

From: Agnes M Meany
EE&T: E&T

6 June 2008

Cabinet Secretary for Finance and Sustainable Growth

**APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989
AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND
COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE
CONSTRUCTION AND OPERATION OF THE
CARRAIG GHEAL
WIND POWERED ELECTRICITY GENERATING STATION
IN THE PLANNING AUTHORITY AREA OF ARGYLL AND BUTE**

Purpose

1. To seek your determination on an application by GreenPower (Carraig Gheal) Limited to construct and operate a 60MW wind farm located on Fernoch Farm near Kilchrenan in Argyll and Bute. This application is in Mr Mather's constituency therefore we would seek your determination in this case.

Priority

2. Routine.

Background

3. On 15 November 2004, Green Power (Carraig Gheal) Ltd applied for consent to construct and operate a wind farm comprising 24 turbines, with a maximum installed capacity of 72MW. Following the consultation round, the Applicant reviewed the development layout and reduced the number of turbines to 20, removing 4 and relocating several others to address Landscape and Visual and Bird Sensitivity issues raised by SNH and RSPB. The new maximum installed capacity is 60MW. A site layout plan showing to site boundary, turbine positions and other infrastructure details is attached at Annex F.
4. In accordance with the statutory and regulatory requirements, this application has been subject to wide ranging consultation. We are satisfied that there are no outstanding issues that should prevent you determining this application

Assessment

5. This is a medium sized development proposal which would contribute to the renewables obligation and climate change targets in Scotland. If realised, the applicant estimates that the wind farm would have the capacity to provide electricity to power over 33,000 homes.
6. Following consultation, **Argyll and Bute Council**, as planning authority supported the application subject to a number of conditions derived from their own consultation. Their support was initially subject to the site being accessed via the north-western route, however following further extensive consultation the proposed access route will now be from the south of the site. This revised route will be determined by Forestry Commission Scotland. **Scottish Natural Heritage** support the application subject to conditions being imposed to protect breeding birds. **Scottish Environmental Protection Agency (SEPA)** support the application subject to conditions being imposed to protect the water environment. The development has been assessed by SEPA under the Controlled Activities (Scotland) Regulations 2005 and been allocated a Category 1 status which is defined as “the proposal accords with the Water Framework Directive and is capable of being authorised”. During the consultation exercise, a total of 440 public representations were received, these are summarised in Annex E

Publicity

7. Subject to your agreement, arrangements to announce this determination will be made by means of a News Release. The Communications Office will submit a draft News Release under separate cover for your approval. The consent and decision letter will also be made available to the public on the Scottish Government website and at the library at Saughton House, Edinburgh.

Recommendation

8. **I recommend that you consent to this application subject to conditions.** The decision letter and consent (Annex C and D) have been reviewed by SGLD, planning and ecology colleagues.
9. The following annexes are attached to assist you in making your decision:

Annex A	Section 36 consent requirements and Advice to Ministers
Annex B	Background Information
Annex C	Decision Letter
Annex D	Consent - Conditions
Annex E	Summary of Representations
Annex F	Carraig Gheal Wind Farm Site Layout Plan

Agnes M Meany
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Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Sec Rural Affairs and the Environment			X		
Minister for Enterprise, Energy and Tourism				X	
Minister for Environment			X		
Minister for Communities and Sport			X		

DG/Economy
 DG/Education
 DG/Environment
 David Wilson - EET
 Jane Morgan - EET
 Norman MacLeod - SGLD
 Michael Hanley - SGLD
 Peter Russell - E&RA
 Jim Mackinnon - Planning
 Ian Bainbridge - Ecology
 Ian Hooper – E&RA
 Colin Imrie –EET
 Debbie McCall – EET
 Howard Steele - EET
 Sue Kearns - EET
 Stephen Noon - Advisor
 Communications - F&SG

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SECTION 36 CONSENT REQUIREMENTS AND ADVICE TO MINISTERS

Legislation

1. Any proposal to construct, extend or operate a wind farm with a generation capacity in excess of 50MW requires consent under Section 36 of the Electricity Act 1989 as amended (“the Act”). The consent drafted for this proposal, in common with most Section 36 applications, includes a direction that planning permission is deemed to be granted in terms of section 57(2) of the Town and Country (Scotland) Act 1997.
2. Additionally, Schedule 9 of the Act places on the applicant a duty to have regard to the desirability of preserving 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. The applicant must do what it reasonably can to mitigate any effect the proposals may have on these features. In terms of this Schedule, you must also have regard to the desirability of these matters and the extent to which the applicant has complied with its duty to mitigate the effects of the proposals.
3. Under Schedule 8 of the Act and Electricity (Applications for Consent) Regulations 1990 made under the Act, you are required to consult the relevant planning authority and any other interested parties. In addition, to comply with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (the EIA Regulations), you have to consult the relevant planning authority (Argyll and Bute Council), Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and such other persons that are in your opinion likely to be concerned by the proposed development by reason of their specific environmental responsibilities
4. Amendments were made to the Electricity Act 1989 in light of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (“CAR”) to ensure that legislation pertaining to different aspects of the same operation is consistent and coherent. Accordingly, from 1 April 2006, before granting any section 36 consent, Scottish Ministers are required to:

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

This includes those applications that were made prior to 1 April 2006, but will not be determined until after that date.

- 5. SEPA's advice has been considered as required by 4(a) above and due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. We have consulted SEPA regarding a CAR licence in respect of the development proposals. SEPA have confirmed a CAR licence is required and the proposal accords with Water Framework Directive objectives. SEPA have indicated the proposal is capable of being authorised and that a licence is likely to be granted.

Scottish Planning Policy 6 (SPP6)

- 6. SPP6 outlines Scottish Government policy on Renewable Energy Development. Whilst it makes clear that the criteria against which applications should be assessed will vary depending on the scale of the development and its relationship to the characteristics of the surrounding area, it states that these are likely to include impacts on landscapes and the historic environment, ecology (including birds), biodiversity and nature conservation; the water environment; communities; aviation; telecommunications; noise; shadow flicker and any cumulative impacts that are likely to arise. It also makes clear that the scope for the development to contribute to national or local economic development should be a material consideration when considering an application.

EIA Regulations

- 7. Regulation 4(2) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("EIA Regulations") sets out certain factors Scottish Ministers must consider before arriving at a determination, namely:
 - that they are satisfied that the applicant has complied with his obligations in respect of preparing an Environmental Statement to support the application;
 - that they are satisfied that they have taken into consideration the environmental information (the Environmental Statement, addenda and any representations duly made by consultative bodies and others) and state in their decision in relation to that consent that they have done so; and
 - that the applicable procedures laid down in the EIA Regulations in respect of publicity and consultation have been followed.
- 8. We consider that Scottish Ministers are in a position to be satisfied that the applicant has met the requirements of the EIA Regulations. In addition:
 - the proposal was appropriately advertised;

- the Environmental Statement and addenda were made publicly available at reasonable locations, dates and times;
- public representations were invited and the statutory response period was allowed.

Determination

9. The determination process offers you 3 options, having considered objections received and all other material considerations:
- cause a Public Local Inquiry to be held, where you think it is appropriate to do so. If, having considered this option, you are content that this is not appropriate, you can
 - consent to the proposal as it stands or with conditions; or
 - reject the proposal.

Public Local Inquiry(PLI)

10. In terms of Schedule 8 of the Electricity Act 1989, if the planning authority had made a valid objection and did not withdraw it, you must convene a PLI before determining the application. Following the consultation exercise, Argyll and Bute Council did not object to the Carraig Gheal wind farm, in this instance a PLI is not a statutory requirement.
11. Schedule 8 provides that where objections or copies of objections have been sent to Scottish Ministers in pursuance of the Regulations, Scottish Ministers “shall consider those objections, together with all other material considerations” with a view to determining whether a PLI should be held with respect to the application and, if they think it appropriate to do so, shall cause a PLI to be held.

Decision

12. If, having considered the objections together with all other material considerations you determine that it would not be appropriate for a PLI to be held (as recommended), then it remains for you to refuse or grant consent to the development.
13. You may refuse consent if you feel that:
- the development would result in adverse impacts on the environment for which prevention, mitigation or compensation measures cannot be put in place; or
 - there are unresolved material considerations
14. You may grant consent if you are satisfied that:
- you have been able to take into account the characteristics of the development, the location of the development and the characteristics of the potential impact as set out in Schedule 3 to the EIA Regulations; in making this decision you must also have regard to the desirability of the matters set out in Schedule 9, paragraph

3(1)(a) of the Electricity Act 1989 (preserving natural beauty, conservation etc) and the extent to which the Applicant has mitigated the effect of the proposal thereon.

Advice to Ministers

15. As Argyll and Bute Council did not object to the Carraig Gheal wind farm, a PLI is not a statutory requirement. Having considered the objections together with all other material considerations we consider that it would not be appropriate to refer the case to Public Local Inquiry.
16. We consider that where any adverse environmental impacts cannot be prevented, adequate mitigation or compensation measures can be put in place. An obligation has been placed on the applicant to give effect to all the mitigation and compensatory measures through the conditions of consent. We also consider that you can be satisfied that all material issues have been considered in respect of the application.
17. We are of the view that in considering the characteristics and location of the development and the potential impacts, you may be satisfied this proposal has had regard to the preservation of the environment, ecology and amenity, and consequently that you will have discharged your responsibilities in terms of the EIA Regulations and Schedule 9 of the Electricity Act 1989 in this respect, if you decide to grant consent. We are also satisfied that whilst this development may have a temporary impact on several aspects of the local amenity, that on balance this is outweighed by the benefits of renewable energy generation
18. Officials consider that you have sufficient information to weigh the issues and that adequate opportunity was afforded for public representation. We believe therefore that you may be satisfied that you are in a position reasonably to determine this application.

Recommendation

19. **Officials recommend that you grant consent to this application subject to all conditions being imposed.** The decision letter and the consent with conditions enclosed (Annex C and D) have been reviewed by SGLD, planning and ecology colleagues.

Agnes M Meany
Energy Consents
6 June 2008

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BACKGROUND INFORMATION

1. The Carraig Gheal wind farm site is located on Fernoch Farm in Argyll and Bute, approximately 8km west of Kilchrenan on the north-west side of Loch Awe. The development is on, around and to the south and east of the summit of Carraig Gheal. The site consists mainly of upland heather moorland interspersed with small water bodies.
2. A contracted grid capacity of up to 75MW is secured. However the peak output from the wind farm will not exceed 60MW.
3. The original application comprised 24 turbines but this was reduced in size to 20 turbines to address landscape and visual and bird sensitivity issues raised at the consultation stage. The principal components of the scheme now comprise:
 - 20 turbines, 9 towers up to 65m with an upper blade tip height of up to 110m and 11 towers up to 80m with an upper blade tip height of up to 125m.
 - A control building with a grid sub station
 - Two anemometry wind monitoring masts
 - Underground cabling and transformers
 - Substation and control room facilities
 - Turbine foundations
 - Areas of hard standing
 - Access tracks and passing places
 - Temporary site compound facilities
4. Given the geological nature of the development site, it is unlikely that any borrow pits will be utilised. Any stone won on site will be from excavations related to turbine foundation construction.
5. The Application and Environmental Statement were submitted to the Scottish Government on 15 November 2004 for a wind farm comprising 24 turbines with a generation capacity of 72MW. During the first consultation phase concerns over landscape and visual impact and bird sensitivity issues were raised by SNH and

RSPB. In response, the applicant reviewed the development layout and reduced the number of turbines by 4 and relocated several others, an addendum to the original application with a maximum installed capacity of 60MW was submitted on 20 October 2005. Several other documents were submitted to support the application, these include (i) confidential bird annex (ii) landscape and visual impact assessment (iii) peat slide risk assessment and (iv) off site access route amendment. A site layout plan showing the revised site boundary, turbine positions and other infrastructure details is attached at Annex F.

Consultation Exercise

6. Under Schedule 8 of the Electricity Act 1989 (the Act) and Regulations made under that Act, Ministers are required to consult the relevant planning authority and any other interested parties. In addition, to comply with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (“the EIA Regulations”), you have to consult Scottish Natural Heritage (“SNH”), the Scottish Environment Protection Agency (“SEPA”) and any other person likely to be concerned by the proposed development by reason of their specific environmental responsibilities.
7. In complying with the EIA Regulations, the applicant identified the proposed development as a Schedule 2 development and as such, required an Environmental Statement. This statement describes the environmental impacts and the proposed mitigation measures associated with the development. In this instance, the applicant supplied an addendum to the original Environmental Statement which addressed landscape and visual impact and bird sensitivity issues.
8. We consulted a wide range of relevant organisations including colleagues within the Scottish Government on the application, the Environmental Statement and the addendum. As part of the overall consultation, we sought the advice of SNH, SEPA, and Argyll and Bute Council in accordance with the statutory requirements.
9. Following consultation, **Argyll and Bute Council**, - statutory consultee - as planning authority supported the application subject to a number of conditions derived from their own consultation. These conditions are detailed under the ‘deemed planning conditions’ section of the consent. In the response, Argyll and Bute Council stipulated that their support was subject to the applicant agreeing that the site would be accessed via the north-western route i.e. from the A85 at Fearnoch and that a section of Strategic Forest Haul route was created to by-pass Kilchrenan. The access route was the subject of further extensive consultation which concluded with a revised access from the south of the site. The revised access does not form part of the section 36 determination, it will be considered and determined by Forestry Commission Scotland under the Environmental Impact Assessment (Forestry)(Scotland) Regulations 1999. The access route is further discussed at 24 to 29 below.
10. **Scottish Natural Heritage (SNH)** – statutory consultee - objected to the proposal on the grounds that the proposal would impact on (i) the core territory of a breeding pair of golden eagles and (ii) the breeding success of red throated divers. SNH recommended the removal or relocation of turbines and the assurance that activity at

several turbines must be limited outwith the bird breeding season. Following the addendum which addressed these issues, SNH withdrew their objection.

11. Although SNH feel the eastern shore of Loch Awe can accommodate this development, it recognised that there would be visual impact from significant viewpoints and made recommendations to reduce the impact. The addendum took these into account and implemented these recommendations, subject to the constraints of the site to the satisfaction of SNH.
12. SNH further recommended an exclusion zone from red throated diver breeding sites - this recommendation is secured by a condition in the consent.
13. The hydrological impacts of the development have been assessed by the **Scottish Environment Protection Agency (SEPA)** – a statutory consultee. SEPA has been consulted at all stages and has highlighted several issues of concern which will mostly be addressed by a condition requiring a site specific construction method statement to be submitted and approved by the local planning authority in consultation with SEPA and SNH. This is secured by a condition in the consent
14. SEPA also recommended conditions relating to turbine distance from watercourses and private water supply surveys. These are secured by conditions in the consent.
15. Without prejudice to the determination process under the Water Environment (Controlled Activities)(Scotland) Regulations 2005, SEPA has assessed the development and allocated a Category 1 status which is defined as “ the proposal accords with the Water Framework Directive and is capable of being authorised. SEPA has however highlighted that this would obviously be subject to the details of the proposals meeting the relevant requirements of CAR.
16. **The Royal Society for the Protection of Birds (RSPB Scotland)** – a non-statutory consultee- objected as the information in respect of some bird species in particular golden eagle, red-throated diver and merlin was considered inadequate. Following amendments to the layout, RSPB withdrew its objection subject to an appropriate programme of mitigation and monitoring being agreed in conjunction with SNH prior to work commencing. RSPB also suggested that a long term monitoring and land management enhancement plan be drawn up to create positive enhancement for the bird habitats, especially for key species. However, SNH did not consider it necessary to impose such a condition as the area concerned is potentially very small with regard to habitat improvement. SNH are satisfied that the applicant is willing to discuss this issue further and undertake some works or initiatives as agreed appropriate. The Scottish Government Ecological Adviser agrees with SNH as he considers the activity to be relatively small.
17. **Forestry Civil Engineering (FCE)** considered that there was insufficient information provided in the Peat Stability Assessment and made a number of recommendations. They were subsequently incorporated into the application by the applicant and FCE is now satisfied that all issues raised have been addressed. Several mitigation conditions in respect of peat slide management on site have been included in the consent.

18. **The Scottish Government Ecological Adviser** commented that the site is not close to any designated sites. The original access route passed through a woodland SAC (Glen Nant Woods) but this concern has been removed as the access route has been revised and is now coming from the South through Forestry Commission land. He emphasised that this should be agreed as the access route, this is incorporated as a condition in the consent.
19. He advised that the amended layout which removed four turbines from the south western part of the site moves the proposal out of the core home range of a pair of eagles. He considered it may be appropriate for specific monitoring of golden eagles post-construction but is happy that a general condition requiring the applicant to carry out post construction monitoring to standards in line with SNH guidance is sufficient. This is secured by a condition in the consent.
20. He further commented that all works in the north east of the site should take place outwith the diver breeding season and micro-siting variation of turbines 9 and 14 should **not** be permitted to the north or east whereas further micro-siting south or west would be beneficial. He recommended that for red throated divers ongoing monitoring of flightlines, breeding locations and success should be a condition of the consent, monitoring methods should be agreed with SNH. These concerns are secured by conditions in the consent.
21. He recommended post construction monitoring of upland breeding birds and monitoring of a reference site close to the development should be agreed with SNH. This is secured by a condition in the consent
22. Lastly, he advised that any watercourse crossings must be designed to be otter and water vole friendly and designs agreed with SNH. This is secured by a condition in the consent.
23. The following bodies have no comments: The Scottish Government Climate Change Team, Trunk Road Network Management Division and Water Environment Unit. Other consultees with no comments were: Historic Scotland, Civil Aviation Authority, Crown Estate, OFCOM, Defence Estates, British Telecom, Health and Safety Executive and NATS(En route Ltd).

Access route

24. The applicant was keen to align their needs for access during construction with the needs of local timber transport and as such had continued dialogue with the Argyll Timber Transport Group and Forestry Commission Scotland. It became apparent that the north-western route proved unsuitable for timber haulage purposes and rather than create a wind farm access route that was of no long term use in terms of timber haulage, the applicant established a viable route from the south suitable for both wind farm and timber traffic. This aligns fully with the need for a route Forestry Commission (Scotland) had conceived of as the West Loch Awe Timber Haul Route and will remove a large volume of timber traffic off several long sections of minor public roads. Following further consultation on this issue, Argyll and Bute Council confirmed that they did not object to the amendment. The **Forestry Commission Scotland** (FCS) confirmed that they are proposing to develop a shared access on the

planned Timber Haul Route which is being developed mainly through FCS woodlands on the west side of Loch Awe.

25. It was agreed that FCS would lead on an Environmental Impact Assessment to be determined under the Environmental Impact Assessment (Forestry)(Scotland) Regulations 1999, this was confirmed as appropriate by the Councils Area Development Control Officer as the majority of the activity will be undertaken within the forest area. FCS are awaiting an Environmental Statement (ES) for the revised access route and are confident the applicant's consultants will provide a thorough and complete assessment of the potential impacts. On receipt of the ES, the proposals will be placed on the FCS Public Register for 30 days for public access. The ES will also be subject to stakeholder consultation undertaken by FCS, in order to fully consider the proposals. The approval of the revised route by FCS, prior to the commencement of the wind farm development, is therefore addressed by a condition in the consent.
26. Following our consultation round on the proposed access route, **SNH** advised that it is currently unaware of any issues which cannot be mitigated for in respect of the route. It was recognised that there are potential natural heritage impacts such as disturbance to birds and issues surrounding flora and fauna but **SNH** are confident these issues are being addressed by the applicant in respect to the EIA regulations and the forestry haulage route. **SNH** is satisfied that it will be consulted by FCS and any concerns will be considered in the determination process. As detailed above, FCS will lead on an Environmental Impact Assessment to be determined under the Environmental Impact Assessment (Forestry)(Scotland) Regulations 1999.
27. Drainage, watercourse crossings and any other watercourse engineering on the proposed route will require to be regulated by **SEPA** under the Water Environment (Controlled Activities)(Scotland) Regulations 2005. **SEPA**'s initial assessment is that there are likely to be significant **CAR** implications but it is not possible to assess whether authorisations would be granted without additional information on the detailed construction of the proposed route. **SEPA** recognises that it will be consulted on this separately as part of the FCS consideration of the Environmental Impact Assessment
28. **RSPB** requested an environmental assessment be carried out to ensure that known breeding locations of two Annex 1 breeding species i.e. hen harrier and osprey would be avoided by the proposed north-western access route. However, following the revised access route from the south being established, **RSPB** withdrew its objection subject to conditions being imposed (i) that the access is from the south and that the northern access route is **not** utilised and (ii) that an Environmental Impact Assessment is completed for the new access route. This is secured by a condition in the consent.
29. **RSPB** has concerns over potential disturbance to breeding black-throated divers, osprey and hen harrier but is confident these can be addressed by suitable mitigation measures such as screening, diver raft re-location and timing constraints. **RSPB** will be consulted by FCS as part of the determination process.

Other material issues

30. Environmental Benefits: SPP6 also confirms Scottish Ministers' aim to achieve a thriving renewables industry in Scotland, the focus being to enhance Scotland's manufacturing capacity, to develop new indigenous industries, particularly in rural areas, and to provide significant export opportunities. The planning system has a key role in supporting this aim and Scottish Ministers should consider material details of how the proposal can contribute to local or national economic development priorities as stated in SPP6.
31. If consented, the proposed project would result in an increase in the amount of renewable energy produced in Scotland and is consistent with the Government's policy on the promotion of renewable energy. The applicant anticipates that the wind farm would generate sufficient electricity to meet the needs of 33,000 households.
32. The environmental benefits of the proposal accrue through the displacement of the demand for fossil fuels. The applicant estimated that the scheme would result in a reduction of approximately 145,000 tonnes of annual CO2 emissions (approximately 3.5 million tonnes over its 25 year operational life span). Our own calculation suggests the reduction of approximately 68,000 tonnes of annual CO2 emissions (approximately 1.7 million tonnes over its 25 year operational life span). The considerable difference is explained by the fact that the applicant's calculation is based on a 0.85 tCO2 savings per 1MWh whereas our own calculation is based on the DEFRA estimate of 0.43 tCO2 savings per 1MWh.
33. Economic benefits: SPP6 advises that economic benefits are material issues which must be taken into account as part of the determination process. In an effort to maximising the use of local services and suppliers, the applicant has met with local businesses and explained the opportunities available during the construction, operation and decommissioning of the wind farm and is building a local supplier database. The environmental statement and supporting information estimates that the on-site construction workforce will total between 40 and 60. Operation and maintenance of the project will be governed by the Operation and Maintenance Coordinator who will have overall responsibility for all activities on site after construction is complete. In addition, it is envisaged that a team of 3 operation and maintenance personnel will be employed and retained to perform the planned maintenance and operation of the wind farm.

Agnes M Meany
Energy Consents
6 June 2008

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Mr Robert Forrest
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June 2008

Dear Mr Forrest

**CONSENT AND DEEMED PLANNING PERMISSION BY THE SCOTTISH
MINISTERS FOR THE CONSTRUCTION AND OPERATION OF THE CARRAIG
GHEAL WIND POWERED ELECTRICITY GENERATING STATION.**

1. It is recognised in this correspondence that GreenPower (Carraig Gheal) Ltd (“the Company”) is the Section 36 Applicant.
2. I am directed by the Scottish Ministers to refer to the application dated 15 November 2004, as amended by the supplementary environmental information submitted on 20 October 2005, 27 February 2006 and 11 October 2007, under section 36 of the Electricity Act 1989 (“the Act”), for the consent of the Scottish Ministers to construct and operate the Carraig Gheal wind powered electricity generating station on Fernoch Farm, near Kilchrenan in Argyll and Bute (grid reference 197022E 720568N) and for their direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission for the development be deemed to be granted.
3. The Scottish Ministers have considered the submissions prepared by you in support of the application, submissions made following the formal consultation and all matters raised by other bodies. For the reasons set out below, the **Scottish Ministers have decided to consent to the application and have issued a direction that planning permission is deemed to be granted.**

Description and background

4. The proposed Carraig Gheal wind farm would be located on Fernoch Farm approximately 8km west of Kinchrenan on the north-west side of Loch Awe in Argyll and Bute. The development is on, around and to the south and east of the summit of Carraig Gheal. The site consists mainly of upland heather moorland interspersed with small water bodies. The development would comprise 20 turbines with a maximum total capacity of 60MW.

Consultation

5. A number of relevant organisations and directorates were consulted by the Scottish Ministers who have considered all recommendations and other material considerations and imposed a number of mitigation conditions as detailed in the consent and identified below.

Planning Policy and Advice

6. Argyll and Bute Council supported the application subject to a number of conditions derived from their own consultation which are detailed in paragraph 6 of the consent (planning conditions).
7. In their response, Argyll and Bute Council stipulated that their support was subject to the Company agreeing that the site would be accessed via the north-western route i.e. from the A85 at Fernoch and that a section of Strategic Forest Haul route be created to by-pass Kilchrenan. However, the access route was the subject of further extensive consultation which resulted in the selection of a revised access from the south of the site which is suitable for both wind farm and timber traffic. This aligns fully with the need for a route Forestry Commission Scotland (FCS) had conceived of as the West Loch Awe Timber Haul Route and will remove a large volume of timber traffic off several long sections of minor public roads. Following further consultation on this issue, Argyll and Bute Council confirmed that they did not object to the amendment. It was agreed that FCS would lead on an Environmental Impact Assessment to be determined under the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999, this was confirmed as appropriate by the Councils Area Development Control Officer as the majority of the activity will be undertaken within the forest area.
8. There are a number of National and Local Planning Policy Guidelines particularly relevant to the consideration of this proposal:

Scottish National Planning Policy Guideline (SPP)1: The Planning System (November 2002)

SPP1 provides an overview of the land use planning system and promotes sustainable development by encouraging the use of natural resources, highlighting the Scottish Government's commitment to tackling climate change.

National Planning Policy Guideline (NPPG) 5: Archaeology and Planning (January 1994)

Indicates that archaeological remains are non-renewable and should be regarded as part of the environment to be protected and managed. Archaeological remains should be preserved wherever feasible and where this is not possible, recorded before destruction.

SPP 6 Renewable Energy (March 2007)

SPP6 encourages the development of a diverse range of renewable energy technologies, community and stakeholder engagement, maximising economic and social benefits, guiding development to appropriate locations and providing clarity when assessing specific proposals.

NPPG 14: National Heritage (January 1999)

NPPG 14 encourages sustainable development in harmony with the natural environment including landscape, habitat and ecology, including those areas which may not form part of a formal designation.

SPP 15: Planning for Rural Development (February 2005)

SPP 15 encourages modernisation and diversification of the rural economy including renewable energy development.

Planning Advice Note (PAN) 45: Renewable Energy Technologies (revised 2006)

PAN 45 sets out good practice guidance in respect of the issues raised by wind-farm developments including siting in the landscape, visual impact and noise.

It states that - There are no landscapes into which a wind farm will not introduce a new and distinctive feature. Given the Scottish Ministers' commitment to addressing the important issue of climate change and the contribution expected from renewable energy developments, particularly wind farms, it is important for society at large to accept them as a feature of many areas of Scotland for the foreseeable future." (paragraph 71). '

But, "This is not to suggest that areas valued for their international or national landscape and nature conservation interest will have to be sacrificed." (paragraph 72).

And, "A cautious approach is necessary in relation to particular landscapes which are rare or valued, such as National Scenic Areas and proposed National Parks and

their wider settings In a regional context care should also be exercised within Areas of Great Landscape Value and Regional Parks. Other landscapes are not especially valued and a significant change in some landscapes may be considered acceptable " (paragraph 75).

PAN 45 notes that "The cumulative impact of a number of neighbouring developments may also be a relevant consideration" (paragraph 89) and advises that the cumulative effects of wind farm development can arise in a number of circumstances including "an existing wind energy development and a proposed extension to that development." (paragraph 91).

Finally, PAN 45 notes the important contribution that tourism, mainly associated with Scotland's natural, scenic and cultural heritage, makes to the rural economy. "It is therefore important that the role of tourism in the rural economy and the assets on which it is based should be reconciled with the need to promote renewable energy generation" (paragraph 172).

Argyll and Bute Structure Plan November 2002

Policy STRAT SI 1 – Sustainable Development.

Argyll and Bute Council shall adhere to the following principles in considering development proposals, and in its policies, proposals and land allocations in Local Plans, It will seek to:-

- a) maximise the opportunity for local community benefit
- b) make efficient use of vacant and/or brownfield land
- c) support existing communities and maximise the use of existing service infrastructure
- d) maximise the opportunities for sustainable forms of design, including energy efficiency
- e) avoid the use of prime quality or locally important good quality agricultural land
- f) use public transport routes fully and increase walking and cycling networks
- g) avoid the loss of recreational and amenity open space
- h) conserve the natural and built environment and avoid significant adverse impacts on biodiversity, natural and built heritage resources
- i) respect the landscape character of an area and the setting and character of settlements
- j) avoid places where there is a significant risk of flooding, tidal inundation, coastal erosion or ground instability and
- k) avoid having an adverse effect on land, air and water quality.

Policy STRAT DC 7 – Nature Conservation and Development Control

A) Development likely to have a significant effect on a Natura Site will be subject to an appropriate assessment. The development will only be permitted where the assessment indicates that it will not adversely affect the integrity of the site, or, there are no alternative solutions and there are imperative reasons of overriding public interest.

B) On sites of national importance, SSSIs and NNRs, development will only be permitted where it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or where any adverse impacts are clearly outweighed by social or economic benefits of national importance.

C) Development which impacts on Local Wildlife Sites or other nature conservation interest, including sites, habitats or species at risk as identified in the Local Biodiversity Action Plan, shall be assessed carefully to determine its acceptability balance along with national – or local – social or economic considerations.

D) Enhancement to nature conservation interest will also be encouraged in association with development and land use proposals.

Policy STRAT DC 8 – Landscape and Development Control

1. Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as ‘non-sustainable’ and is contrary to this policy. Outwith the National Park particularly important or vulnerable landscapes in Argyll and Bute are those associated with:

- a) National Scenic Areas
- b) Historic landscapes and their settings with close links with archaeology and built heritable and/or historic gardens and designed landscapes.
- c) Landward and coastal areas with semi-wilderness or isolated or panoramic quality.

2. Protection, conservation and enhancement to landscape will also be encouraged in association with development and land use proposals.

Policy STRAT DC 9 – Historic Environmental and Development Control

Protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic, architectural or cultural qualities of the historic environment will be resisted; particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden or designed landscape. More detailed policy and proposals for the historic environment will be set out in the Local Plan.

Policy STRAT RE1 – Wind Farm/Wind Turbine Development

A) Wind farm development is encouraged where it is consistent with STRAT DC 7, 8 and 9. Proposals shall be supported where it can be demonstrated there is no significant adverse effect on:

- Local communities.
- Natural environment.

- Landscape character and visual amenity.
- Historic environment.
- Telecommunications, transmitting or receiving systems and

B) The Council will identify, with appropriate justification in the Local Plan, broad areas of search or, where appropriate, specific sites where wind energy development may be permitted. The Council will also indicate sensitive areas or sites which it is adjudged that for overriding environmental reasons, proposals for wind farm development would only be considered in exceptional circumstances in line with the criteria set out above. Issues associated with the cumulative impact of wind farm and wind turbine developments will be addressed. This will be done in partnership with the industry and other interested parties including local communities.

Lorn Local Plan, September 1993

POL RUR 1

The Council will seek to maintain and where possible enhance the landscape quality of National and Regional Scenic Areas and coasts and areas of local landscape significance and within these areas will resist prominent or sporadic development which would have an adverse environmental impact:

- National Scenic Area: (i) Lynn of Lorn; (ii) Ben Nevis and Glencoe
- Regional Scenic Areas: (i) Knapdale/Melfort; (ii) North Argyll
- Regional Scenic Coasts: North West Argyll
- Areas of local landscape significance: (i) Loch Etive/Benderloch Coast; (ii) Loch Awe; (iii) Loch Nell; (iv) Glen Lonan; (v) Loch Avich; (vi) Glen Gallain/Loch Scammadale.

POL RUR 2

Proposals for development in or affecting Regional Scenic Areas and Coasts or areas of local landscape significance will be require to be assessed against the following criteria:

- environmental impact
- locational/operational need
- economic benefit
- infrastructure and servicing implications

Argyll and Bute Local Plan

The Argyll and Bute Finalised Draft Local Plan 2005 is a material consideration however the Council is still considering representations received during the recent public consultation relating to wind farm policy.

Wind Farm Policy 1995

The Council's Wind Farm Policy 1995 arose from the need to address the complex issues regarding the impact of such developments on the environment and to assist developers in site selection and to indicate the type of information required. This remains relevant and in the context of this planning application relevant policies include:

Policy WF 1 states that the Council will support wind farms which are consistent with existing development plan policies and of a high quality of design but will resist developments which either cumulatively or individually, would have an adverse impact on the environment by virtue of scale, location, setting or design.

Policies WF6 and WF7 seek to resist wind farms within 300m of residential properties or which are likely to result in shadow flicker on occupied premises or be a potential distraction to drivers.

Policy WF8 states that developments which would have an adverse affect on telecommunications, will be resisted.

Policy WF9 states that the Council will protect bird species covered by EC Directives by resisting wind farms which are likely to affect the breeding, feeding, roosting and flight areas (ie., areas of caution) of specially protected bird species.

Policy WF11 seeks to minimise long term visual and ecological impact and seeks the developer to enter into a legal agreement and financial bond to secure the highest quality of re-instatement.

Policy WF12 states that wind farms should normally be operational within two years of approval.

Policy WF13 recognises that wind farms are essentially temporary structures and states that the Council will:

- impose conditions of permission to ensure that such sites are fully restored upon the expiry of consent;
- seek legal agreements to secure a financial bond to cover such costs;
- normally grant permission for an initial period of 20 years.

Other Consultee responses

9. **Scottish Natural Heritage (SNH)** objected to the proposal on the grounds that the proposal would impact on (i) the core territory of a breeding pair of golden eagles and (ii) the breeding success of red throated divers. SNH outlined conditions which included the removal or relocation of turbines and the assurance that activity at several turbines must be limited outwith the period March to July inclusive. Following the addendum which addressed these issues, SNH withdrew their objection.

10. Although SNH feel the eastern shore of Loch Awe can accommodate this development, it recognised that there would be visual impact from significant viewpoints and made recommendations to reduce the impact. The addendum took

these into account and implemented these recommendations (subject to the constraints of the site) to the satisfaction of SNH.

11. SNH further recommended an exclusion zone from red throated diver breeding sites - this recommendation is secured by condition 6.38.

12. The hydrological impacts of the development have been assessed by the **Scottish Environment Protection Agency (SEPA)**. SEPA has requested that a full site specific construction method statement (CMS) be submitted and approved by the Local Planning Authority in consultation with SEPA and SNH at least one month prior to commencement of the development. The CMS should systematically identify pollution risks in relation to each operation and detail monitoring proposals and contingency plans. It should (i) identify specific measures to address silt-laden run-off from temporary and permanent access tracks, soil storage and other engineering operations (ii) detail sustainable drainage system measures to deal with discharge of surface water from wheel cleaning (iii) identify procedures for dealing with water contamination from the temporary concrete batching plant (iv) identify mechanisms to ensure subcontractors will be adequately managed and well controlled (v) confirm the presence of an appropriately qualified environmental scientist during construction to provide specialist advice (vi) detail emergency procedures (vii) detail measures for dealing with all waste streams that arise for the operation phase (viii) detail welfare arrangements for the temporary compound (ix) identify appropriate timing of construction operations, to avoid periods when pollution is most likely to occur i.e. Periods of high rainfall. These recommendations are secured by condition 6.2.

13. In addition, SEPA requested that consideration be given to imposing a condition that no turbine is sited closer than 50m to a watercourse. This is secured by condition 6.14.

14. SEPA also recommended a condition be imposed that known private water supply sites be identified and a survey undertaken to identify un-registered sites in the area to establish if water supplies will be affected by the proposal. If mitigation measures are required, details should be submitted prior to commencement of development. This is secured by condition 6.15.

15. Scottish Ministers also sought the advice of SEPA on matters relating to protection of the water environment and have had regard to Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

16. SEPA have advised that authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 ("the 2005 Regulations") is required before operations can commence. However, on the basis of the information available at this time and without prejudice to the determination process under the 2005 Regulations, SEPA are satisfied the proposed operations will be unlikely to cause a significant problem in the granting of authorisation. You should note however that it is the Applicant's obligation to ensure the development meets its legal obligations, in particular under the 2005 Regulations. Accordingly you are strongly advised to advance this matter with SEPA at the earliest opportunity.

17. **The Royal Society for the Protection of Birds (RSPB Scotland)** objected as the information in respect of some bird species (in particular Golden Eagle, Red-throated diver and Merlin) was considered inadequate. Following amendments to the layout, RSPB Scotland withdrew its objection subject to an appropriate programme of bird monitoring and mitigation being agreed in conjunction with SNH prior to work commencing. RSPB also believe it is essential that a long term monitoring and land management enhancement plan is drawn up to create positive enhancement for the bird habitats, especially for key species. However, following discussions with SNH and it was decided not to impose such a condition. SNH are satisfied that you are willing to discuss this issue further and undertake some works or initiatives as agreed appropriate.

18. **Forestry Civil Engineering (FCE)** initially felt there was insufficient information provided in the Peat Stability Assessment and made a number of recommendations. You subsequently addressed these concerns to the satisfaction of FCE.

The Applicant's Case

19. The Carraig Gheal wind farm site was identified following a site visit and evaluation in 2001, one of many sites being examined by GreenPower in Scotland that time. The site was assessed against a set of criteria including land use and context; wind resource; electricity grid; transport infrastructure; residential amenity and landscape and visual capacity. The preliminary assessment indicated that the site had suitability for wind power and could potentially host a medium to large scale wind farm.

20. In developing the project, various studies were undertaken on assessing the sensitivities of the site, these included landscape, ecological, hydrological, archaeological, cultural heritage and noise. These sensitivities were considered in drawing up the final design in particular the turbine locations.

The Scottish Ministers' Consideration

21. In assessing the ecological impacts of this proposal, the Scottish Ministers are of the opinion that the ecological effects of the wind farm are not likely to be significant and that, subject to conditions, there is no reason why this proposal should be rejected on ecological grounds. An Ecological Clerk of Works should be appointed to monitor compliance with the ecological works which have been approved in the consent. This is addressed by condition 6.30. The Ecological Clerk of Works would also advise the Company on the conservation of nature, and advise on micro-siting of turbines and tracks.

22. While the consent is based on an assessment of impacts as they presently stand, the Company should be aware of its obligations under the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) towards European Protected Species. In this respect, the protection of otters and water voles are addressed by conditions 6.2 and 6.31.

23. In assessing the ornithological impacts of this proposal, the Scottish Ministers have determined that bird monitoring plans should be in place and mitigation measures should be implemented to protect sensitive breeding bird sites. These measures are addressed by conditions in the ornithology section of the consent.

24. In assessing the hydrological impacts of the development, the Scottish Ministers consider it necessary to protect water quality and control pollution. SEPA have requested that rigorous environmental precautions and procedures are undertaken by you during construction. In this respect Scottish Ministers have applied several conditions to address these issues. As previously stated, authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 is required before operations can commence; you are obliged to ensure the development meets its legal obligations under the 2005 Regulations.

25. In assessing the noise and traffic issues in respect of the proposals, Ministers consider it necessary to minimise disturbance of the community in the vicinity of the site as a result of the commencement of the development. Traffic and noise issues have been addressed by conditions 6.6 and 6.50 - 6.54. Forestry Commission Scotland are required to consider and approve the proposed site access routes, prior to the commencement of the development. This is secured by condition 6.5.

26. Following peat risk assessment, Scottish Ministers are satisfied the company has taken into account suitable mitigation measures to manage the risk of peat landslide associated with the development. You are strongly advised to fully assess the risk of peat landslide during construction work in accordance with the Scottish Government guidance published Jan 2007, and employ a competent multi-disciplinary team of professionally qualified personnel to do so. This is addressed by conditions 6.2 and 6.40 - 6.49.

27. The Environmental Statement and supplementary information submitted by the developer was assessed in respect of national and local economic benefit. Scottish Ministers consider the development will make a valuable contribution towards achieving renewable energy targets which aim to combat the effects of climate change. It was also considered that the development also accords with government policy to grow the Scottish economy and SPP6 planning guidance on renewable energy. The Environmental Statement and supporting information estimates that the on-site construction workforce will total between 40 and 60. Over the lifetime of the project, 3-4 full time staff will be employed in operations and maintenance.

The Scottish Ministers' Determination

Public Local Inquiry

28. Before arriving at a decision on this proposal, Scottish Ministers must consider whether a Public Local Inquiry (PLI) should be held. In terms of Schedule 8 to the Electricity Act 1989, if the planning authority made a valid objection and did not withdraw it, Scottish Ministers must convene a PLI before determining the application. As Argyll and Bute Council did not object to the Carraig Gheal application a PLI is not a statutory requirement.

29. Paragraph 3(2) of Schedule 8 to the Act, requires Scottish Ministers to consider all the objections they have received in pursuance of the Electricity (Application for Consent) Regulations 1990 (“the 1990 Regulations”), together with all other material considerations, with a view to determining whether a public inquiry should be held and if they think it appropriate to do so, cause a PLI to be held.

Decision

30. In reaching the decision not to cause a PLI to be held, Scottish Ministers are content that adequate opportunity was afforded for public representation and that those with a right to make representations could have their representations properly taken into account. The Scottish Ministers have considered all other material considerations and consider that it would not be appropriate for a PLI to be held.

31. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (“the 2000 Regulations”) prohibit the Scottish Ministers from granting consent unless they have fully considered the environmental information, as defined in those regulations.

32. The Scottish Ministers have considered the environmental information carefully; in addition to the Environmental Statement and Addenda, they have considered the submissions prepared by Argyll and Bute Council, and all other relevant consultees. Ministers have also considered representations made by other persons about the likely environmental effects of the proposed development.

33. Scottish Ministers are content that they have had access to sufficient information to assess the likely environmental impact of the project to enable them to make a determination on the application.

34. Schedule 9 of the Act places a duty on the Company to have regard to the desirability of preserving 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. It requires the Company to do what it reasonably can to mitigate any effect that the development would have on these features. Schedule 9 also requires the Scottish Ministers to have regard to the desirability of these matters and the extent to which the Company has complied with its duty to mitigate.

35. The Scottish Ministers are satisfied that the Company has had due regard to these features and complied with this duty and consequently consent to this proposal and the mitigation measures to be implemented in terms of section 36 of the Electricity Act 1989, and issue a direction that planning permission be deemed to be granted in terms of section 57 of the Town and Country Planning (Scotland) Act 1997. The section 36 consent is subject to 6 conditions and the deemed planning permission is subject to 54 conditions. A copy of the consent is enclosed with this letter.

36. Copies of this letter have been sent to Argyll and Bute Council as the Planning Authority and to all those consultees who responded to this proposal. This letter and the consent will be published on the Scottish Government website.

37. Finally, within 2 months of the approval of the development (and within two months of the final commissioning if there has been any variation on the original approved plan), the Company shall provide to the Scottish Ministers a detailed plan showing the site boundary and all turbines, anemometer masts, access tracks and infrastructure in a format compatible with the Scottish Government's Spatial Data Management Environment (SDME), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shapefile format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by the Scottish Government) and all metadata should be provided in this format.

Yours sincerely

Colin Imrie

Head of Energy Consents

A member of the staff of the Scottish Minister

CONSENT

**ELECTRICITY ACT 1989 AND
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**CONSENT AND DEEMED PLANNING PERMISSION BY THE SCOTTISH
MINISTERS FOR THE CONSTRUCTION AND OPERATION OF THE
CARRAIG GHEAL
WIND POWERED ELECTRICITY GENERATING STATION
IN
ARGYLL AND BUTE**

Consent and deemed planning permission

1. The Scottish Ministers, in exercise of the powers conferred by section 36 of the Electricity Act 1989 and section 57(2) of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them in that behalf hereby: -
 - 1.1 consent, subject to the conditions set out in paragraphs 5.1 to 5.6, to the construction and operation by the Company of the Carraig Gheal wind powered electricity generating station , as described in paragraph 4 below; and
 - 1.2 direct, subject to the conditions set out in paragraphs 6.1 to 6.54 , that planning permission for the Development shall be deemed to be granted.

Determination

2. In reaching their decision, the Scottish Ministers have taken into account the environmental information submitted with the Application, including the Environmental Statement and subsequent Addenda, the representations made by statutory consultative bodies and others, in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000; the application; SPP6; and Scottish Government energy and climate change policy.
3. As the Planning Authority has not objected to the Application, the Scottish Ministers have considered all objections and other material considerations and do not think it

appropriate to cause a public inquiry before reaching their decision. In reaching their decision they have had regard to all relevant considerations and, subject to the conditions of this consent and deemed planning permission, are satisfied that it is appropriate for the Company to construct and operate the generating station in the manner set out in the Application. The Scottish Ministers also note that the Development is consistent with Government policy on the promotion of renewable energy.

Description of the Development

4. The proposed Carraig Gheal wind farm would be located on Fernoch Farm approximately 8km west of Kilchrenan on the north-west side of Loch Awe. The development shall have a maximum capacity of 60MW and shall comprise a wind powered electricity generating station at Carraig Gheal in Argyll and Bute including:
 - (i) not more than 20 turbines, 9 towers up to 65m with an upper blade tip height of up to 110m and 11 towers up to 80m with an upper blade tip height of up to 125m
 - (ii) a control building with a grid sub station
 - (iii) two anemometry wind monitoring masts
 - (iv) underground cabling and transformers
 - (v) substation and control room facilities
 - (vi) turbine foundations
 - (vii) areas of hard standing
 - (viii) access tracks and passing places
 - (ix) temporary site compound facilities

all as specified in the Application, the Environmental Statement and Addenda; and references in this consent and deemed planning permission to “the development” shall be construed accordingly.

Conditions of section 36 consent

5. The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

Timing and operation

- 5.1 The consent is for a period from the date of this consent until the date occurring 25 years after the date of the Final Commissioning of the Development. Written confirmation of the date of Final Commissioning of the Development shall be provided by the Company to the Planning Authority, National Air Traffic Services and to Scottish Ministers no later than 1 calendar month after that event.

Reason: To define the duration of the consent.

- 5.2 The commencement of the development shall be no later than the date occurring 5 years after the date of this consent, or (in substitution) no later than such date as the Scottish Ministers may hereafter direct. If Commencement of the Development does not occur by such date, then by no later than the date occurring 6 months after such date, the site and the ground shall be fully reinstated by the Company to the specification and satisfaction of the Scottish Ministers, following consultation with the planning authority.

Reason: To make sure work is undertaken within a reasonable time period.

- 5.3 The Company shall not be permitted to assign the consent set out in paragraph 1.1 above without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may grant consent (with or without conditions) or refuse such authorisation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

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

- 5.4 Within 12 months after the end of the period of the consent as provided for in condition 5.1, those parts of the Development requiring decommissioning and restoration in accordance with the conditions of this consent shall be removed and the land restored, in accordance with the decommissioning scheme and detailed restoration and aftercare scheme required by conditions 6.23 and 6.24.

Reason: to limit the lifetime of the Development.

- 5.5 In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then, unless otherwise agreed in writing with the Scottish Ministers, after consultation with the Planning Authority and SNH, such wind turbine shall be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment shall be dismantled and removed from the site by the Company by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and satisfaction of the Scottish Ministers after consultation with the Planning Authority and SNH.

Reason: to ensure the removal of non-functional equipment and plant.

- 5.6 At least three months prior to commencement of development, the Company should undertake fish surveys to establish pre-construction baseline data and continue through the construction, operational and decommissioning phases. The methodology should be submitted to and approved by the Scottish Ministers in consultation with The Fisheries Research Service.

Reason: to monitor fish stocks

Planning Conditions

6. The direction set out in paragraph 1.2 is subject to the following planning conditions:-

Development in Accordance with Notified Scheme

- 6.1 The Development shall be undertaken in accordance with the Application (except in so far as amended by the terms of this consent and direction or as subsequently agreed in writing by the Planning Authority in consultation with SNH and SEPA). The Development shall be undertaken in its entirety, in one continuous phase, with no partial implementation. Construction activities shall be completed within an 18 month period from the Commencement of the Development unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the Development is carried out in accordance with the Application documentation and within a fixed period of time to limit disruption to the community

Construction Method Statements

- 6.2 Development shall not commence until written approval is obtained from the Planning Authority, following consultation with SEPA, SNH, and the Scottish Ministers (acting through their Species Team (in respect of protected species only) and the trunk roads authority (in respect of roads only) for detailed site-specific construction Method Statements for all significant work activities. The said Method Statements, which shall include detailed contractor arrangements, monitoring and contingency proposals for implementation, shall cover and incorporate:

- i) a track construction plan;
- ii) proposals for the phasing of operations, including the provision of information on the construction timetable which takes into account the implications of times of year when high rainfall is more likely;
- iii) an Environmental Management and Pollution Prevention Plan (comprising arrangements to protect groundwater, private water supplies, surface water, mitigate against silt-laden run-off from temporary and permanent access tracks, spoil storage and other engineering operations, construction noise, dust, oil pollution, arrangements for concrete batching, including provision for an Incident Response Plan (in the event of a pollution incident);

- iv) measures to avoid any significant adverse impacts on fish;
- v) details of tree felling;
- vi) restoration following substantial completion of construction activity;
- vii) access, signing and re-routing arrangements for recreational users during construction activity;
- viii) a detailed construction drawing showing the revised main access;
- ix) Construction activity undertaken within peat;
- x) details of excavations and other earthworks;
- xi) arrangements for storage of materials including the storage and use of oils and the management of other potential pollutants;
- xii) details of vehicle access and movements which could lead to sedimentation in the water environment;
- xiii) full details of the drainage proposals for the site, including foul drainage arrangements for the control building, discharge of surface waters from wheel cleaning and drainage for the storage areas and compounds, together with the provisions for the avoidance of sedimentation and pollution and the monitoring and mitigation of erosion;
- xiv) mechanisms to ensure sub-contractors and all other parties on the site are managed and aware of issues and provisions relating to pollution, including emergency procedures. An appropriately qualified environmental scientist should be present during construction to provide specialist advice;
- xv) measures for dealing with all the waste streams that arise for the operational phase;
- xvi) provision of welfare facilities on site during construction and the means of disposal of sewage effluent;
- xvii) mitigation and reinstatement proposal;
- xviii) emergency site procedures for the disturbance or fatality of any otter and water vole; and
- xix) notification procedures including notification to the Scottish Ministers of serious health and safety, planning or environmental incident resulting from the development.

The Development shall be undertaken in accordance with the said approved method statements, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure work is carried in accordance with the commitments made in the Environmental Statement and supplementary information; and in the interests of amenity, pollution prevention and public safety.

Financial Bond

- 6.3 At least 1 month prior to the Commencement of Development, the Company shall provide to the Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all site restoration costs at the end of the period of this consent. The Company shall also provide an independent confirmation by a Chartered Surveyor (whose appointment for this task has been approved by the Planning Authority) that the amount of the bond or financial provision so proposed is sufficient to meet the full estimated costs of decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work as well as associated professional costs. No work shall commence on site until written confirmation has been given by the Planning Authority to the Company to the effect that the proposed bond or other financial arrangement is satisfactory and the Company has confirmed to the Planning Authority that it has been put in place.

Reason: To ensure financial security for the cost of site reinstatement to the satisfaction of the Planning Authority.

Roads

- 6.4 No development shall be commenced until written approval for any work to be carried out to a public road is obtained from the relevant Roads Authority.

Reason: To ensure approval is obtained from the roads authority, in the interests of road accessibility and public safety

- 6.5 No work shall commence on site until consent has been granted by Forestry Commission Scotland for the formation of a proposed shared access route from the south of the site which will also form a Timber Haul Route.

Reason: Consent will be required from Forestry Commission Scotland to enable the access route to be formed

Traffic

- 6.6 Prior to the commencement of development on the site, the Company shall obtain written approval from the planning authority, following consultation with the trunk roads authority and Strathclyde Constabulary, for a traffic management plan. This plan shall include:
- i) details of routing of construction traffic and construction workers' traffic;
 - ii) provision of temporary car parks, and wheel wash facilities;
 - iii) controlled routing of heavy vehicles, including those movements required for routing and emergency maintenance throughout the operational lifespan of the wind farm;

- iv) arrangements for police escort or other escort approved by Strathclyde Constabulary of abnormal loads;
- v) details of any speed restrictions required;
- vi) temporary site signage identifying routes for all site vehicles and advising drivers of all necessary information; and
- vii) the control of construction related traffic including enforcement procedures;

Such provisions in the approved plan shall be fully implemented.

Reason: to minimise disruption arising as a result of traffic movements.

Design and Siting

- 6.7 Each turbine and all new tracks shall be positioned as indicated by the Company on Figure A2 submitted to Scottish Ministers and as held by the Planning Authority. At least three months prior to Commencement of the Development confirmation of the final micro-siting of turbines shall be submitted to and approved by the Planning Authority. Prior to the turbines becoming operational, the Developer shall submit location details for each turbine as erected in the form of Global Positioning System co-ordinates to the Planning Authority.

Reason: to ensure micro-siting decisions take account of environmental considerations

- 6.8 The site shall not be permanently illuminated by lighting without the prior approval in writing of the Planning Authority.

Reason: to prevent unnecessary illumination of the site

- 6.9 Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no symbols, signs, logos or other lettering (other than those required for health and safety reasons) shall be displayed on any part of the turbines, other buildings or structures within the site without the written approval of the Planning Authority.

Reason: to prevent advertisements being displayed on the turbines, buildings and structures, in order to protect the visual amenity of the area.

- 6.10 Details of the turbines, including make, model, design, size, transformer location, power rating, sound levels, anemometer masts and associated apparatus, shall be provided to the Planning Authority prior to the Commencement of the Development. All wind turbines shall be finished in a matt grey white colour or similar as agreed in writing with the Planning Authority (in consultation with the Civil Aviation Authority) and the colour and finish shall not be altered thereafter without Planning Authority consent. For the avoidance of doubt, hub height will not exceed 80 metres and tip height of the turbines hereby granted permission shall not exceed 125 metres. The blades of all the turbines shall rotate in the same direction. The Development shall thereafter be implemented in accordance with the approved details.

Reason: to protect visual amenity

- 6.11 The control building shall be faced in natural stone/smooth cement or wet dash render painted a recessive colour (or other natural/recessive finish as agreed in writing by the Planning Authority) with the roof finished in natural slate or a good quality slate substitute, samples or full details of which shall be submitted for prior written approval of the Planning Authority prior to control building works commencing.

Reason: To secure an appropriate appearance in the interests of amenity

- 6.12 At least three months prior to the Commencement of the Development, details of materials, external finishes, elevations, layout plan and colours for all ancillary elements, including transformers, switchgear/metering building, compound and fencing shall be submitted to and approved by the Planning Authority. The development shall be implemented in accordance with the duly approved details.

Reason: To ensure that the design is not intrusive to the visual amenity

Construction

- 6.13 At least 3 months prior to the Commencement of the Development, details of the temporary contractors' site compounds, including their surfacing and drainage and any temporary structures to be erected, shall be submitted to and approved in writing by the Planning Authority. This element of the Development shall be carried out in accordance with the approved plans.

Reason: to ensure a visually compatible and effective design of the temporary contractor compounds.

- 6.14 No turbine shall be sited closer than 50 metres to a water course unless otherwise approved by the Planning Authority in consultation with SEPA.

Reason: to ensure watercourses are protected

- 6.15 At least 3 months prior to the Commencement of the Development, a report should be submitted to and approved by the Planning Authority (in consultation with SEPA) identifying known and un-registered water supply sites, together with details of mitigation measures required to protect water supplies.

Reason: to ensure protection of water supplies

- 6.16 The Company shall undertake all works within the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and the terms of the "Guidelines for Preventing Pollution from Civil Engineering Contracts" as amended and published by SEPA and shall ensure that there are safeguards against pollution of groundwater or any watercourse from all construction activities and ongoing operational activities. In particular all containment and contingency measures in relation to disposal of any foul drainage, oil storage and management, gearbox oil change arrangements and any other necessary pollution avoidance arrangements shall be detailed and require the prior written approval of the Planning Authority in consultation with SEPA and SNH.

The Company should also refer to, and comply with relevant guidance in CIRIA 648 “Control of Water Pollution from Linear Construction Projects-Technical Guidance” and CIRIA C649 ‘Control of Water Pollution from Linear Construction Projects-Site Guidance’ which can be found at www.ciria.org.uk.

Reason: to safeguard and protect the local environment

- 6.17 Access to the site by heavy goods vehicles shall be restricted to 0700 to 1800 on Mondays to Fridays and from 0700 to 1200 on Saturdays with no such access on Sundays and local and public holidays. Any work on site outwith these times shall only take place with the prior written approval of the Planning Authority. Except in the case of an emergency, written notification shall be submitted at least 4 weeks prior to such works commencing. The appointed contractor shall adopt "Best Practical Means" in controlling noise levels and shall follow guidance contained within 8S5228 Part 1 - 1997 - Noise and Vibration Control on Construction and Open Sites and any subsequent amendments.

Reason: To restrict noise nuisance generated by the development work, in the interests of safeguarding public amenity.

- 6.18 Controlled waste, namely peat, soils, rock and other materials produced as a result of construction works or excavation or other operations on site, shall be disposed of only at a licensed facility or re-used strictly in accordance with the Waste Management Licensing Regulations 1994 (as amended).

Reason: to ensure waste is disposed of in accordance with waste management legislation and best practice techniques, in the interests of public amenity

- 6.19 Prior to Commissioning of the Development, all wires and cables between the wind turbines and the site electricity sub-station shall be laid underground and the ground reinstated within two months of completion of the said works to the satisfaction of the Planning Authority.

Reason: To reduce visual intrusion of overhead cables, poles and pylons, in the interests of visual amenity

- 6.20 All temporary contractors’ site compounds including site offices, containers, machinery and equipment and temporary performance masts shall be removed no later than 6 months following the Final Commissioning of the Development. Any works required for the reinstatement of the land in particular the material storage compound /laydown area shall be carried out within 3 months of the removal of the compounds or masts, in accordance with a scheme detailing vegetation replacement techniques and timing, which shall previously have been submitted to and approved in writing by the Planning Authority.

Reason: to ensure temporary compounds do not leave a footprint on site.

- 6.21 For all new tracks on SEI Figure A2 a variation of their indicated position by less than 50 metres either side of the centre of the track shall only be permitted following the

approval of the Ecological Clerk of Works. Details of any variation over 50m shall only be permitted following written approval of the planning authority.

Reason: to ensure micro-siting decisions take account of environmental considerations.

Restoration

6.22 Prior to the Commencement of the Development, a detailed restoration method statement and a detailed restoration monitoring plan shall be submitted for the approval of the Planning Authority in consultation with SNH. The restoration method statement shall provide restoration proposals for those areas disturbed by construction works, including the site entrance, access tracks, hardstandings and other construction areas. Restoration of construction disturbed areas shall be implemented within 6 months of the commissioning of the wind farm, or as otherwise agreed with the Planning Authority. The restoration monitoring plan shall include a programme of visits to monitor initial vegetation establishment and responses to further requirements, and long term monitoring as part of regular wind farm maintenance.

Reason: To ensure that disturbed areas of the site are reinstated

6.23 No development shall take place until a strategy for the restoration and removal of the components of the Development as specified in condition 6.25 has been submitted to and approved in writing by the Planning Authority. At least 12 months prior to the decommissioning of the wind farm, a detailed restoration and aftercare scheme for those parts of the site to be restored shall be submitted to the Planning Authority for approval. This scheme shall be implemented by the Company as approved by the Planning Authority.

Reason: To ensure that a suitable plan is in place for the restoration of the site.

6.24 Within 2 months of the date of the Final Commissioning of the Development, an indicative scheme for the ultimate reinstatement of the site, including the removal of all wind turbines and ground reinstatement, shall be submitted for the prior written approval of the Planning Authority in consultation with SNH and SEPA. Such scheme will be reviewed and amended as necessary taking into account scheme operation and monitoring at least twelve months prior to actual decommissioning and reinstatement works.

Reason: To ensure an indicative scheme is submitted by the developer and approved by the Planning Authority for the decommissioning of the wind farm.

6.25 Within 24 months following the end of the period of the consent, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site, and the land shall be restored and subject to aftercare, in accordance with the restoration and aftercare scheme. For the purposes of this condition 'restored' means the removal of all wind turbines, initial layer of turbine foundations, and all buildings and ancillary development. Notwithstanding this requirement, no later than one year prior to commencement of the restoration and aftercare scheme, the Planning Authority, following consultation with SNH, shall review the retention of other hardstandings,

cables/ducts and access tracks within the context of the restoration strategy, landscape strategy and access strategy to identify any elements to be retained on site or requiring alternative reinstatement.

Reason: For the avoidance of doubt, to ensure that a plan is in place for the reinstatement of the site and to ensure it will be reinstated to the satisfaction of the Planning Authority.

Archaeology

6.26 Prior to the Commencement of Development, the Company shall prepare and submit an archaeological mitigation plan which shall be subject to prior approval in writing by the Planning Authority. The Development shall thereafter be implemented in accordance with the approved mitigation plan. The said plan shall provide for:

- i) a written scheme of investigation in accordance with SODD Circular 4/1998 and NPPG 5; and
- ii) proposals for the avoidance of known archaeological features, for a watching brief during construction, and for the excavation, recording and analysis of features identified through the watching brief;

The monitoring, protection and repair measures shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing with the planning authority.

Reason: to ensure compliance with commitments made in the Environmental Statement and subsequent schemes developed following the consultation process.

Aviation and Communication

6.27 At least 3 months prior to the Commencement of the Development, a written scheme shall be submitted to and approved in writing by the Planning Authority. Such scheme shall address the potential for interference of the operation of the Development with television and radio reception and include measures to be taken to remedy any such interference. Such measures as set out within the approved scheme shall be fully implemented.

Reason: to minimise interference to local television and radio reception as a result of the operation of the wind farm

6.28 At least 3 months prior to the Commencement of the Development, the company shall provide both the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the Planning Authority containing the following detailed information.

- date of commencement of the development;

- date of completion of the development;
- position of the masts in latitude and longitude;
- the exact position of the turbine towers in latitude and longitude;
- a description of all structures over 300 feet high
- the maximum extension height of any construction equipment;
- height above ground level of the tallest structure;
- if the site will be lit

Reason: To notify the relevant aviation authorities of the milestone dates and site installation details, in the interests of public safety.

6.29 Within 14 days of the Commissioning of the Development, the Company shall provide written confirmation of the following details to Defence Estates and National Air Traffic Services.

- Date of completion of construction
- The height above ground level of the highest potential obstacle (anemometry masts or wind turbine)
- The position of that structure in latitude and longitude; and
- The lighting details of the site.

Reason: to ensure the impact of the Development upon the safe passage of aircraft is minimised as far as possible, in the interests of public safety.

Ecology

6.30 Prior to the Commencement of the Development, an Ecological Clerk of Works shall be appointed at the expense of the Company for the period from the Commencement of the Development until the Final Commissioning of the development and again from the commencement of the decommissioning of the wind farm until the completion of the restoration of those parts of the site to be restored in accordance with the conditions of this consent. The Ecological Clerk of Works will be a member of the Institute of Ecology and Environmental Management. He/she will be appointed by the Company, subject to the approval of the planning authority, following consultation with SNH.

Reason: to minimise disturbance to nature conservation interests within the wind farm site.

6.31 All watercourse crossings must be designed to be allow the free passage of otter and water vole. The designs must be submitted to and approved by the Planning Authority in consultation with SNH and SEPA before commencement of the development.

Reason: to ensure protection of otter and water voles

Ornithology

6.32 The Company shall undertake the following ornithological monitoring from the date of this consent. Monitoring of upland breeding birds will be commenced before the felling of any trees and shall be continued in the 1st, 2nd, 3rd, 5th, 10th and 15th

years following the final Commissioning of the Development. The monitoring is to be carried out in accordance with detailed proposals as submitted by the Company to the Scottish Ministers and approved by the Scottish Ministers after consultation with the Planning Authority, SNH and such other parties as the Scottish Ministers see fit. The findings of these surveys shall be collated into two reports following the monitoring activities in the 5th and 15th years and shall contain all of the original data (in formats agreed by the Scottish Ministers after consultation with SNH). They shall be submitted to the Scottish Ministers, the Planning Authority and SNH within 12 months of the end of the period to which they relate, unless the Scottish Ministers agree to an extension. The Scottish Ministers may decide, following consultation with SNH and the Planning Authority, that mitigation measures are required. Any mitigation measures shall be implemented by the Company in full within the timescale specified by the Scottish Ministers.

Reason: to inform the understanding of the impact of wind farms on breeding birds, and to mitigate potential impacts on bird populations.

- 6.33 No work shall commence on site until the Company has agreed appropriate programmes of bird monitoring (on a reference site close to the development) and mitigation including a timetable for implementation in conjunction with SNH. This agreement shall be submitted to and approved by the Planning Authority in consultation with SNH, and shall be in place before work begins.

Reason: to ensure ornithological monitoring is in place prior to commencement of development

- 6.34 All construction works in the North East of the site adjacent to the diver lochs and their associated habitats should be conducted outwith the red throated diver breeding season i.e 1 April to 30 September.

Reason: to protect red throated diver breeding grounds

- 6.35 Turbines 9 and 14 must not be microsited to the North or East of the positions as detailed on the site plan (figure A2), these are already situated close to Diver lochs.

Reason: to ensure these turbines are not located any closer to Diver lochs

- 6.36 The company shall carry out ongoing monitoring of red throated diver flightlines and breeding locations and success. The monitoring is to be carried out in accordance with detailed proposals as submitted by the Company and approved by the Planning Authority in consultation with SNH.

Reason: to monitor red throated diver activity

- 6.37 Overhead works (grid connection) should be phased to mitigate disturbance during the bird breeding season. Sections of the overhead line with the potential of posing a risk to breeding birds should be identified by the Company and agreed by the planning authority in consultation with SNH, the identified sections should be marked with bird diverters to preclude collisions and electrocution.

Reason: to protect breeding birds

- 6.38 Potentially disturbing works during the planning, construction and operational phases should be scheduled in line with the protection afforded to birds in the Wildlife and Countryside Act 1981 (as amended) part 1 sections 1 and 5. If works on the site are not completely curtailed during the breeding season, then a set back distance of 300m between any nesting loch/red throated diver sites and any works activities should be imposed between 1 April and 30 September. A continual watching brief for breeding activity outwith this period should be conducted and if any such activity is identified the 300m exclusion zone should be enforced.

Reason: to protect breeding birds and red throated diver breeding grounds

- 6.39 The company shall undertake post construction monitoring to standards in accordance with SNH post construction monitoring guidance.

Reason: To aid in the collective understanding of the impacts of wind farms on birds

Peat Management

- 6.40 No Development shall commence until a Peat Stability Assessment and Mitigation Statement has been submitted to and approved by the Planning Authority, in consultation with SNH and SEPA. Best practice and any mitigation measures, including any micro-siting amendments to the location of turbine bases or access tracks and the impact upon peatland habitat interest together with mitigation measures to address drying of the site, in particular erosion of drainage channels, shall be set out in the Statement for approval by the Planning Authority. This Statement shall also include proposals for the safe temporary storage of peat until such times as it is used for restoration of the shoulders of roads and tracks, around turbine bases and for other post-construction restoration, with any surplus peat thereafter being removed from the site. The Statement shall also include a rapid reaction strategy for dealing with the consequences of a slide event. The Development will be carried out in accordance with the approved Peat Stability Assessment and Mitigation Statement.

Reason: To safeguard the environment and public safety.

- 6.41 At least 3 months prior to the Commencement of the Development, a scheme showing the details of peat/soil stripping at the Site and the storage and proposed use and replacement of peat, topsoil and subsoil shall be submitted to the Planning Authority for approval. All soil stripping and storage and replacement operations shall accord with the details as approved by the in Planning Authority consultation with SEPA and the scheme shall be implemented in full. In particular the scheme shall be incorporated in the construction method statement setting out the measures to protect and store peat.

Reason: To minimise impacts on sensitive peat habitat.

- 6.42 The Company shall undertake an on-going assessment and call out service provided by professionally qualified geotechnical personnel, whose appointment has been approved by the Planning Authority. The Company shall develop and adopt a

formalised reporting procedure which records ground conditions, site workings, monitoring results and construction progresses pertinent to the stability of all development works. In addition, results of this monitoring shall be fed into a Geotechnical Risk Register to be submitted to the Planning Authority at quarterly intervals per annum. Should the risk of peat failure be identified, the Company shall install and monitor ground conditions using suitable geotechnical instrumentation as recommended by the geotechnical personnel and approved by the Planning Authority.

Reason: To minimise environmental impacts arising from peat slide.

- 6.43 The Company shall submit to the Planning Authority for its approval, a contingency plan to detail level of response to observed poor ground conditions. The performance of the ground shall be assessed against design assumptions. Where the works perform better than expected or as expected there will be no need for contingencies to be implemented. Where findings indicate that the ground is performing outside the expected limits and that a potentially adverse situation might develop, corrective actions shall be implemented in accordance with the contingency plan.

Reason: To minimise environmental impacts arising from peat slide.

- 6.44 The Company's geotechnical personnel as approved in terms of condition 6.42 shall undertake regular inspections of the Site, the first inspection taking place within one year of the date of this consent and deemed planning permission. This inspection shall include a walkover inspection of the site with a report on ground stability produced and submitted to the Planning Authority. Where the report identifies a risk of peat failure, measures shall be implemented in accordance with the contingency plan approved in terms of condition 6.43.

Reason: To minimise environmental impacts arising from peat slide.

- 6.45 No extraction of peat shall be undertaken from any part of the site other than in accordance with the construction method statements referred to in condition 6.2.

Reason: To minimise environmental impacts arising from peat slide

- 6.46 Any peat excavated on Site may only be dealt with in one of the following manners:

- i) used for the immediate restoration of the shoulders of roads and tracks;
- ii) spread around turbine bases; and
- iii) batched and stored in the on-site borrow pits for a maximum of three months,

Any peat not dealt with as set out above must be removed from the Site immediately.

Reason: To minimise the risk of a peat slide incident.

- 6.47 Notwithstanding the provision of condition 6.46 excess peat excavations shall not be placed onto the peat surface until the adequacy of the ground to support the load has been determined by the geotechnical personnel and the Planning Authority has given its approval.

Reason: To minimise the risk of a peat slide incident

- 6.48 All water discharged from excavations shall be directed into a suitably designed drainage system which complies with statutory requirements. All discharge of water shall be into a formalised drainage path which shall form part of a site-wide drainage network. The drainage network design must be submitted for approval to the Planning Authority in consultation with SEPA.

Reason: To minimise the risk of a peat slide incident and avoid the pollution of water courses.

- 6.49 During the period of consent, all excavations shall be suitably supported to prevent collapse and where peat is present to prevent the Development of tension cracks. Peat removed from drainage ditches as part of maintenance shall be considered as excavated peat.

Reason: To minimise the risk of a peat slide incident

Noise

- 6.50 Noise measurements shall be carried out according to the procedures described in ETSU-R-97. The Company shall record wind speed and wind direction data continually and shall retain the data which has been recorded for a period of no less than 12 months. The data shall include the average wind speed in metres per second for each 10-minute period. The measuring periods shall be set to commence on the hour and in 10-minute increments thereafter. The data shall be collated on a Microsoft Excel Spreadsheet or similar spreadsheet software in electronic format. In any case when the wind speed is measured at a height other than 10 metres above the ground level, the data shall be supplemented by adjusted values that allow for wind shear, normalised to 10 metre height. Details of the wind shear calculation shall be provided to the Planning Authority.

Reason: To provide monitoring data to inform the Planning Authority of wind speeds on site.

- 6.51 Noise from the wind turbines should be limited to a Rating Level, measured under free-field conditions, of 40 dB LA90, or 5 dB above the pre-established prevailing Background Noise Level, for sensitive day-time hours, whichever is the greater, at any residential property existing at the date of this consent and deemed planning permission. Sensitive day-time hours are defined as Monday-Friday 1800 to 2300 hours; Saturday 1300 to 2300 hours and Sundays 0700 to 2300 hours. Noise limits are to be set at the nearest residential property.

Reason: To ensure acceptable noise levels are achieved in the interests of the amenity of adjacent residents and the public accessing the area.

- 6.52 Noise from the wind turbines should be limited to a Rating Level, measured under freefield conditions, of 43 dB LA90, or 5 dB above the pre-established prevailing Background Noise Level for night-time hours, whichever is the greater, at any residential property lawfully in existence at the date of this consent and deemed

planning permission. Night-time hours are defined as 2300 to 0700 hours. Noise limits are to be set at the nearest residential property.

Reason: To ensure acceptable noise levels are achieved in the interests of the amenity of adjacent residents and the public accessing the area.

- 6.53 The rating level shall be calculated from the measured noise level plus a correction to account for any tonal components in the noise to be derived according to the procedure outline in ETSU-R-97.

Reason: To ensure acceptable noise levels are achieved, in the interests of adjacent residents and the public.

- 6.54 At the request of the planning authority, and following a complaint to the planning authority relating to noise emissions arising from the operation of the wind farm, the wind farm operator shall measure the level of noise emission from the wind farm at the property to which the complaint relates. The measurement and calculation of noise levels shall be undertaken in accordance with ETSU-R-97 having regard to paragraphs 1-3 and 5-11 inclusive of the schedule on pages 95-97 inclusive, and Supplementary Guidance Notes to the Planning Obligation, pages 99-109 of ETSU-R-97.

Reason: to safeguard the noise amenity of local residents in accordance with ETSU-R-97.

Definitions

- 7 In this consent and deemed planning permission:-

“the Application” means the application and Environmental Statement submitted by the Company on 15 November 2005 and as amended by the supplementary environmental information submitted by the company on 20 October 2005, 27 February 2006 and 11 October 2007.

“Commencement of the 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. Where such term is used in conditions in this consent, it shall not include such activities or works as may be agreed in writing with the Planning Authority to be excluded, including works necessary to give effect to the conditions of this consent, site investigations or surveys.

“Commissioning of the development” means the date on which the first turbine generator forming part of the Development first supplies electricity on a commercial basis;

“Company” means Green Power (Carraig Gheal) Ltd

“Construction Period” means the period from the commencement of the development until the site compounds have been reinstated in accordance with the conditions of this consent;

“Decommissioning of the wind farm” means the date on which those elements of the Development agreed in accordance with condition 6.25 have been permanently decommissioned and removed from the site, in accordance with the conditions of this consent;

“the Development” means a wind powered electricity generating station at Carraig Gheal as described in paragraph 4 above;

“Environmental Statement” means the Environmental Statement submitted by Green Power (Carraig Gheal) Ltd on 15 November 2005 and as amended by the SEI submitted as part of the application as defined above;

“Final Commissioning of the Development” means the date on which all wind turbine generators forming the Development have supplied electricity on a commercial basis or such earlier date as the Scottish Ministers deem the Development to be complete;

“Operational Period” means the period from the date of the final commissioning of the development until the last date on which any of the wind turbine generators supplies electricity on a commercial basis;

“Planning Authority” means Argyll and Bute Council;

“SEI” means the environmental information supplementary to the Environmental Statement submitted on 20 October 2005, 27 February 2006 and 11 October 2007;

‘SNH’ means Scottish Natural Heritage

‘SEPA’ means Scottish Environment Protection Agency

“Site” means the area of land outlined in black on Figure A2 attached to this consent;

"wind turbine noise level" means the rated noise level due to the combined effect of all the wind turbines at the Carraig Gheal wind farm, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R-97, pages 99 -109;

"background noise level" means the ambient noise level already present within the environment (in the absence of noise generated by the development) as measured and correlated with wind speeds;

"night hours" means 23:00 - 07:00 hours on all days;

"quiet waking hours" means 18:00 - 23:00 hours on all days, plus 07:00 - 18:00 on Sundays and public holidays and 13:00 -18:00 hours on Saturdays;

"noise sensitive premises" means premises, the occupants of which could be exposed to noise from the wind farm and includes hospitals, residential homes, nursing homes, etc

COLIN IMRIE
Head of Energy Consents

A member of the staff of the Scottish Ministers

June 2008

ANNEX E

APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF THE CARRAIG GHEAL WIND POWERED ELECTRICITY GENERATING STATION IN THE PLANNING AUTHORITY AREA OF ARGYLL AND BUTE

Summary of representations

A total of 440 representations were received for the Carraig Gheal wind farm proposal. 351 were objections; 346 from members of the public and 5 from non-governmental organisations (NGOs). 89 representations of support were received, all from members of the public.

Out of the 351 objections, 103 were from Argyll, 42 were from other areas in Scotland, 171 were from other parts of the UK, and 5 gave an address from overseas. Please also note that 30 representations did not supply an address.

Out of the 89 supporters, 64 were from Argyll, 16 were from elsewhere in Scotland, and 9 were from other parts of in the UK.

NGOs that objected to the proposal included Argyll & The Isles Loch Lomond Stirling & The Trossachs Tourist Board, The Ramblers Association, Avich & Kilchrenan Community Council, Glenorchy & Innishail Community Council and Taynuilt Community Council

1 Objections

The content of the individual objections can broadly be divided into categories as follows (with many of the representations including more than one reason):

1.1 Visual Impact

The most popular reason for objection was the effect on the landscape and visual amenity, with 311 people citing this as a reason. 92 were from Argyll (including 2 NGOs), 39 from other places in Scotland (including 2 NGOs), 149 from other places in the UK, 5 from outside the UK, and 26 giving no address.

95 people were worried about Carraig Gheal wind farm adding to the cumulative effect of wind farms in the area. 35 of these were from Argyll (including 1 NGO), 11 from elsewhere in Scotland (including 1 NGO), 35 from the UK, 14 did not give an address.

14 people (9 from Argyll, 1 from elsewhere in Scotland, 4 from elsewhere in the UK) objected to what they see as the industrialisation of a rural area.

11 people objected to the presence of a backup power station (3 from Argyll, 1 from elsewhere in Scotland, 7 from other parts of the UK),

10 people (3 from Argyll, 2 from Scotland, 4 from the UK, 1 with no given address) believed turbines should be offshore instead.

7 people (4 from Argyll, 1 from elsewhere in Scotland, two from elsewhere in the UK) said that there were other sites that would be better suited for a wind farm. 5 people objected to the necessary power lines (1 from Argyll, 4 from elsewhere in the UK). 3 representations mentioned the concrete that may be left on the ground (1 from Argyll, 1 from elsewhere in Scotland, 1 from elsewhere in the UK) and 1 person from elsewhere in the UK said they objected to the size of the development.

1.2 Economic Impact

282 representations were concerned about the impact on tourism from the proposed development. 86 of these were from Argyll (including 2 NGOs), 30 from other parts of Scotland (including 1 NGO), 136 from other parts of the UK, and 5 from overseas. 25 of these objectors gave no address.

79 people objected to the possible negative impact on business and employment in the surrounding area. 37 were from Argyll (one of which was from an NGO), 8 from elsewhere in Scotland, and 28 from elsewhere in the UK. 6 people did not supply an address.

14 people were worried that property in the area would be devalued by the wind farm. 10 of these were from Argyll, 3 from other places in Scotland, and 1 from elsewhere in the UK.

1 objector from Argyll made a general complaint that the development would be too close to properties and 1 objector from Argyll mentioned that the community assistance funding offered would be distributed poorly.

1.3 Environmental concerns

177 of the representations received about the proposed development were specifically concerned about the impact on birds. 41 of these were from Argyll (including 2 NGOs), 21 from elsewhere in Scotland, 95 from other parts of the UK, and 3 from outside the UK. 17 objectors did not supply an address.

143 people were concerned about the effects on wildlife and endangered species; 42 were from Argyll (including 1 NGO), 16 from elsewhere in Scotland, 69 from elsewhere in the UK, 4 from overseas, and 12 gave no address.

140 cited the impact on the ecology of the area as a cause for concern. 36 of these were from Argyll (including 2 NGOs), 21 from elsewhere in Scotland (including 1 NGO), 71 from elsewhere in the UK, and 2 from outside the UK. 10 did not give an address.

43 objectors felt the wind farm would bring an unacceptable level of noise, of these 23 were from Argyll (including 1 NGO), 2 from other parts of Scotland, 14 from other parts of the UK. 4 gave no address.

29 representations mentioned the adverse impact of access tracks, 7 from Argyll (including 2 from NGOs), 3 from other parts of Scotland, 17 from other parts of the UK, and 2 with no address given.

7 people said the power generated by the wind farm would have no effect on fighting climate change; 2 of these were from Argyll, 3 from elsewhere in Scotland, and 2 from elsewhere in the UK. 7 objections mentioned the impact on private water supplies, 5 from Argyll (1 of which was from an NGO) and 2 from other parts of the UK. 6 objections were received about the effect on hydrology, soils and geology, 4 from Argyll (including 1 NGO) and 2 from elsewhere in the UK. 4 people from Argyll were concerned about water pollution in general.

3 people, 1 from Argyll, 1 from Scotland and 1 from elsewhere in the UK thought that on the whole the environmental loss brought about by the wind farm would outweigh the environmental gain. 2 objectors, both from elsewhere in the UK, believed that the wind farm would increase the risk of flooding and 1 person from outside Scotland, was concerned about the wind farm's effect on air and climate.

1.4 Planning/Policy

133 objectors stated that Argyll had already reached its targets for renewable energy. 43 of these were from people based in Argyll, 13 from people in other parts of Scotland (including 1 NGO), 62 from elsewhere in the UK, 15 whose address was unknown.

119 representations were received objecting on the grounds that the proposed development contravenes planning policy, 44 from Argyll (including 1 NGO), 15 from elsewhere in Scotland (including 1 NGO), 56 from elsewhere in the UK, 2 from outside the UK, and 2 without an address.

66 people referred to the inefficiency of wind power, 18 of these were from Argyll (1 from an NGO), 6 from other parts of Scotland, 38 from other parts of the UK, and 4 with no given address.

50 people specifically mentioned the Argyll & Bute Biodiversity Action Plan; 12 from Argyll, 7 from other parts of Scotland, 19 from the UK, 1 from overseas, 11 without an address.

16 of the total representations (10 from Argyll, 6 from the UK) believed that hydro is preferable to wind power.

13 people (5 from Argyll, 2 from elsewhere in Scotland, 6 from elsewhere in the UK) mentioned that there are better means of generating energy.

12 people stated that European countries are abandoning wind power. 3 were from Argyll, 3 from elsewhere in Scotland and 6 from other places in the UK.

5 objectors, 3 of which were from Argyll and 2 from elsewhere in Scotland (including one NGO) mention the lack of a national strategy. 5 representations (1 from Argyll, 3 from elsewhere in the UK, 1 with no address) specifically stated that the developer would make an excessive profit from the proposed development. 4 other representations from Argyll (including one NGO) specifically stated that the photo montages were misleading.

4 people (1 from Argyll, 3 from elsewhere in the UK) said that the energy used to build the turbine would be greater than the amount it would produce. 2 objectors from Argyll mentioned that the turbines will be constructed abroad. 2 people, both from outside Scotland, complained that the energy generated in Scotland will be exported south. 2 people (1 from Argyll and 1 from elsewhere in the UK) objected in general to the conduct of the developer. 1 person from Argyll stated that the deadline for objection should have been extended. 1 objector from Argyll found the Environmental Statement for the proposed development misleading and 1 person from Argyll was of the opinion that, because Green Power was established only for Carraig Gheal, there was no risk to a parent company.

1.5 Health and Safety

80 representations highlighted that traffic and transport issues may arise from the development. 30 of these were from Argyll (1 from an NGO), 7 from elsewhere in Scotland, and 43 from other parts of the UK.

47 warned about the use of concrete and borrow pits. 13 were from Argyll (including one NGO) 6 from elsewhere in Scotland, 27 from elsewhere in the UK, 1 did not give an address.

12 objections were made about the general effects on health from the proposed development. 7 were from Argyll (including one from an NGO), 2 from elsewhere in Scotland, 2 from elsewhere in the UK, and 1 with no address given.

2 people, both from other places in Scotland, mentioned the possible impact on aircraft and Ministry of Defence activity as a cause for concern. 2 representations from outside Scotland mentioned the dangers of fire, lightning strikes and mechanical failures. 1 objector, from Argyll, mentioned the possible impact of stroboscopic effect from the turbines and 1 objection was received that mentioned the risk from peat slide (from an NGO in Argyll).

1.6 Recreational activities affected

8 representations (4 from Argyll, 4 from elsewhere in the UK) made the general point that the recreation area would be spoiled by the development.

5 people mentioned the effect on telecommunications and television as a cause for concern. 3 of these were from Argyll (including one from an NGO) and 2 from other parts of Scotland.

3 objections were made (2 people from Argyll, plus one NGO based elsewhere in Scotland) to the possible impact on hillwalking and climbing activities. 2 objections were made (both from Argyll, one of which was from an NGO) to the impact the wind farm would make on fishing.

1.7 Other

142 objectors mentioned the potential inconvenience caused by the construction. 47 of these were from Argyll (including 2 NGOs), 20 from elsewhere in Scotland, 59 from elsewhere in the UK, 3 from overseas, and 13 with no address given.

26 representations considered the deemed planning permission to be undemocratic. 6 of these were from Argyll, 7 from elsewhere in Scotland, and 13 from other parts of the UK.

12 objectors believed that damage to the archaeological and cultural heritage was a cause for concern. 6 were from Argyll (one of which was from an NGO) and 6 from elsewhere in the UK.

7 objectors had concerns about the effects of decommissioning, 3 from Argyll, 4 from elsewhere in the UK. 6 people, all from other parts of the UK, questioned the operation of wind farms as they considered Scotland's climate to be too windy. 4 representations mentioned an increase in the cost of electricity. 1 of these was from Scotland, 3 from other parts of the UK.

2 people, both from Argyll, were of the opinion that the inconsistency in wind patterns in Scotland would be a problem for generating wind power. 1 objector from elsewhere in the UK argued that no existing power stations will be shut down following the wind farm's construction. 1 person from Argyll voiced professional concerns. 1 representation from Argyll made a point about land use and ownership. 1 person, from elsewhere in the UK, highlighted their personal concern about the increase in CO2 emissions being increased by cars and airports and 1 representation, from Argyll, did not mention any specific objection.

2 Support

As with the objections, the content of the individual representations in support of the development can broadly be divided into categories as follows (with many of the representations including more than one reason):

2.1 Economic Impact

40 representations felt that the construction of the wind farm would bring an economic boost to the area. 16 were from Argyll, 15 from other places in Scotland, 9 from other places in the UK.

33 representations were in support of the community fund, 10 from Argyll, 14 from elsewhere in Scotland, 9 from other parts of the UK.

9 believed that tourism in the area would not be adversely affected, 8 from Argyll and 1 from elsewhere in the UK. 3 representations believed that the development would bring new facilities for the community, 2 from Argyll, 1 from elsewhere in the UK.

2 people from Argyll considered the wind farm to be commercially viable. 2 people from Argyll commented that the community fund must be guided by local people, not the community council.

2.2 Visual Amenity

25 people believe the wind farm have been designed carefully, 3 from Argyll, 14 from other parts of Scotland, 8 from elsewhere in the UK.

18 mentioned that Beinn Ghlas fits into the landscape, 1 from Argyll, 8 from other parts of Scotland, and 9 from elsewhere in the UK.

3 people are of the opinion that windfarms are not unsightly, 2 from Argyll and 1 from elsewhere in Scotland.

2.3 Environmental reasons

15 people sent representations of support for the wind farm for general environmental reasons, 12 from Argyll, 3 from elsewhere in Scotland.

2 supporters from Argyll thought that noise would not be a problem. 1 person from Argyll mentioned the setting up of environmental pockets and 1 further person from Argyll believed that the land would be returned to its original state.

2.4 Planning Policy

8 people from Argyll were keen to inform us that the local community council did not represent the majority of local opinion.

6 representations believed the site was well chosen, all of which were from Argyll apart from 1 from elsewhere in Scotland.

4 people, 2 from Argyll and 2 from elsewhere in Scotland, mentioned that the wind farm would contribute to Scotland's targets. 2 supporters from Argyll commented that a higher number of representations were made to the local council than the community council.

2.5 Other

42 people said that roads would be improved, 20 from Argyll, 13 from other parts of Scotland, 9 from elsewhere in the UK.

12 supporters, all from Argyll apart from one from elsewhere in Scotland, believed that farmers must diversify.

4 representations made the point that a lot of objectors are not part of the indigenous population of the area, 3 of these were from Argyll and 1 from elsewhere in Scotland.

2 people, 1 from Argyll and 1 from elsewhere in Scotland, are of the opinion that wind power is less dangerous than other types of generating energy.

20 representations, all from Argyll apart from 1 from elsewhere in Scotland, voiced their support without giving a specific reason.