

PLANNING PERMISSION

Reference No: 10/00042/FULCA

To:
Mr. Danny Miller,
Netherton Farm,
WICK,
Caithness,
KW1 5TA

Per:
Whirlwind Renewables Ltd.,
7 The Media Centre,
Nothumberland Street,
Huddersfield,
HD1 1RL

Town & Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) 2006 Act

DECISION NOTICE

**Erection of five windturbines with a maximum height of 101m to blade tip and associated infrastructure, formation of vehicular access,
Land At Wathegar Bilbster Wick**

The Highland Council in exercise of its powers under the above Acts **grants planning permission** for the above development in accordance with the particulars given in the application and the following plans/drawings:

Type of Plan	Plan Number	Version No.	Date of Plan
Location/Site Plan			05.02.2010
Other	FIGURE 3.3		
Other	FIGURE 3.6		
Other	FIGURE 3.10		

This permission is granted subject to the following conditions: -

- (1.) **The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice.**

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

- (2.) **The permission granted shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ("First Export Date"). Written confirmation of the First Export Date shall be provided to the Planning Authority within 1 month of the First Export Date.**

Reason: The application is for a temporary period of 25 years.

- (3.) **Not later than 12 months before the end of the consent period, a decommissioning and site restoration scheme shall be submitted for the written approval of the Planning Authority, such scheme to include the removal of above-ground elements of the development, management and timing of any works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The scheme shall be implemented as approved.**

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Reason: To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site, in the interests of safety, amenity and environmental protection.

- (4.) If any wind turbine fails to supply electricity to the grid for a continuous period of 9 months then, unless otherwise agreed in writing with the Local Planning Authority, a scheme for the removal of that wind turbine and any surface ancillary works solely relating to that wind turbine shall be submitted in writing for the approval of the Planning Authority. The scheme shall then be implemented as approved.

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

- (5.) (i) The Development shall be constructed and operated in accordance with the application and the Environmental Statement and in accordance with the terms of the conditions ii) The Development shall be undertaken in its entirety with no partial implementation.

Reason: In order to clarify the terms of this permission and to ensure restoration of the site; and to protect local residents and the water environment.

- (6.) (i) No wind turbine may be sited or access track constructed more than 50 metres in any direction from the approved location without the prior written approval of the planning authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. (ii) Any request for such approval shall include a revised site layout for the location of all turbines and access roads. (iii) Notwithstanding any approval under paragraph 6(a) above:- a) no turbines shall be located within 20 metres of a water body; b) other than at watercourse crossings, there shall be no construction works within : (i) 10 metres of a headwater stream less than two metres wide; (ii) 20 metres of a stream or water body wider than two metres; and (iii) 50 metres of any watercourse in areas of peat

Reason: In order to clarify the terms of this permission and to ensure restoration of the site; and to protect local residents and the water environment.

- (7.) Development shall not commence until the planning authority have given approval in writing for the final specification of the wind turbines. i). The final approved specification is to include details of the make, model, design, power rating and warranted sound power levels; the colour and matt paint finish and the mechanism to avoid potential ice throw. ii). The developer's noise assessment shall be updated as necessary to reflect the turbine specification approved, and shall be submitted to the planning authority prior to the commencement of development. In the event of predicted exceedance of ETSU-R-97 levels or as otherwise agreed, the developer shall submit mitigation measures to the planning authority for their prior written approval in advance of the commencement of development.

Reason: In order to clarify the terms of the permission and retain effective control over the development; to avoid nuisance to nearby residents arising from noise or blade glint; and to avoid the possibility of ice throw.

- (8.) Development shall not commence until the planning authority have given approval in writing for the final specification of the means of access, fencing, design, materials and colours and external finishes and construction, of all ancillary elements to the

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development, including in particular details relating to the substation and control building. Notwithstanding indicative drawings and for the avoidance of doubt turbine transformers shall be housed within the turbine towers unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure a high standard of design in the interest of visual amenity.

- (9.) Development shall not commence until a Construction Traffic Management Plan has been submitted to and agreed in writing by the Planning Authority. The Construction Traffic Management Plan shall include proposals for construction vehicle routing, the location and design of accesses from the public highway onto the site, management of traffic at junctions to and crossings of the public highway and other public rights of way, the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal or replacement of highway infrastructure and street furniture, off-site road works and banksman details etc. The approved Construction Traffic Management Plan shall be implemented as approved in writing by the Planning Authority. For the avoidance of any doubt this will include details to advise the public including road users on the A882 and those living along the access route of the expected abnormal loads associated with the delivery of turbine parts.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

- (10.) Development shall not commence until an agreement dealing with liability for remedial work required as a result of any damage to the local road network directly attributable to the Wind Farm construction and providing for pre and post construction surveys of the said local road network has been submitted to and agreed in writing with the Planning Authority.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

- (11.) Development shall not commence until the planning authority have approved in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency an indicative scheme for the re-instatement of the Site. i) The re-instatement scheme is to make provision for the removal of all wind turbines and ground reinstatement. ii) The re-instatement scheme shall be reviewed, and amended as necessary, and the amended scheme shall be approved in writing by the planning authority, at least 12 months prior to actual de-commissioning and re-instatement works.

Reason: To ensure that the restoration of the site is achieved after decommissioning.

- (12.) No work shall commence on the Site until the applicant has provided documentary evidence that a bond or other financial provision to cover all decommissioning and site restoration costs is in place and written confirmation has been given by the planning authority to the Company that the proposed bond or other financial provision is satisfactory. i) The applicant shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent. ii) The bond or other financial provision will be subject to a five yearly review from the commencement of the development, to be conducted by a competent independent professional who has relevant experience within the wind energy sector [and provided to the applicant, operator, landowners, and the planning authority.]

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Reason: To ensure that the restoration of the site is achieved after decommissioning.

- (13.) Development shall not commence until a Construction and Environmental Management Plan is submitted to and in writing by the Local Planning Authority in consultation with SNH, SEPA and Scottish Water. Construction of the development shall proceed in accordance with the approved Plan, unless otherwise agreed in writing by the Planning Authority. The Plan shall address the following matters (and shall be implemented as approved):
- ∩ Environmental Policy
 - ∩ Statement of responsibility for all environmental features, safeguards and mitigation.
 - ∩ Details of construction works, the construction methods and surface treatment of all hard surfaces and tracks.
 - ∩ Details of temporary site compounds for storage of materials and machinery (including areas designated for car parking).
 - ∩ Siting and details of wheel washing facilities
 - ∩ Details of the timing of works and methods of working for cable trenches and foundation works
 - ∩ Details of the timing of works and construction of the substation/control buildings and anemometry mast
 - ∩ Details of the bridges and culverts for all new water crossings.
 - ∩ Peat Stability including implementation of mitigation requirements contained within Peat Stability Risk Assessment.
 - ∩ Dust management
 - ∩ Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to / from the site to prevent spillage or deposit of any materials on the highway.
 - ∩ Pollution control arrangements, including protection of water courses and ground water and soils, bunding of fuel storage areas, and sewage disposal
 - ∩ Disposal of surplus materials
 - ∩ Post construction restoration/reinstatement of the temporary working areas and borrow pit
 - ∩ Construction noise management plan (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise in the event of complaints)
 - ∩ Appointment and scope of work for a Project Ecologist who shall have responsibility for monitoring compliance with the provisions of the approved Plan and who shall report all breaches of the approved Plan to the Planning Authority.

Reason: To protect highway safety, water assets, amenity and the environment.

- (14.) The hours of construction work during the development and any traffic movements to or from the site associated with the construction of the development shall be: -
- ∩ April
 - ∩ September - weekdays 7.00 ∩ 19.00 hrs & Saturdays only ∩ 7.00 ∩ 14.00 hrs
 - ∩ October ∩ March - weekdays 7.30 ∩ 17.00 hrs & Saturdays only ∩ 7.30 ∩ 14.00 hrs
- ∩ There shall be no Sunday workings without the prior written approval of the Planning Authority.
- ∩ There shall be no working on 25/26 Dec, 1/2 Jan or during the Saturday/Sunday of the Easter weekend.

Reason: For the protection of residential amenity.

- (15.) . Development shall not commence until, a scheme for archaeological investigation and monitoring has been submitted to and approved in writing by the planning authority. i) The archaeological scheme is a scheme setting out how site clearance and excavation works are to be carried out. ii) All site clearance or excavation works shall be implemented in accordance with the approved archaeological scheme.

Reason: In order to protect any features of archaeological importance.

- (16.) Development shall not commence until a Nature Conservation Management Plan has been submitted to and approved in writing by the Local Planning Authority in

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consultation with SNH. This scheme, shall be implemented as approved throughout the operational life of the wind farm.

Reason: To protect and enhance local nature conservation interests.

- (17.) Development shall not commence until a scheme of mitigation for shadow flicker has been submitted to and approved in writing by the planning authority. i) The scheme shall include mitigation measures to reduce the impact of shadow flicker on nearby houses and shall be based on a detailed assessment of the impact of each turbine on those houses. ii) The approved scheme shall be implemented prior to the commissioning of the wind farm.

Reason: To protect the occupiers of nearby houses from the effects of shadow flicker.

- (18.) Development shall not commence until a TV and radio reception mitigation plan has been submitted to and approved in writing by the planning authority. i). The plan shall provide for a baseline TV reception survey to be carried out prior to commencement of turbine installation, the results of which shall be submitted to the planning authority. ii). Within 12 months of the commissioning of the development, any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building, shall be investigated by a qualified engineer and the results submitted to the planning authority. iii) Should any impairment to the TV signal be attributable to the wind farm, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

Reason: To ensure that any effect on TV or radio reception is rectified.

- (19.) No development shall commence until an Access and Heritage Interpretation Plan shall be submitted to and agreed in writing with the Planning Authority. The Access and Heritage Interpretation Plan will detail which archaeological sites should have their access improved and which sites would benefit from interpretation, along with proposals for maintaining and encouraging public access to the archaeological resource as well as details of signage and promotion of a Heritage Trail. Implementation of the Plan is required as part of this condition.

Reason: To improve access and interpretation across this development site, whilst securing a measure of control and protection of valued local archaeology.

- (20.) Two months prior to the commencement of development the applicant will provided both the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the Planning Authority and Highland and Islands Airport Authority Ltd, containing the following information: ¿ The date of commencement of the construction; ¿ 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; ¿ The height above ground level of the tallest structure; and ¿ turbines shall be fitted with 25 candela omnidirectional red lighting at the highest practicable point on the turbines.

Reason: In order to ensure aviation safety.

- (21.) The Wind Farm Operator shall log wind speed and wind direction data continually and shall retain the data which has been obtained for a period of no less than the previous 12 months. The data shall include the average wind speed in metres per second for

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each 10 minute period. The measuring periods shall be set to commence on the hour or in 10 minute increments thereafter. The wind speed data shall be made available to the Planning Authority on request. The data shall be provided on a Microsoft Excel spreadsheet in electronic format. In the case where the wind speed is measured at a height other than 10 m, the data shall be supplemented by adjusted values which allow for wind shear, normalised to 10m height. Details of the wind shear calculation shall be provided. At Wind Speeds not exceeding 12m/s, as measured or calculated at a height of 10m above ground level at the wind farm the Wind Turbine Noise Level at a distance of 1km from the edge of the nearest outer turbine shall not exceed:- (a) during Night Hours, 38dB LA90,10min, or the Night Hours LA90, 10min Background Noise Level plus 5 dB(A), which ever is the greater.(b) during Quiet Waking Hours, 35 dB LA90,10min or the Quiet Waking Hours LA90, 10min Background Noise Level plus 5 dB(A), which ever is the greater At the request of the Planning Authority, following a valid complaint to the Planning Authority relating to noise emissions from the Wind Turbines, the Wind Farm Operator shall measure, at its own expense, the level of noise emissions from the Wind Turbines. The measurement and calculation of noise levels shall be undertaken in accordance with 'The Assessment & Rating of Noise from Wind Farms', September 1996, ESTU report number ETSU-R-97 having regard to paragraphs 1-3and 5-11 inclusive, of The Schedule, pages 95 to 97; and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109. In comparing measured Wind Turbine Noise Levels with Background Noise Levels, regard shall be had to the prevailing Background Noise Levels as measured at specified locations. 'Wind Turbine Noise Level' means the rated noise level due to the combined effect of all the Wind Turbines at the 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. 'Wind Speeds' means wind speeds measured or calculated at a height of 10 metres above ground level at the Met Mast locations on the wind farm site shown on Figure 4.1 Environmental Statement. '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 13:00 & 18:00 hours on Saturdays.

Reason: In order to control noise in the interest of residential amenity.

INFORMATIVE 1. SEPA has advised that authorisation under CAR will be required for some proposed activities. 2. For the avoidance of any doubt any on-site borrow pits will require to be subject of a further planning application and subject to screening for an Environmental Impact Assessment 3. Contact should be made with TR-NMD Bridges Branch (Tel No 0131 244 4363) as to the feasibility of abnormal load movements from the nearest suitable port. Abnormal load authorisation from Scotland Transerv may be required contact Trunk Roads Development Management 0141 272 7338 for further information 4. Maintenance issues, requiring HGV or Abnormal traffic movements to the site, may be necessary throughout the 25 year lifetime of the development. Such access issues need prior discussion with the Council's TEC Services. 5. No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this decision notice has been submitted to and acknowledged by the Planning Authority. 6. Upon completion of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority.

Variations

During the processing of the application the following variations were made to the proposal:

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1. None.

Section 75 Agreement

An Agreement in terms of Section 75 of the 1997 Planning Act relates to this development. The terms of the Section 75 Agreement are as follows:

1. None.

The full Section 75 Agreement can be inspected at the relevant planning office.

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NOTIFICATION TO APPLICANT

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed local development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to:
Highland Council Review Body Administration Team, Chief Executive's Service, Council Headquarters, Glenurquhart Road, Inverness.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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