifications, among other things, provide that where the 2017 Regulations refer to an "EIA report," this includes an "Environmental Statement" prepared under the 2000 Regulations.

On 22 June 2016 Scottish Ministers requested Further Environmental Information from the Company to provide more information on peat reuse and restoration and ornithological data. The Company submitted this Further Environmental Information on 28 June 2016. Advertisement was made in the local and national press and the relevant documents were placed in the public domain, and the opportunity given for those wishing to make representations to do so.

Statutory Consultees

Under paragraph 2(1) of Schedule 8 to the Electricity Act, notice of the application must be served on the relevant Planning Authorities. In this case, notice was served on Shetland Islands Council. Notifications were also sent to the Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH).

Shetland Islands Council

Shetland Islands Council did not object to the proposed wind farm. The Planning Authority assessed the proposed wind farm against their local development plans and policies;

- Shetland Islands Council Local Development Plan (2014);
- Landscape Sensitivity and Capacity Study for Wind Farm Development on the Shetland Isles (Land Use Consultants, March 2009);
- Supplementary Guidance Onshore Wind Energy (2014)

The Planning Authority found that the proposed wind farm would accord with the relevant provisions of the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, NH2, NH3, NH5, NH6, NH7, HE1, HE2, ED1, ED2, TRANS1, RE1, WD1 and WD3.

The Planning Authority concluded that subject to conditions the proposed wind farm would comply with the Council's development plan policies and that no material considerations had been found to warrant refusal of the application.

Scottish Environment Protection Agency (SEPA)

After submission of the further environmental information in June 2016, SEPA removed their objection to the application which was regarding the appropriate reuse and management of peat on site and potential impacts on groundwater abstractions. SEPA

requested conditions relating to micro-siting, the provision of a Construction Environmental Management Plan (CEMP) and a Decommissioning and Restoration Plan. These have been addressed by conditions 13, 18 and 30 of this consent and deemed planning permission, attached at annex 2.

Scottish Natural Heritage (SNH)

After consideration of the Environmental Statement, SNH requested further information to inform their consultation response regarding ornithological impacts of the proposed wind farm upon the Otterswick and Graveland Special Protection Area (SPA). After reviewing the further information SNH considered that the proposed wind farm would not present an adverse effect to the integrity of the Otterswick and Graveland SPA. SNH requested the carrying out of pre-construction surveys for otters and measures to protect otters. This is addressed in condition 23 - Habitat Management Plan. SNH also requested that details of excavated peat used for habitat restoration and measures to ensure the stability of any catotlem peat should be detailed in a Peat Management Plan. This is addressed in condition 18 – Construction Environment Management Plan (CEMP). Further information was requested to inform SNH's consideration of the application in relation to ornithological impacts of the proposed wind farm upon the Otterswick and Graveland Special Protection Area (SPA).

Non Statutory Consultees

A wide range of relevant organisations were consulted:

Airwave Solutions Limited did not object to the proposal subject to its approval of a scheme to set out the technical and design specification of the telecommunications tower included in Figure 3.9 of the Environmental Statement dated 7 March 2016.

CAA did not object to the proposal, stating that they would be highly likely to support an MOD request for turbine lighting. CAA also stated that the development will require to be reported to the Defence Geographic Centre and for the maximum height of any construction equipment to be provided. This is addressed at conditions 10 and 11: Aviation Lighting and Aviation Safety.

Highlands and Islands Airports Limited (HIAL) did not object to the proposed wind farm, commenting that the development would not impact on safeguarding surfaces for Sumburgh Airport.

Historic Environment Scotland (HES) did not object to the proposed wind farm. HES commented that the Beaw Field proposal would result in an adverse impact upon Gossabrough Broch, a Scheduled Monument, as all the turbines would be highly visible from the site, but did not object because it considered that the impact would not reach the threshold where it considers national issues to be raised.

Ministry of Defence (MOD) had no objection to the proposal, but requested turbines to be fitted with aviation lighting. MOD also requested to be advised of the date construction starts and ends, the maximum height of construction equipment and the latitude and longitude of the turbines. This is addressed at conditions 10 and 11: Aviation Lighting and Aviation Safety.

NATS, BT, Joint Radio Company and The Crown Estate did not object to the proposed development.

RSPB Scotland maintained its **objection** to the proposed wind farm after the submission of FEI. RSPB Scotland consider that the scheme to mitigate and offset potentially adverse effects on red-throated diver, merlins and blanket bog are not adequate to mitigate all risks to the species and habitat. The grounds for RSPB Scotland's objection was: unacceptable adverse effects on red-throated diver, unacceptable loss of breeding merlins, unacceptable adverse effects on blanket bog and the proposal being contrary to Policies NH2 (Protected Species) and NH3 (Furthering the Conservation of Biodiversity) of the Shetland Local Development Plan 2014. Conditions have been applied to this consent, in order to prevent the construction of turbines 3 and 5 during the breeding bird season, unless a survey commissioned by the Company confirms no nesting merlin within 500 metres of these turbines. This is addressed at condition 24(1). Additionally, RSPB Scotland requested conditions preventing the construction of turbines 13 and 15 during the breeding bird season unless a survey commissioned by the Company confirms no nesting red-throated diver within 500 metres of these turbines. This is addressed at condition 24(2). RSPB Scotland also recommended that there be conditions attached to any consent issued for a programme of post-construction bird monitoring, establishment of a Habitat Management Group, a Habitat Management Plan be produced and annual reports on the monitoring.

Scatsta Airport –licenced for use by BP Exploration Operating Company Limited (“BP”), and operated by Serco on their behalf - objected to the proposed wind farm due to visibility of the proposed wind turbines on Scatsta Airport radar and the generation of clutter on the air traffic control display. Additionally Serco objected due to the potential for impacts of the wind farm requiring an increase in Scatsta Airport's Minimum Obstacle Clearance Altitude (MOCA). Serco also commented that there was insufficient information provided in the assessment of the airport and the operability of Scatsta Airport navigational aids. Serco requested that should consent be granted conditions be put in place to safeguard the operation of Scatsta Airport. Conditions to address the concerns of Scatsta Airport are at conditions 5, 10 and 11 in the annexes to this consent and deemed planning permission.

Shetland Amenity Trust, who provide advice on archaeological matters to Shetland Islands Council, did not object to the proposed wind farm. Shetland Amenity Trust requested a Written Scheme of Investigation (WSI) for archaeological work and the requirement for pre-construction works to be subject to a WSI to be agreed prior to commencement of works. This is addressed at condition 25: Archaeological Clerk of Works.

Scottish Water commented that there was Scottish Water infrastructure within the site boundary but did not object.

Transport Scotland did not object to the proposal, commenting that there are no trunk roads on the Shetland Isles and that the turbine components are proposed to be transported to Yell by sea.

Visit Scotland did not object to the proposal, providing a recommendation for an independent tourism impact assessment to be undertaken.

Yell Community Council were consulted upon the application, a consultation response was not received.

Internal Scottish Government Advisors

A M Geomorphology, a company which is under contract to provide the Scottish Government with technical advice on peat landslide hazard risk assessment, confirmed that the Peat Slide Risk Assessment for the proposed wind farm was satisfactory.

Marine Scotland Science (MSS), the Scottish Government's in-house advisors, recommended conditions for the avoidance of watercourses and deep peat, conditions for: buffer zones for watercourses, drainage schemes, the appointment of an Ecological Clerk of Works, timing of in-stream works and design of watercourses to maintain passage of fish and not increase flooding. Additionally MSS recommended a water quality monitoring programme.

Representations from other organisations

BP Exploration Operating Company Limited ("BP"), in its capacity as licence holder for Scatsta Airport, objected to the application with regards to the reasons detailed in Serco's objection consultation response - due to aircraft safety concerns and the operational impact to Scatsta Airport resulting from the development. Conditions have been included regarding radar mitigation and aviation safety at conditions 5 and 11 to overcome these concerns.

Public Representations

A total of 62 public representations were received, 14 in objection and 48 in support. Reasons given for the 14 objections included landscape and visual impacts, impact on wildlife, tourism, noise impacts, impacts on peatland, proximity to housing, transportation of turbine components and aviation concerns. Those in support mentioned employment opportunities, community benefit, energy generation mix, climate change and the benefit of alternative access track uses.

The Scottish Ministers' Considerations

Public Local Inquiry

As Shetland Islands Council did not object to the proposal subject to conditions being put in place prior to Commencement of Development, there is no statutory obligation to hold a Public Local Inquiry ("PLI").

Scottish Ministers have considered fully and carefully the application, Environmental Statement, Further Environmental Information, and all relevant responses from consultees and third party representations. They have taken all material considerations into account. They acknowledge that there are no significant issues which have not been adequately considered and that they have sufficient information to be able to make an informed decision on the application without the need for a PLI.

Environmental Matters

Part 1(3) of the 2017 Regulations requires that Scottish Ministers must not:

- a) grant an Electricity Act consent for EIA development; or
- b) direct that planning permission is deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of EIA development,

unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the Scottish Ministers must take the environmental information into account.

Part 1(4) of the 2017 Regulations sets out the obligations under the EIA process, including the preparation by the Company of an EIA Report (which includes an Environmental Statement (ES) submitted to Ministers before 16 May 2017) consultation, publication and notification procedures, the examination by the Scottish Ministers of the information presented in the EIA report and any other environmental information and the reasoned conclusion by the Scottish Ministers on the significant effects of the development on the environment.

In accordance with paragraph 3 of Schedule 9 to the Electricity Act the Scottish Ministers have 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. Ministers have also had regard to the extent to which the Company has complied with its duty to do what it can to mitigate the effects of the Development and are satisfied that the Company has done what they reasonably can to mitigate any effect that the proposals would have on these matters.

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

- obtain SEPA's 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 noted that new and replacement watercourse crossings proposed at the site have been identified as requiring authorisation under CAR. Ministers accept SEPA's advice that these watercourse crossings are capable of being consented under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended) (CAR).

The Scottish Ministers are satisfied that an environmental impact assessment has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the application have been followed. Scottish Ministers are satisfied that the requirements of the 2017 Regulations, the 2000 Regulations where appropriate and the Electricity Act have been met.

Habitats Regulations

SNH advised of the potential for impact of the proposed development on the Otterswick and Graveland Special Protection Area ("the SPA"). The status of the SPA, designated for red-throated diver, means that the requirements of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") apply. Scottish Ministers can confirm that the appropriate assessment required by the Habitats Regulations to establish whether there would be an adverse impact on the integrity of the SPA has been undertaken. This was completed in accordance with the Habitats Regulations (Conservation Natural Habitats, &c.) Regulations 1994 as amended and the

Conservation of Habitats and Species Regulations 2017 following advice from SNH to protect the qualifying interests of the SPA from the possible effects of the development. All environmental information used to inform this assessment was drawn from the Environmental Statement and further environmental information which accompanied the application, the responses from consultees were also taken into consideration, all of which has been made available to the public as required by the 2000 regulations.

Ministers agree with SNH that there would be a likely significant effect on the red-throated diver qualifying species as a result of the development but that there would not be an adverse effect on site integrity. The conclusion of Ministers' assessment is that the Development will not result in an adverse impact on the integrity of the SPA. Ministers are satisfied this conclusion is beyond reasonable scientific doubt.

Main determinative issues

Ministers, having taken account of all relevant information, consider that the main determinative issues are:

- the extent to which the development accords with and is supported by Scottish Government policy and the terms of the development plan;
- the significant effects of the development on the environment, which are, in summary:
 - (a) landscape and visual impacts;
 - (b) ornithological impacts including impacts upon the conservation objectives of the Otterswick and Graveland SPA
 - (c) impacts on cultural heritage – the setting of Gossabrough Broch;
 - (d) impacts on Scatsta Airport;
- the estimated contribution made by the development to reducing CO₂ emissions, and;
- the renewable energy benefits of the proposed development.

Scottish Government Policy Context

The National Planning Framework 3 (NPF3) sets out the Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology. NPF3 describes how, in our more remote areas, this will bring new employment, reverse population decline and stimulate demand for development and service. NPF3 considers that onshore wind will continue to make a significant contribution to diversification of energy supplies, in the right places, with a desire to not see wind farm development in our National Parks and National Scenic Areas. Officials conclude the development would support the vision and aims of National Planning Policy Framework 3 to make Scotland 'a low carbon place' by capitalising on the wind resource for electricity generation.

The Scottish Planning Policy 2014 (SPP) introduces a presumption in favour of development that contributes to sustainable development. Paragraph 29 of SPP sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

Ministers have identified some negative impacts as a result of the proposed development, related to landscape and visual impact and impacts on cultural heritage, but consider these are limited in scope and taking a balanced view would be acceptable overall. Ministers conclude that the proposal would make a contribution to sustainable development.

Paragraph 169 of SPP states that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and heat maps where these are relevant. The SPP states that further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. Officials have given consideration to the impacts of the development on nationally important carbon rich soils and deep peat, noting that no significant effects were raised as an issue by SNH. Ministers conclude that conditions requiring a Habitat Management Plan and a Construction and Environmental Management Plan (including a peat management plan, a wetland ecosystems survey and mitigation plan and details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development) would substantially overcome these effects.

Ministers have considered the impacts from the Development on sensitive and remote areas, on peatland and grazing. The location of the turbines and infrastructure has been considered carefully and the landscape and visual impacts have been limited where possible, and through the design iteration process, the layout has been devised to avoid known areas of deeper peat. The development is not sited within any wild land area or National Scenic Area (NSA) SNH's advice is agreed with, that there would be no significant impact on the special qualities of the Shetland National Scenic Area(NSA); no significant impact on Ronas Hill and North Roe Wild Land Area; but a significant effect on the Yell Peatland landscape character area (LCA) and significant visual effects out to approximately 12 kilometres which are predicted to affect high sensitivity receptors in some local communities. Shetland Islands Council's advice is agreed with, that in the case of all three LCAs identified as having likely significant changes to their characteristics (Yell Peatlands, Scattered Settlements/Crofting and Grazing Land and Coastal Edge) the likely significant effect on landscape character whereby turbines would become a key characteristic would occur in a localised area, and influence only a relatively small area of Yell itself due to the screening effects of topography to the north west of the site. Ministers agree with planning authority's conclusion that the proposed development would do little to distract from the qualities and character of the Yell landscape as a whole.

The Company calculates that the wind farm, if built to the indicated installed capacity of 57.8MW, would have annual generation equivalent to the annual demand of 59,879 households in Scotland.

The total annual greenhouse gas emissions saving from the wind farm is estimated by the Company to be:

- 212,393 tonnes CO₂ equivalent saved per year over coal fired electricity generation; or
- 108,307 tonnes CO₂ equivalent saved per year over grid mix of electricity generation; or
- 150,504 tonnes CO₂ equivalent saved per year over fossil fuel mix of electricity generation

The Company has also submitted its calculation of the time required for the development to generate enough low carbon electricity to offset its own greenhouse gas emissions footprint (known as the “GHG emissions payback time”), this indicates that the development will pay back the greenhouse gas emissions associated with its construction, operation and decommissioning in 1.1 years, compared with the expected operating life of 25 years.

The Scottish Government Renewable Electricity Output Calculator (22 February 2017 version) published at

<http://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc> estimates that a typical 57.8 MW wind farm will save 44,807 tonnes of CO2 per annum over grid mix of electricity generation, with annual generation equivalent to the annual demand of 31,004 households in Scotland. Ministers note that the wind resource on Shetland exceeds the national average and the prediction by the company that annual generation using estimates of the wind resource on site could be as high as the equivalent to the annual demand of 59,880 average households in Scotland.

Ministers conclude the development would make a significant contribution towards meeting greenhouse gas emission and renewable electricity targets, as well as the diversification of energy supplies.

Ministers conclude that the proposed development would provide a net economic benefit to the local area, Shetland and Scotland. It would support local contractors; provide job opportunities; and support local services, facilities and accommodation providers. In doing so, there would be opportunities to aid in population retention.

The applicant would deliver a voluntary contribution to a community benefit scheme related to the proposed wind farm in the form of a fixed annual payment of £5,000 per megawatt. Based on an installed capacity of 57.8 MW, the community benefit payment would amount to £289,000 per year and approximately £7.23 million over the lifetime of the development. These figures are not a material consideration for Ministers in reaching their decision.

In considering all of the aspects together, Ministers conclude that overall the development is supported by the SPP.

Local Development Plan context

Shetland Islands Council assessed the proposed development against the Shetland Local Development Plan (2014) policies, and found the proposal to be compliant with their aims. Ministers agree with the conclusion of the planning authority.

Landscape and Visual Impacts

The Environmental Statement submitted by the Company recognises that there would be localised significant effects on landscape character in some areas.

Scottish Natural Heritage (SNH) did not object but considered that there would be ‘significant impacts on landscape character of the immediate site *Yell Peatland* landscape character area (LCA) and the sensitive transition and character areas of the adjacent pockets of settled crofting along the coast.’ SNH did not consider there would be significant impacts on two sections of the Shetland NSA or on Ronas Hill and North Roe Wild Land Area (WLA). SNH considered that cumulatively there could be an intrusion of the ‘respite’ between consented wind farms in Shetland at Viking and

Garth, giving visually sequential impacts of the two developments when travelling across the Shetland Mainland and island of Yell.

SNH recommended refining of the wind farm and borrow pits design to mitigate the severity of landscape, visual and cumulative effects on coastal communities within 10km of the development. Due to site constraints the Company commented in their FEI that there is limited scope to relocate wind turbines within the site. The Planning Authority commented that effects on Landscape Character Areas at a localised area would 'influence a relatively small area of Yell itself due to the screening effects of topography to the north west of the site' and that 'properties closest to the proposed wind farm in Burravoe and Gossabrough have the predominant views from their properties looking outwards towards the sea rather than towards the development site'.

Ministers recognise that there would be some significant landscape and visual impacts arising from this development which cannot be mitigated.

Ornithological impacts including impacts upon the conservation objectives if the Otterswick and Graveland SPA

Officials have considered measures proposed by RSPB Scotland to protect red-throated diver. Officials agree with the conditions proposed by Shetland Islands Council to mitigate potential impacts on red-throated diver associated with the construction of turbines T12, T13 and T15. Officials have also considered measures proposed by RSPB Scotland to protect merlin. Officials agree with the conditions proposed by Shetland Islands Council to mitigate potential impacts on merlin associated with the construction of turbines T3 and T5.

As indicated under the section headed "Habitat Regulations" Ministers conclude that Beaw Field wind farm would not adversely affect the integrity of the Otterswick and Graveland SPA.

Cultural Heritage Impacts

The Environmental Statement recognised that the proposed wind farm would result in a significant impact on the setting of Gossabrough Broch with potential for minor-moderate effects on four other scheduled monuments and minor effects on a further nine heritage sites.

Historic Environment Scotland (HES) commented that the all of the proposed turbines of the wind farm would be 'highly visible' and represent a 'very noticeable change from current conditions.' However, HES commented that the setting of the broch is likely to be focused on the coast and the Wick of Gossabrough, rather than the hills behind it (where the turbines would be located). HES added that although the wind farm would have an adverse impact on appreciation of the monument, the impacts would not reach the threshold where it would consider national issues to have been raised. HES welcomed the Company's stated aim of the proposed Heritage Access and Interpretation Plan to promote understanding and appreciation of heritage in the wider area, as a form of compensation, rather than mitigation, for the impact on Gossabrough Broch.

Shetland Islands Council's Regional Archaeologist had no objections to the proposed wind farm but requested a condition for a Written Scheme of Investigation with a suitably qualified archaeological contractor undertaking the work to ensure there would be no significant adverse impacts to any archaeological interests. A condition for a

Written Scheme of Investigation has been included in condition 25 to safeguard archaeology on the site.

Ministers recognise that there would be a significant adverse impact on the setting of Gossabrough Broch.

Impacts on Scatsta Airport

The operator of Scatsta Airport (Serco) considered that the wind turbines would be visible to radar and generate clutter on the air traffic control display and impact on the operational requirements of the airport. Serco also commented that there was insufficient information provided on the impacts on the airport's navigational aids. However, Serco provided suspensive aviation conditions which would address the concerns behind its objection.

Ministers conclude the impacts on Scatsta airport can be satisfactorily mitigated by the conditions proposed by Serco and incorporated into conditions 5 and 11 of annex 2.

Other Environmental Considerations

Taking into account all of the Environmental Information including all consultation responses and representations, Ministers consider there are no other significant adverse impacts arising from the proposed development.

The landscape and visual impacts and cultural heritage impacts of the proposed wind farm are unable to be mitigated. Mitigation to address the other residual environmental impacts (on habitats and species) has been proposed by the Company within the Environmental Statement as amended by the further environmental information supplied by the Company. Statutory consultees have proposed further measures to address such impacts which are secured by conditions attached to the consent at annex 2.

Reasoned Conclusion on the Significant Effects of the Development on the Environment

The Scottish Ministers, having taken account of all relevant information, consider that the proposal is supported by national policies which promote the principle of onshore wind farms and that the location is appropriate.

The Scottish Ministers have considered fully and carefully the environmental information and conclude that the development will have some significant effects on localised areas of three Landscape Character Areas in the local landscape and that it will also have a significant adverse effect on cultural heritage by impacting upon Gossabrough Broch.

The significant landscape and visual effects noted above will occur in a localised area, with properties closest to the wind farm having predominant views out to sea, not towards the wind farm. The significant adverse effect noted above on Gossabrough Broch does not give rise to impacts of a national issue.

Scottish Ministers conclude that the development is supported by the Scottish Planning Policy and are satisfied that any adverse environmental effects can be mitigated by conditions or that their impacts (which include the adverse landscape and visual impacts and adverse cultural heritage impacts noted above) would be limited and

outweighed by the benefits of renewable energy generation and contribution to electricity grid decarbonisation required by the Scottish Government's policies to tackle climate change.

Scottish Ministers are satisfied that this reasoned conclusion is still up to date.

Duration of planning permission

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 variables around wind farm connections feeding into the transmission and distribution network, a 5 year time scale for the commencement of development would be appropriate in this case.

The Scottish Ministers' Determination

Subject to the conditions set out in **Part 1 of Annex 2**, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Beaw Field electricity generating station in the Shetland Islands Council area (as described in **Annex 1**).

Subject to the conditions set out in **Part 2 of Annex 2**, Scottish Ministers direct that **planning permission is 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.

The Scottish Ministers 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 5 years from the date of this direction if there has not been commencement of development within that period.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise this determination on a website maintained for the purpose of making information publicly available, 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 and the consent have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents website.

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

<http://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules>.

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

Yours sincerely

REDACTED

Catherine Cacace

Head of Operations

A member of the staff of the Scottish Ministers

ANNEX 1

DESCRIPTION OF THE DEVELOPMENT

The Development comprises a wind-powered electricity generating station known as Beaw Field Wind Farm, located at the south of the island of Yell, centred on the Burn of Hamnavoe, within the administrative area of Shetland Islands Council, all as specified in the application and accompanying Environmental Statement submitted on 7 March 2016 and Further Environmental Information submitted on 28 June 2016. This is subject to the conditions in Annex 2.

The principal components of the wind farm and ancillary development compromise:

- 17 turbines with a maximum tip height of 145 metres;
- 17 turbine foundations and associated hardstandings transformers;
- Approximately 11.1km of access track with an average width of 4.5m and verges including drainage;
- Five major and one minor watercourse crossing;
- Hardstanding areas for construction and maintenance of turbines;
- Electrical substation and control building;
- Underground cabling connecting turbines to the substation and control building;
- One anemometry mast; and
- One radio communications tower.

ANNEX 2

The consent granted in accordance with section 36 of the Electricity Act 1989 and the direction that planning permission is deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 are subject to the following conditions:

PART 1

Conditions attached to the section 36 consent

Duration of the Consent

1. The consent is for a period of 25 years from the date of Final Commissioning. Written confirmation of the date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: To define the duration of the consent.

Commencement of Development

2. (1) Development shall be commenced no later than five years from the date of this consent, or such other period as the Scottish Ministers may hereafter direct in writing.

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

Reason: To allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate

Non-assignment

3. (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.

Serious Incident Reporting

4. 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.*

Aviation Radar, Navigational Aids and Instrumental Flight Procedures (IFP)

5. (1) No development shall commence unless and until a radar mitigation scheme setting out measures to be taken to minimise any impairment by the Development upon the performance of aerodrome navigation aids, instrument flight procedures and the efficiency of air traffic control services at Scatsta Airport has been submitted to, and approved in writing by, the Scottish Ministers in consultation with the operator of Scatsta Airport. The radar mitigation scheme shall set out the details of the process by which amendments to the scheme may be proposed by the Company and reviewed by Scottish Ministers in consultation with the operator of Scatsta Airport.

(2) No wind turbine shall be erected unless and until those measures required by that time in terms of the approved radar mitigation scheme to implement the radar mitigation scheme have been carried out and approved in writing by the Scottish Ministers in consultation with the operator of Scatsta Airport.

(3) The Development shall be operated in accordance with the approved radar mitigation scheme, incorporating any amendments approved in writing by the Scottish Ministers in consultation with the operator of Scatsta Airport.

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

ANNEX 2

PART 2

Conditions attached to deemed planning permission

Implementation in accordance with approved plans and requirements of this consent

6. Except as otherwise required by the terms of this consent and deemed planning permission, the development shall be undertaken in accordance with the Application (including the approved drawings listed at Annex 3 to this decision), environmental statement submitted 7 March 2016 and further environmental information submitted 28 June 2016.

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

Design and operation of turbines

7. (1) No development shall commence unless and until full details of the proposed wind turbines (including, but not limited to, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts, telecommunication towers and all associated apparatus have been submitted to and approved in writing by the Planning Authority;
- (2) The wind turbines shall be consistent with the candidate wind turbine or range assessed in the environmental statement, and the tip height shall not exceed 145 metres above ground level.
- (3) The 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;
- (4) All wind turbine blades shall rotate in the same direction.

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.*

Signage

8. 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.*

Design of sub-station and ancillary development

9. (1) No development shall commence unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.
- (2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

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 statement and in the interests of the visual amenity of the area.*

Aviation Lighting

10. (1) No part of any turbine shall be erected above ground unless and until a scheme for aviation lighting for the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with Ministry of Defence and the operator of Scatsta Airport. The scheme shall include details of infra-red aviation lighting 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 advance and in writing by the Planning Authority.
- (3) The Development shall be operated in accordance with the approved scheme.

Reason: *In the interests of aviation safety*

Aviation Safety

11. (1) No part of any turbine, mast or tower shall be erected above ground unless and until the Planning Authority, Ministry of Defence, Defence Geographic Centre, NATS and the operator of Scatsta Airport 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 turbines, masts and telecommunications towers in latitude and longitude.
 - e) The lighting status of turbines, masts and telecommunications towers

(2) Within 14 days of the date of completion of the erection of the final turbine, written confirmation of the anticipated Final Commissioning shall be provided to the Ministry of Defence, Civil Aviation Authority and the Planning Authority. The confirmation shall include the following information:

- a. Height above ground of the highest potential obstacle;
- b. The position of that structure in latitude and longitude

(3) No part of any turbine, mast or tower shall be erected above ground unless the Company has provided to CAA Airspace Regulation at least fourteen days previously 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 position of the turbines, masts and telecommunications towers in latitude and longitude.
- c) The height above ground level of the tallest structure forming part of the Development;
- d) The maximum extension height of any construction equipment;
- e) The position of the turbines, masts and telecommunications towers in latitude and longitude;
- f) The lighting status of turbines, masts and telecommunications towers; and,
- g) Estimated end dates for construction together with an estimate of when the turbines are scheduled to be removed.

Reason: *In the interests of aviation safety*

Emergency Services Networks

12.(1) No part of turbines 3 and 8 shall be erected above ground unless and until a scheme for the construction of the telecommunications tower described in paragraph 3.12.1 and figure 3.9 of the Environmental Statement has been submitted to and approved in writing by the Planning Authority in consultation with the operators of the emergency services telecommunications network. The scheme shall include:

- a. Details of the tower design including specification of telecommunications equipment to be mounted on the tower;
- b. A programme setting out the dates by which the specified equipment shall be installed and operational;
- c. Details of the arrangements for maintenance and upgrades to the tower and equipment

(2) The approved scheme shall thereafter be implemented in full.

Reason: *In the interests of public safety and maintaining the telecommunications required by the emergency services.*

Micro-siting

13.(1) All wind turbines, buildings, masts, telecommunications towers, areas of hardstanding and tracks shall be constructed in the location shown on Figure 3.1 attached at Annex 3 unless micro-siting is otherwise approved in writing by the Planning Authority (in consultation with SEPA, SNH and Airwave Solutions).

(2) Micro-siting is subject to the following restrictions:

- a) No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure 3.1;
- b) No wind turbine, building, mast, telecommunication tower or hardstanding shall be moved more than 50m from the position shown on Figure 3.1;
- c) No access track shall be moved more than 50m from the position shown on Figure 3.1;
- d) No micro-siting shall take place within areas of peat of greater depth than that at the position shown on Figure 3.1;
- e) No micro-siting shall take place within areas hosting highly and moderately dependent Ground Water Dependent Terrestrial Ecosystems;
- f) No micro-siting of a wind turbine, building, mast, telecommunication tower or hardstanding shall take place within 50m of a watercourse/waterbody.
- g) All micro-siting permissible under this condition must be approved in advance in writing by the Ecological Clerk of Works (ECoW) and Archaeological Clerk of Works (ACoW); and

(3) No later than one month after the date of First Commissioning and at 6 monthly intervals until after Final Commissioning, an updated site plan shall be submitted to the Planning Authority showing the position of all constructed wind turbines, masts, telecommunication towers, areas of hardstanding, tracks and associated infrastructure which have been erected in their final position at the time of submission of the updated plan. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of any relevant approval.

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

Borrow Pits – Scheme of Works

14. (1) No development shall commence unless and until a scheme for the working and restoration of each borrow pit 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; including information on groundwater levels;
- b) Details of the handling and storage according to type and quality of any overburden (including peat, soil and rock);
- c) Drainage measures, including implementation of SUDS principles, in addition to measures to prevent surrounding areas of peatland, water dependent sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out; measures to control ingress of surface water into the borrow pit and any dewatering and associated drainage facilities appropriate to the area to be stripped of overburden and worked;
- d) Formation of site access and site compound, and any demarcation of the borrow pit by perimeter fencing;
- e) Provision of a notice board of durable material and finish to be placed at the site entrance, indicating the name, address and telephone number of the company responsible for the operation of the borrow pit;
- f) Protection measures to safeguard the stability of the adjoining land;
- g) Protection measures to ensure safety of users of the adjoining land and public roads;
- h) A programme of implementation of the works described in the scheme;
- i) Full details of the reinstatement, restoration and aftercare of the borrow pits at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles; and

(2) Material extracted and removed from the borrow pits shall only be used in the construction of the wind farm development hereby permitted;

(3) The approved scheme shall thereafter be implemented in full.

Reason: *To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pits at the end of the construction period.*

Blasting

- 15.(1) Should blasting be proposed for any purpose, it must be carried out only between the hours of 10:00 to 16:00 on Monday to Friday inclusive and 10:00 to 12:00 on Saturdays, with no blasting taking place on a Sunday or on a Bank Holiday or Public Holiday, unless otherwise approved in advance in writing by the Planning Authority.

(2) Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at blasting monitoring locations approved by the Planning Authority. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

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

Planning Monitoring Officer

16.(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 Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- a) Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this planning permission
- b) Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- c) 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 this planning permission at the earliest practical opportunity.

(2) 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 consent issued.*

Ecological Clerk of Works

17.(1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA. The terms of appointment shall:

- a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction and Environmental Management Plan (condition 18), the Habitat Management Plan (condition 23) and other plans approved in accordance with condition 17 ("the ECoW works");
- b) Require the ECoW to report to the Company's 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 the 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; and
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 30.
- (3) The Company shall ensure the ECoW is present during excavations, ground investigations and construction works and is permitted to survey areas to be subject to excavation and construction prior to and during work on the site. If any species of flora or fauna considered to be of significant value are identified, then the Company shall submit for written approval of the Planning Authority additional measures to mitigate the impacts on the species, and shall thereafter implement them in full.
- (4) No later than 18 months prior to decommissioning of the wind farm or the expiration of the section 36 consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with SNH and SEPA.
- (5) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: To secure the effective monitoring of an compliance with the environmental mitigation and management measures associated with the Development.

Construction and Environmental Management Plan (CEMP)

- 18.(1) No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with Marine Scotland Science, SNH and SEPA.
- (2) The CEMP shall be submitted at least 2 months prior to proposed Commencement of Development and shall include (but shall not be limited to):
 - a) A site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment and minimisation of waste, re-use of materials and if necessary disposal of surplus materials;
 - b) Details of the formation of the construction compound, welfare facilities, any areas of hard standing, turning areas, internal access tracks (including construction methods thereof), car parking,

material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing together with provision for removal of the construction compound and reinstatement of the land within three months of the Final Commissioning;

- c) A dust management plan;
- d) Site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
- e) Details of on-site activities including earth moving, aggregate mixing, crushing, screening, on site storage and transportation of raw material;
- f) The height and location of all stockpiles of road stone;
- g) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network for a distance of 160 metres either side of the Development's site entrance including wheel cleaning facilities and sheeting gantry to be retained for the duration of construction work and used by all construction traffic with an operating weight exceeding three tonnes to prevent the transfer of mud and loads to the public highway where haulage of materials won at the particular borrow pit is to take place on public roads, sheeting of all open bodied heavy commercial vehicles carrying dust creating materials into and/or out of the Development Site and measures to clean the site entrances, public right(s) of way and the adjacent local road network;
- h) A soil storage and management plan incorporating the mineral and slope stability of the site identified in the peat landslide risk assessment including use and replacement of topsoil, subsoil and drainage implications of soil movement and storage;
- i) A peat management plan, including details of the mineral and slope stability of the site identified in the peat landslide risk assessment, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- j) A drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- k) 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;
- l) Details of any water abstraction or dewatering, proposed quantities, uses and discharges;

- m) Sewage disposal and treatment;
- n) Temporary site illumination including measures to avoid disturbance to fauna;
- o) A site specific wet weather working plan including an action plan detailing when to stop working, re-attend, assess potential damage, contact downstream users; an inspection checklist/procedure to check sediment mitigation after wet/adverse weather, details of the location of any lagoons and areas of vegetation for over-pumping and a list of appropriate equipment on site and training in use;
- p) The construction of the access into the site and the creation and maintenance of associated visibility splays;
- q) The method of construction of the crane pads;
- r) The method of construction of the turbine foundations;
- s) The method of working cable trenches;
- t) details of reinstatement of ground excavated for cable trenches which shall set out how the reinstatement will be provided within six months of Final Commissioning;
- u) The method of construction and erection of the wind turbines, and meteorological masts;
- v) Details of watercourse crossings;
- w) Post-construction restoration/reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- x) A wetland ecosystems survey and mitigation plan;
- y) A provision that all new infrastructure (with the exception of any proposed watercourse crossings and directly related tracks) occur out with a 50m buffer area from water features on site unless otherwise approved in writing with SEPA and the Planning Authority, in advance;
- z) Details of proposed environmental monitoring, audits and reporting systems to be employed during construction;
- aa) Details of environmental training to be provided to the contractors and their sub-contractors personnel;

bb) A schedule of relevant consents, licences and authorisations required during the construction period, in accordance with British Standard 5228:2009: Code of practice for noise and vibration control on construction and open sites – Part 1- Noise, Part 2- Vibration;

cc) Avoidance of in stream works from October to May and design of watercourse crossings to maintain the passage of fish to reduce the potential for flood risk and mitigate impacts on European eel and brown trout.

(3) The approved CEMP shall be implemented in full unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

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

Surface Water Monitoring Scheme

19.(1) No development shall commence unless and until a detailed Surface Water Monitoring Scheme (SWMS) is submitted to and approved in writing by the Planning Authority in consultation with Marine Scotland Science, at least 14 months prior to the Commencement of Development. The SWMS shall form an appendix to the CEMP and shall inform the CEMP. The SWMS shall include:

- a) A plan showing the monitoring positions and infrastructure and national grid references for all monitoring locations;
- b) A detailed methodology for the gathering of hydrochemical (including turbidity and stream height data) and biotic baseline surface water quality information, including where necessary details of equipment to be used;
- c) A programme setting out the frequency of monitoring/surveying that shall extend to:
 - i. Twelve months of monitoring and reporting pre-construction;
 - ii. Monthly monitoring and reporting to be undertaken during the construction phase; and
 - iii. Twelve months of post-construction monitoring and reporting.

(2) The SWMS shall be implemented as approved unless any revision thereto is first agreed in writing by the Planning Authority in consultation with Marine Scotland Science.

Reason: *To protect surface water quality and fish populations*

Construction Hours

20. (1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07:00 to 18:30 on Monday to Friday inclusive and 08:00 to 14:00 on Saturdays, with no construction work taking place on a Sunday or on public holidays. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, concrete pouring and the testing of plant and equipment, unless otherwise approved in writing by the Planning Authority.

(2) Heavy Goods Vehicles (HGV) movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07:00 to 18:30 Monday to Friday, and 08:00 to 14:00 on Saturdays, with no HGV movements to or from the site taking place on a Sunday or on a Bank Holiday or Public Holiday, unless otherwise approved in advance in writing by the Planning Authority.

Reason: *In the interests of local amenity*

Traffic Management Plan

21.(1) No development shall commence unless and until a Traffic Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Trunk and Local Road Authorities. 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;
- 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;
- g) Detailed drawings of the proposed new access routes identified in Figure 5.9: Access Track Evolution, including any works to and any surfacing of existing tracks including public rights of way;
- h) A detailed photographic and/or video survey of the public road from the Ulsta Ferry Terminal to the Development Site's access junction, followed by production of an inspection and monitoring programme of the condition of the road which shall be undertaken and shall include means of reporting any faults expeditiously.
- i) A survey of the condition of proposed access routes and the surrounding local highway network including rights of way network.
- j) A survey further to that carried out under paragraph 21(1)(i) shall be undertaken within three months of the Final Commissioning of the Development or such other period as approved in writing in advance by the Planning Authority, to the same specification as the pre-construction survey to identify any deterioration in condition arising from construction activities. Thereafter details of a

scheme for any reinstatement works identified as necessary to return the access routes to their condition prior to construction works taking place and a timescale for implementation to be submitted to and approved in writing by the Planning Authority and the scheme implemented in accordance with the approved details.

- k) Provision that no construction traffic shall be allowed to enter the Development Site until a visibility splay of 4.5 metres by 160 metres has been provided at the junction of the access road and public highway.
- l) The visibility splay required under paragraph 21(1)(k) shall subsequently be maintained for the lifetime of the Development.
- k) Provision that no later than 12 months prior to the end of the period of the section 36 consent a survey shall be undertaken by the Company of the condition of proposed access routes and the surrounding local rights of way network (as shown in Figure 3.20 of the Environmental Statement) in accordance with a scheme first submitted to and approved by the Planning Authority. A further survey shall be undertaken by the Company within three months of the decommissioning of the wind farm Development or such other period as approved in writing by the Planning Authority, to the same specification as the pre decommissioning survey, to identify any deterioration in condition arising from decommissioning activity. Details of a scheme for any re-instatement shall be submitted to and approved in writing by the Planning Authority. The scheme shall be implemented in accordance with the approved details.

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

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

Repair to Public Roads

22.(1) No development shall commence unless and until the Company has provided to the Planning Authority documentary evidence that a proposal is in place with the Roads Authority to provide repair to public roads due to abnormal wear and tear arising from a level of use and purpose that is attributable to the Development, and written confirmation has been given by the Planning Authority to the Company that the proposal is satisfactory. The proposal shall cover the duration of this permission.

(2) The approved proposal shall thereafter be implemented in full and cover the duration of the section 36 consent.

Reason: *To ensure provision for the repair of abnormal wear and tear to public roads.*

Habitat Management Plan

23.(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 SNH and SEPA.

(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 restoration of the habitat on site as follows:

- a) Restoration of peatland (blanket mire) to support the aims of the Outline Habitat Management Plan included within the Environmental Statement;
- b) Measures to restore peat haggs and gullies in addition to any areas of bare peat;
- c) Create conditions to encourage nesting and breeding of merlin on former lochans in southern Yell.

(3) No development shall commence unless and until the terms of a Habitat Management Group (HMG) have been approved in writing by the Planning Authority. The terms shall include:

- a) Details of the membership composition of the HMG; and
- b) Arrangements for the HMG to advise on the detail of the HMP, its implementation, post-construction monitoring and potential refinement of the HMP if required.

(4)The approved HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are required to better meet the objectives of the Outline Habitat Management Plan at Environmental Statement Appendix 10.4, and shall include the submission of annual reports to the HMG. Information on Schedule 1 species shall remain confidential, supplied only to the Planning Authority's Natural Heritage Officer, local raptor study group, SNH and RSPB Scotland. In particular, the approved HMP shall be updated to reflect ground condition surveys undertaken prior to and during construction and within three months of the date of Final Commissioning and shall be submitted to the Planning Authority for written approval in consultation with SNH, SEPA and any other parties agreed.

(5)The HMP shall include a pre-construction survey for otter to be undertaken in a suitable habitat no more than two months prior to Commencement of Development.

(6)Should an otter holt be found at any time during construction, an exclusion zone of at least 100 metres radius shall be established around the holt until an Otter Protection Plan (OPP) has been approved by the Planning Authority in consultation with SNH. The OPP shall detail measures that shall be taken to protect the otters.

(7) Unless otherwise agreed in advance in writing by the Planning Authority, the approved HMP shall be implemented in full.

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

Breeding Birds

24. (1) The erection of turbines T3 and T5 shall not take place during the period 1 April to 31 July in any year unless and until:

- a) A Merlin survey carried out on behalf of the Company by a suitably qualified professional and in accordance with a methodology approved in advance in writing by the Planning Authority has been undertaken demonstrating the absence of Merlin within 500m of either turbine;
 - b) In the event that the Merlin survey reveals the presence of Merlin nesting within 500m of either turbine, the erection of turbines T3 and T5 shall not take place during the period 1 April to 31 July in any year unless and until Merlin mitigation measures have been approved advance in writing by the planning authority.
- (2) The erection of turbines T12, T13, T15 and their access tracks shall not take place during the period 1 March to 30 September in any year unless and until:
- a) a Red-Throated Diver survey carried out on behalf of the Company by a suitably qualified professional and in accordance with a methodology approved in advance by the Planning Authority has been undertaken demonstrating the absence of Red Throated Diver nesting within 500m of either turbine;
 - c) In the event that the Red Throated Diver survey reveals the presence of Red-Throated Diver nesting within 500m of either turbine, the erection of turbines T12, T13, T15 and their access tracks shall not take place during the period 1 March to 30 September in any year unless and until Red-Throated Diver mitigation measures have been approved advance in writing by the planning authority.

Reason: *To protect breeding birds.*

Archaeological Clerk of Works

- 25.(1) No development shall commence unless and until the Planning Authority in consultation with Shetland Islands Council Regional Archaeologists have approved in writing the terms of appointment by the Company of an independent Archaeological Clerk of Works (ACoW) in consultation with Shetland Islands Council's Regional Archaeologists. The scope of the ACoW's appointment shall include:
- a) Advising on adequate protection of archaeological interests on the site;
 - b) Checking for new records of archaeological interests for which additional mitigation may be required;
 - c) Approving in writing any micro-siting and placement of turbines and tracks;
 - d) The production of a Written Scheme of Investigation specifying:
 - i. The erection and maintenance throughout the period of construction of suitable fencing around known archaeological features within 50m of proposed working areas and provision for removal of fencing;

- ii. A detailed archaeological investigation to include geophysical and topographical survey in advance of development where known or suspected archaeology exists;
- iii. An archaeological watching brief on a representative proportion of ground breaking works on the excavation of infrastructure to the level of archaeologically sterile sub-soils;
- iv. Procedures to undertake archaeological investigations of features, finds or deposits, where discovered through geophysical survey or watching brief;
- v. A post-excavation research and dissemination strategy in the event of significant discoveries determined as such by the ACoW and Shetland Island Council Regional Archaeologists as archaeological advisors to the Planning Authority. All post-excavation research and dissemination shall be completed within three years of the completion of on-site investigations; and
- vi. The post-excavation research design for the analysis, publication and dissemination of results (including the details of the Heritage Access and Interpretation Plan, referred to in the non-technical summary) and archive deposition has been agreed and secured.

e) Monitoring compliance with the requirements of the Written Scheme of Investigation;

(2) The ACoW shall be appointed on the approved terms from Commencement of Development, throughout any period of construction activity and throughout any period of post construction restoration works approved in terms of condition 30.

(3) No later than 18 months prior to the decommissioning of the wind farm or the expiration of the section 36 consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ACoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with The Shetland Amenity Trust. The ACoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

Heritage Access and Interpretation Plan

26. No development shall commence unless and until a Heritage Access and Interpretation Plan (HAIP) has been approved in writing by the Planning Authority. The HAIP shall provide details of the archaeological features within and/or adjacent to the Development that would benefit from improved access and interpretation, in addition to signage and promotion of a Heritage Trail. The approved HAIP shall be implemented in full prior to First Commissioning.

Reason: *To promote public access to archaeological heritage features.*

Shadow Flicker

27.(1) No development shall commence unless and until a scheme for the avoidance or mitigation of any shadow flicker at residential and commercial properties situated within ten rotor diameters of any wind turbine forming part of the Development which lawfully exist or for which planning permission has been granted at the date of the section 36 consent, has been submitted to, and approved in writing by, the Planning Authority.

(2) The approved mitigation scheme shall thereafter be implemented in full.

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

Telecommunications

28.(1) No development shall commence unless and until a Television, Radio and Communications Equipment Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television, Radio and Communications Equipment Reception Mitigation Plan shall provide for a baseline Television, Radio and Communications Equipment Reception survey to be carried out prior to the installation of the first wind turbine. The results of the baseline television reception survey shall be submitted to the Planning Authority.

(2) The approved Television, Radio and Communications Equipment Reception Mitigation Plan shall be implemented in full.

(3) Any claim by any individual person regarding television picture loss, radio or communications equipment loss or interference at a residential or commercial property which lawfully exists or for which planning permission has been granted at the date of this consent which has been submitted to the Planning Authority and was made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, once notified to the Company by the Planning Authority shall be investigated by a qualified engineer appointed by the Company and the results shall be submitted to the Planning Authority. Should any impairment to the television, radio or communications equipment signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television, radio and communications equipment reception.

Reason: *To ensure local television, radio and communications equipment services are sustained during the construction and operation of this development.*

Redundant Turbines

29. (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.

(2) 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 the Site, in the interests of safety, amenity and environmental protection.*

Site Decommissioning, Restoration and Aftercare

30. (1) The wind turbine and substation shall be decommissioned and cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without the prior written approval of the Planning Authority.

(2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. 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.

(3) No later than three years prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) the Company shall submit a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy to the Planning Authority for approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide a method statement, updated and detailed proposals 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:

- 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, car parking, material stockpiles, oil storage, lighting columns and any construction compound boundary fencing;

- c) A track construction and reinstatement plan;
- d) A dust management plan;
- e) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- f) A pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- g) Soil storage and management;
- h) A surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- i) Details of surface water monitoring associated with decommissioning
- j) Sewage disposal and treatment;
- k) Temporary site illumination;
- l) The construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- m) Details of watercourse crossings;
- n) A species protection plan based on surveys for protected species (including birds) carried out no later than 18 months prior to the submission of the plan.

- (4) The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH 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.*

Financial Guarantee

- 31.(1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 30 is submitted to the Planning Authority at least one month prior to the Commencement of Development.

(2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations in condition 30.

(3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 30.

(4) The value of the financial guarantee shall be reviewed by agreement or 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 decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review. The review shall be provided to the landowners and 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.*

Local Community Complaint Procedures

32. Prior to the Commencement of Development the Company shall establish a set of procedures for dealing with complaints by members of the local community, such set of procedures to be approved in writing by the Planning Authority and adhered to throughout the construction and operation of the Development.

Reason: *In order to ensure that the development does not have an adverse effect on existing users.*

Noise

33. (1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) 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 consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:
- (2) The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so.
- (3) There shall be no First Commissioning of the Development until the Company has received written approval from the Planning Authority of 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 Planning Authority.
- (4) Within 21 days from the receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the Guidance Notes attached to this

condition. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component. Within 14 days of receipt of the written request of the Planning Authority made under this paragraph, the Company shall provide the information relevant to the complaint to the Planning Authority.

- (5) 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 the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property 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 property. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the Guidance Notes attached to this condition shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.
- (6) Prior to the commencement of any measures by the independent consultant to be undertaken in accordance with this condition, the wind farm operator shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes attached to this conditions where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the operator's submission shall include a method to calculate the noise level from the wind turbines at the complainant's property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to this condition or approved by the Planning Authority pursuant to paragraph (c) of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.

- (7) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (3) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:
- a) The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions;
 - b) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. 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 information provided in the written request of the Planning Authority under paragraph (7), and such others as the independent consultant considers necessary to fully address the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the Guidance Notes attached to this condition.
- (8) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (7) of this condition unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes attached to this condition. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (9) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the Guidance Notes attached to this condition, 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 (7) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.

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

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute 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 (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
LA90 Decibel Levels												
Lower Hollingarh (452188, 1183917)	40	40	40	40	40	40	40	40	42	43	43	43
Whirliegarth (452739, 1183016)	40	40	40	40	40	40	40	40	41	43	43	43
Easterlee (451773, 1180569)	40	40	40	40	40	40	40	40	42	44	46	46
Gentletown (452415, 1180263)	40	40	40	40	40	40	40	42	44	47	48	48
Littlester (451022, 1180133)	40	40	40	40	40	40	41	44	47	49	51	51
Hamnavoe (449726, 1180866)	40	40	40	40	40	40	40	40	42	43	43	43
Helnaquhida (452013, 1180138)	40	40	40	40	40	40	40	39	42	44	46	46
Kettlester (451861, 1180049)	40	40	40	40	40	40	40	39	42	44	46	46
Islesview (451819, 1180372)	40	40	40	40	40	40	40	40	42	44	46	46
Westerlee (451775, 1180241)	40	40	40	40	40	40	40	39	42	44	46	46
Kletterlea (451404, 1180170)	40	40	40	40	40	40	41	43	45	48	49	49

The School House (451203, 1179999)	40	40	40	40	40	40	41	44	47	49	51	51
Cluness Cottage (451955, 1179932)	40	40	40	40	40	40	40	40	35	38	39	39
Staneygarth (451936, 1179890)	40	40	40	40	40	39	39	38	40	43	45	45
Giggleswick (452261, 1179938)	40	40	40	40	40	40	40	42	43	44	44	44

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute 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 (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
LA90 Decibel Levels												
Lower Hollingarth (452188, 1183917)	43	43	43	43	43	43	43	43	43	43	43	44
Whirliegarth (452739, 1183016)	43	43	43	43	43	43	43	43	43	43	44	44
Easterlee (451773, 1180569)	43	43	43	43	43	43	43	43	43	43	45	45
Gentletown (452415, 1180263)	43	43	43	43	43	43	43	43	43	44	46	46
Littlester (451022, 1180133)	43	43	43	43	43	43	43	42	44	47	49	51
Hamnavoe (449726, 1180866)	43	43	43	43	43	43	43	43	43	43	43	44
Helnaquhida (452013, 1180138)	43	43	43	43	43	43	43	43	42	42	44	44

Kettlester (451861, 1180049)	43	43	43	43	43	43	43	43	42	42	44	44
Islesview (451819, 1180372)	43	43	43	43	43	43	43	43	43	42	45	45
Westerlee (451775, 1180241)	43	43	43	43	43	43	43	43	43	42	44	44
Kletterlea (451404, 1180170)	43	43	43	43	43	43	43	43	41	44	46	50
The School House (451203, 1179999)	43	43	43	43	43	43	43	42	44	47	49	51
Cluness Cottage (451955, 1179932)	43	43	43	43	43	43	43	43	41	40	42	42
Staneygarth (451936, 1179890)	43	43	43	43	43	43	42	42	41	39	41	41
Giggleswick (452261, 1179938)	43	43	43	43	43	43	43	43	43	40	36	36

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

The immission limits set out in Tables 1 & 2 are increased to 45 dB(A) LA90, or the relevant ETSU-R-97 derived “quiet daytime hours” or the “night hours” noise limit based on the measured background noise levels plus 5dB(A), whichever is the greater, at any noise sensitive premises having a financial involvement with the wind farm. The wind farm operator must provide written confirmation of the location of any such premises to the Planning Authority prior to the commencement of the development.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition 33. They further explain the requirements set down by 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 Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4.

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).

Note 1

- (a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), 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 standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.
- (b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Authority, and placed outside the complainant's dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building 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 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 $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f). To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine 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. Each 10 minute arithmetic average mean wind speed data as measured at turbine hub height shall be ‘standardised’ to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in

Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary;

- (d) Data provided to the Planning Authority in accordance with paragraphs (E) (F)(G) and (H) of the noise condition 33 shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Planning Authority.
- (e) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Planning Authority prior to the commencement of measurements.

Note 2

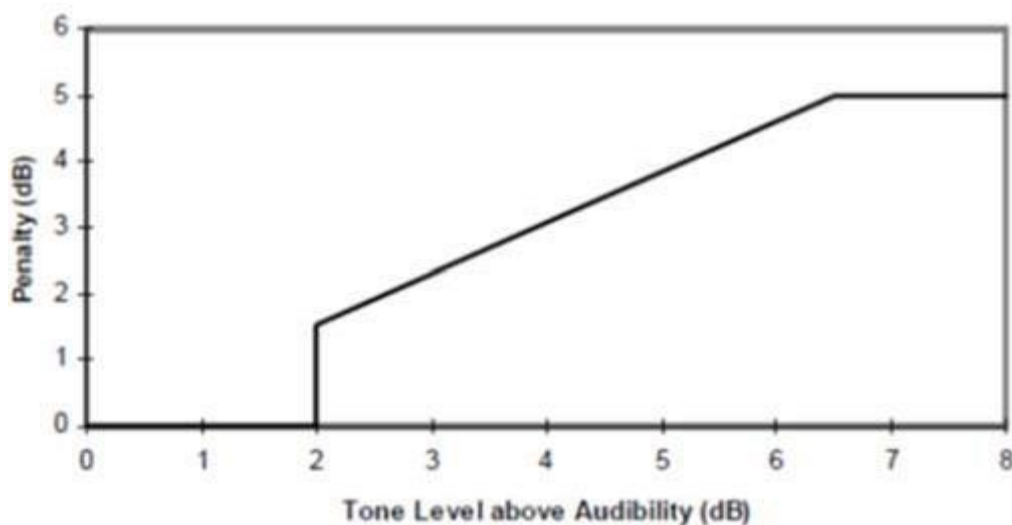
- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Planning Authority under paragraph (E) of the noise condition 36 but excluding any periods of rainfall measured in accordance with Note 1(f).
- (c) Values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (E) of the noise condition 33, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure. For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- (b) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in

Section 2.1 on pages 104 -109 of ETSU-R-97.

- (c) 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.
- (d) A least squares "best fit" linear regression 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 fitted to values within $\pm 0.5\text{m/s}$ of 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 Note 2.
- (e) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

- (a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) 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 Note 2.
- (c) If the rating level 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 Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition 33 then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise condition or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) of the noise condition 33, 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 Site are turned off for such period as the

independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (e) of this condition;
- ii. 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:

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

- iii. 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;
- iv. 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 noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition 33 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 this condition or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (1) of the noise condition, 33, then the development fails to comply with the condition.

Definitions:

“Airwave Solutions” means the company Airwave Solutions Limited incorporated under the Companies Acts (Company number 3985643) and having its registered office at Nova South, 160 Victoria Street, London, SW1E 5LB.

“The application” means the application submitted by the Company on 7 March 2016;

“Bank Holiday” means:

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

“CAA Airspace Regulation” means the Civil Aviation Authority Department located at AR(U), D Air P, 45-49 Kingsway, London, WC2B 6TE.

“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;

“The Company” means the person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989, such person at the date of the consent being Peel Wind Farms (Yell) Limited incorporated under the Companies Acts (Company number 07551084) and having its registered office at Peel Dome Intu Trafford Centre, Traffordcity, Manchester, M17 8PL;

“Decommissioning of the wind farm” means the date on which all the wind turbine generators forming part of the wind farm have been permanently decommissioned and removed from the Site and the Site has been restored in accordance with the conditions contained in the planning permission.

“Defence Geographic Centre” means the organisation Defence Geographic Centre, located at GAIT, Hotine Building Room 19, Elmwood Avenue, Feltham, Middlesex, TW13 7AH.

“The Development” means the Beaw Field wind powered electricity generating station and associated infrastructure at the south of Yell, centred on the Burn of Hamnavoe, as described in Annex 1;

“Final Commissioning” means the earlier of (a) 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 (b) the date 18

months after the date of First Commissioning, unless a longer period is agreed in writing in advance by the Planning Authority;

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

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

“Public Holiday” means:

- Easter Monday;
- the third Monday in September

“The operator of Scatsta Airport” means BP Exploration Operating Company Limited incorporated under the Companies Acts (Company number 00305943 and having its registered office at Chertsey Road, Sunbury on Thames, Middlesex, TW16 7BP, and persons specifically authorised by him or any successor as holder of a licence under the Air Navigation Order 2000 from the Civil Aviation Authority to operate Scatsta Airport.

ANNEX 3: Site Layout – Figure 3.1

This is the map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of BEAW FIELD a WIND powered electricity generating station at THE SOUTH OF THE ISLAND OF YELL, SHETLAND as confirmed by the Scottish Ministers.

REDACTED

