

16/00145/S36 – Fallago Rig 2 Wind Farm

Conditions and Informative Notes

Conditions Attached to Section 36 Consent

1. Duration of the Consent

The consent is for a period of 25 years from the date of Final Commissioning.

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

Reason: To define the duration of the consent.

2. Commencement of Development

The Commencement of the Development shall be no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

Reason: In accordance with s58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

3. Non-assignment

The Company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the consent (with or without conditions) or refuse assignment 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. The Company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

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

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

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

5. Aviation

There shall be no commencement of development unless an Air Defence Radar Mitigation Scheme (“the ADRM scheme”) has been submitted to and approved in writing by the Planning Authority to mitigate the adverse impacts of the Development on the air defence radar at Remote Radar Head (RRH) Brizlee Wood and the air surveillance and control operations of the MOD. No turbines shall become operational until:

- i. the mitigation measures which the approved ADRM Scheme requires to be implemented prior to the operation of the turbines have been implemented; and
- ii. any performance criteria specified in the approved ADRM Scheme and which the approved ADRM Scheme requires to have been satisfied prior to the operation of the turbines have been satisfied.

Reason: Unless mitigation is undertaken, the wind farm would have an unacceptable impact on the Primary Surveillance Radar and the Remote Radar Head, Brizlee Wood, Northumberland, with consequent implications for national security.

Conditions Attached to Deemed Planning Permission

6. Implementation in accordance with approved plans and requirements of this consent

Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the application including the approved drawings listed at Appendix 1 to this decision statement (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.

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

7. Design and operation of turbines

There shall be no Commencement of Development unless details of the external finish and colour of the wind turbines and any external transformer units have been submitted to and approved in writing by the Planning Authority. The tip height of the turbines shall not exceed 126.5 metres above ground level. The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the Development is decommissioned.

All wind turbine blades shall rotate in the same direction.

None of the wind turbines, switching stations or transformer buildings/enclosures, substation building or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority.

All turbines and components shall be installed to meet the safety standards set by British Standard BS EN 61400-1: 2005 'Wind turbine generator systems: Safety requirements' or International Electro-technical Commission IEC 16400.

Reason: In the interests of public safety to ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area.

8. Design of sub-station and ancillary development

There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.

9. Design of water course crossings

There shall be no Commencement of Development unless final details of all the water course crossings over the Dye Water and the Black Burn have been submitted to and approved in writing by the Planning Authority.

The crossings shall be clear span and not impede flow in the water courses. The water course crossings shall be constructed in accordance with the approved details.

Reason: Further information is required to ensure a satisfactory form of development which protects the water environment.

10. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure 4.1. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH) micro-siting is subject to the following restrictions:

- i. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on the aforementioned Figure 4.1 unless a scheme of details including wirelines showing the alternative positioning of the turbine have been to and agreed in writing by the Planning Authority (in consultation with SNH) and thereafter no development shall take place in strict accordance with the agreed arrangement;
- ii. No micro-siting shall take place within areas of peat of greater depth than the original location;
- iii. No wind turbine, building, mast, access track or hardstanding shall be moved more than 50m from the position shown on the original approved plans;
- iv. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems
- v. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

No later than one month after the date of First Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

Reason: to control environmental impacts while taking account of local ground conditions, and to restrict Micrositing to a reasonable distance to ensure that any movement of turbines or infrastructure does not give rise to significant change to the layout and appearance of the development.

11. Borrow Pits

There shall be no Commencement of Development unless a site specific scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include;

- i. Topographic surveys of pre-construction profiles; and a detailed working method statement based on site survey information and ground investigations;
- ii. Details of the handling of any overburden (including peat (if present), soil and rock);
- iii. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
- iv. A programme of implementation of the works described in the scheme;
- v. A dust management plan; and
- vi. Full details of the reinstatement, restoration and aftercare of the borrow pit(s).

The approved scheme shall thereafter be implemented in full.

Within 3 months of cessation of extraction of each borrow pit, post extraction topographical surveys shall be undertaken of the restored borrow pit profiles, the details of the topographic surveys of pre-construction profiles and the post extraction profiles shall be submitted to the Planning Authority.

Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures

contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

12. Borrow Pits – Blasting

Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority.

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

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

13. Ecological Clerk of Works

There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall;

- i. Impose a duty to monitor compliance with the ecological and hydrological measures required, the Construction and Environmental Management Plan (condition 14), the Land Management Plan approved in accordance with condition 22, and the species protection plans in accordance with condition 23, approved by virtue of the conditions attached to this deemed planning permission;
- ii. Require the EcoW to report to the Company's nominated construction project manager and the Planning Authority any incidences of non-compliance with the ecological and hydrological measures listed in the conditions at the earliest practical opportunity;
- iii. Require the ECoW to submit a monthly report to the Planning Authority (summarising works undertaken on site); and
- iv. Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and until the completion of all post construction restoration works.

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

14. Construction and Environmental Management Plan

There shall be no Commencement of Development unless a Construction and Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The details of the CEMP shall be submitted to the Planning Authority at least 6 weeks before Commencement of Development.

The CEMP shall include (but shall not be limited to):

- a. a **site waste management plan** (dealing all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. a **construction method statement** for the formation of the construction compounds, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing together with measures to ensure the hydrological connectivity is maintained and that tracks do not become preferential pathways of ground water;
- c. site specific details for management and operation of any **concrete batching plant** (including disposal of pH rich waste water and substances);

- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning (if required) and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a **pollution prevention and control method statement**, including arrangements for the storage and management of oil and fuel on the site;
- f. **soil storage** and management;
- g. a **peat management plan**, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- h. a **drainage management strategy** to greenfield rates 5L/s/hectare (whichever is the least), demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- i. a **surface water and groundwater management and treatment plan**, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- j. measures to prevent ground water seeping into excavations, and measures identified to mitigation incursion of ground water in excavation should it occur;
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the maintenance of visibility splays on the entrance to the site;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines;
- r. details of watercourse crossings;
- s. **post-construction restoration**/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

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

15. Floating Roads

Floating roads shall be installed in areas where peat depths are in excess of $\geq 0.5\text{m}$, unless the use of floating roads where peat depths are in excess of 1m have been agreed in writing with the Planning Authority in consultation with SNH. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority. The floating road shall then be implemented in strict accordance with the approved details.

Reason: to ensure peat is not unnecessarily disturbed or destroyed.

16. Construction Hours

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority.

HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays.

Reason: To protect the amenity of the local area and localised ecological interests.

17. Traffic Management Plan (TMP)

There shall be no Commencement of Development unless a traffic management plan has been submitted to and approved in writing by the Planning Authority. The traffic management plan shall include:

- a. The routing of all traffic associated with the Development on the local road network;
- b. Measures to ensure that the specified routes are adhered to, including monitoring procedures;
- c. Details of all signage, traffic control measures and lining arrangements to be put in place;
- d. Details of removal of any street furniture or infrastructure and the reinstatement;
- e. Provisions for emergency vehicle access;
- f. Identification of a nominated person to whom any road safety issues can be referred; and;
- g. Details of access to the site by abnormal loads/vehicles, including the number and timing of deliveries, an indicative delivery programme, the length, width and axle configuration of all extraordinary traffic accessing the site.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

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

18. Road Condition Surveys

There shall be no Commencement of Development, unless a programme of monitoring the condition of the public roads serving the site before, during and after the construction of the Development has been submitted to and approved in writing by the Planning Authority. Thereafter, any remedial works, as approved by the Planning Authority, or payment of extraordinary maintenance costs incurred by the Planning Authority as a result of the site traffic, are to be carried out or paid within three months of Final Commissioning of the Development.

Reason: to ensure that any damage to the public road network is rectified.

19. Access Management Plan

a. There shall be no Commencement of Development until an access management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scotways and thereafter the development shall be undertaken in strict accordance with the agreed details unless any variation is agreed thereto. The access management plan shall identify all the existing national and local recreational routes within the 'Fallago Rig Wind Farm Site'. The access management plan shall include the following details;

- i. a route for the temporary diversion of Core Path 16 (Right of Way BB107) west of its existing route to follow the inside field boundary and details of its implementation;
- ii. a programme to re-instate Core Path 16 (Right of Way BB107) along its original historic route following the completion of construction works at Turbine 60;
- iii. a signage scheme including way-markers (at 500 metre intervals on CP16) and details of its implementation throughout the proposed development site and existing Fallago Rig Wind Farm Site;
- iv. details which shall be included on interpretation boards to direct and provide information provide information on the historic Muir route; and
- v. a programme for the annual maintenance (including vegetation management) of all recreational routes within the proposed development site and existing Fallago Rig Wind Farm Site;

Access along the routes, other than any alterations to Core Path 16 (Right of Way BB107) agreed in section a. shall not be disturbed or disrupted during construction and decommissioning, unless a detailed plan with respect thereto has been submitted to and approved in writing by the Planning Authority and thereafter implemented in accordance with the terms and timescales within the approved plan. Such a plan shall include:

- i. the identification of any area proposed to be excluded from statutory access rights and the reasons for such exclusion;
- ii. details of the closure or temporary diversion of any identified rights of way at the site and any associated signage;
- iii. details of the measures to ensure safe public access along the identified or diverted paths, tracks and rights of way during the construction and decommissioning phases of the Development; and
- iv. details for the reinstatement and upgrading of the affected routes, including details of way-marking and route interpretation.

Any agreed reinstatement and upgrading of the affected routes shall be carried out within 6 months of the Final Commissioning of the Development.

This condition is without prejudice to the need to obtain any other consent, permission or order in connection with the disturbance or disruption of use of a path or right of way.

Reason: In the interests of recreational users of the Lammermuirs.

20. Water Quality Monitoring Plan (WQMP)

There shall be no Commencement of Development unless a Water Quality Monitoring Plan (WQMP) has been submitted to and approved in writing by the Planning Authority, in consultation with Marine Scotland Science, SNH and SEPA.

This plan should be cognisant of the guidelines set out in Marine Scotland's Generic Monitoring Programme for Monitoring Watercourses in relation to Onshore Wind Farm Developments (October 2015).

A minimum of 12 months pre-construction water quality monitoring shall be carried out at locations along the Dye Water and at one or more suitable control sites, to be agreed and set out in the WQMP.

Water quality monitoring and fisheries surveys will thereafter continue through construction and continue for two years from the date of Final Commissioning, the results of which shall be forwarded to the ECoW, and be made available to SNH, MSS and the Planning Authority upon request.

Reason: To ensure that water quality, fauna and flora are protected during construction.

21. Ecological Monitoring Programme

There shall be no Commencement of Development unless a plan for the method, frequency and duration of ornithological monitoring over the construction, operational and decommissioning life-span of the 'Development' has been submitted to, and approved in writing by the Planning Authority, in consultation with Marine Scotland Science, SNH and SEPA.

The monitoring shall be carried out in strict accordance with the terms set out in the approved monitoring plan and the results of which shall be forwarded to the ECoW, and be made available to SNH, MSS and the Local Authority upon request.

Reason: to monitor the watercourses over the operational life-span of the wind farm development and confirm, by monitoring, that no significant effects are occurring to the River Tweed SAC and other fauna and flora in the 'Proposed Development Site'.

22. Land Management Plan (LMP)

There shall be no Commencement of Development unless a land management plan has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The land management plan shall comprise land identified in the outline land management plan (Figure 1.1 of Appendix 9.F to the Environmental Statement) as Habitat Enhancement Area 4.

The land management plan shall compensate the loss of habitat resulting from the installation of turbines T56, T57 and T60 (Figure 4.1) together with their associated areas of hard standings and tracks; and mitigate the effects of displacement of birds and other ecology as a result of the construction works and the operation of the wind turbines hereby permitted through the implementation of the following objectives:

- i. Objective 1- Improvement to the condition of Blanket Mire Vegetation in Habitat Enhancement Area 4; and
- ii. Objective 2 – Improve habitat in Habitat Enhancement Area 4 to Increase the breeding bird population of golden plover, curlew and other breeding waders

The implementation of the approved land management plan shall commence within 12 months of the Commencement of Development.

The land management plan shall set out provisions for monitoring and review by a steering committee that will have responsibility for overseeing implementation of the land management plan. These reviews shall take place in years following completion of the works in year 1, 3, 5, 10, 15 and 20 or as otherwise agreed with the Planning Authority. Any amendments required following the reviews shall be submitted to the Planning Authority for written approval and then be carried out within 12 months of approval.

Unless otherwise agreed in advance in writing with the Planning Authority, the approved land management plan shall be implemented in full.

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

23. Ecological Protection Plans

There shall be no Commencement of Development unless supplementary ecological surveys for protected species have been carried out by a suitably qualified person. The surveys shall comprise:

- i. Otter;
- ii. Badger;
- iii. breeding birds;
- iv. reptiles; and
- v. Amphibia
- vi. Bats

The survey results and any mitigation measures required for protected species on site shall be set out in a species mitigation and management plan, which shall inform construction activities. The plan shall be submitted to and approved in writing prior to the Commencement of Development by the Planning Authority, in consultation with SNH, and the approved plan shall then be implemented in full.

Reasons: to ensure birds, especially breeding birds, are afforded suitable protections from the construction, operations and decommissioning of Fallago Rig 2.

24. Programme of Archaeological Works

There shall be no Commencement of Development unless a Written Scheme of Investigation (WSI) outlining a programme of archaeological work has been submitted to and approved in writing by the Planning Authority in consultation with the Council Archaeology Service. The terms of the approved WSI shall be observed prior to and during construction of the Development, to include measures to be taken to protect and preserve any features of archaeological interest in situ, the recording and recovery of archaeological features which cannot be so preserved and the reporting of results of the programme, including any subsequent investigations deemed necessary by the Planning Authority, to the Planning Authority for approval. The approved scheme of archaeological works shall thereafter be implemented in full.

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

25. Peat Landslide Management

There shall be no Commencement of the Development until a detailed peat landslide risk assessment, addressing the construction phase of the development and post-construction monitoring, has been approved in writing by the Planning Authority.

The peat landslide risk assessment shall comply with best practice contained in "Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments" published by the Scottish Government in January 2007, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval. The peat landslide risk assessment shall include a scaled plan and details of any mitigation measures to be put in place.

Prior to Commencement of Development, the Company shall appoint and pay for an independent and suitably qualified geotechnical engineer acceptable to the Planning Authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority.

The Company shall undertake continuous monitoring of ground conditions during the construction of the Development. Continuous analysis and call out services shall be provided by the geotechnical engineer throughout the construction phase of the Development. If a risk of peat failure is identified, the Company shall install such geotechnical instrumentation to monitor ground conditions as is recommended by the geotechnical engineer and shall monitor ground conditions. Any remediation work considered necessary by the geotechnical engineer shall be implemented by the Company to the satisfaction of the geotechnical engineer. Monitoring results shall be fed into risk analysis reports to be submitted to the Planning Authority on a quarterly basis during the construction of the Development.

Reason: To minimise the risk of peat failure arising from the Development.

26. Noise

The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (Appendix 3), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables (within Appendix 3) at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Planning Authority on its request, within 14 days of receipt in writing of such a request.
- b) No electricity shall be exported until the wind farm operator has submitted to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The

proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

f) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Planning Authority.

27. Television Reception

There shall be no Commencement of Development unless a Television Reception Mitigation Plan has been submitted to, and approved in writing by the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any wind turbine forming part of the Development, the results of which shall be submitted to the Planning Authority.

The approved Television Reception Mitigation Plan shall thereafter be implemented in full.

Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the Company and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: To ensure local television services are sustained during the construction and operation of this development.

28. Redundant turbines

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall;

- a) by no later than the date of expiration of the 12 month period, submit a scheme to the Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
- b) implement the approved scheme within six months of the date of its approval.

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

29. Aviation Safety

There shall be no Commencement of Development until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so;

- the date of the expected commencement of each stage of construction;
- the height above ground level of the tallest structure forming part of the Development;
- the maximum extension height of any construction equipment; and
- the position of the turbines and masts in latitude and longitude.

Reason: In the interests of aviation safety.

30. Aviation Lighting

Prior to the erection of the first wind turbine, the Company shall submit a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

No turbines shall be erected on site until the scheme has been approved in writing. The Development shall thereafter be operated fully in accordance with the approved scheme.

Reason: To protect aviation safety.

31. Site Decommissioning, Restoration and Aftercare

i. The Development will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for decommissioning and restoration of the Development Site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation from the Development.

ii. Within 5 years prior to the expiration of this consent a detailed decommissioning, restoration and aftercare plan, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide detailed proposals for the removal of the Development, the treatment of ground surfaces (including consideration of the removal of access tracks should they no longer be required), the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil storage and management;
- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h. sewage disposal and treatment;

- i. temporary site illumination;
 - j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
 - k. a programme of monitoring the condition of the public roads serving the site before, during and after the decommissioning of the Development, together with measures to carry out any remedial works, as approved by the planning authority, or payment of extraordinary maintenance costs incurred by the council as a result of the site traffic. The works shall be carried out or paid within three months of Final Decommissioning of the Development.
 - l. details of watercourse crossings;
 - m. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.
- iii. 6 months prior to the commencement of decommissioning of the Development, the approved detailed decommissioning, restoration and aftercare plan shall be reviewed by the Company and the Planning Authority, in consultation with SEPA and SNH. Any changes to the plan as required by the Planning Authority, SEPA or SNH shall be made by the Company and shall be submitted in writing for approval by the Planning Authority, in consultation with SEPA and SNH. The approved plan shall then be implemented in full.
- iv. 6 months prior to the commencement of decommissioning of the Development, details of the appointment of an Ecological Clerk of Works shall be submitted to and approved in writing by the Planning Authority (in consultation with SNH and the SEPA). The decommissioning ECoW shall oversee the implementation of the detailed decommissioning, restoration and aftercare plan.
- v. The Development Site shall be decommissioned, restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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

32. Site Decommissioning, Restoration and Aftercare

- i. The Development will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for decommissioning and restoration of the Development Site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation from the Development.
- ii. Within 5 years prior to the expiration of this consent a detailed decommissioning, restoration and aftercare plan, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide detailed proposals for the removal of the Development, the treatment of ground surfaces (including consideration of the removal of access tracks should they no longer be required), the management and timing of the works and environment management provisions which shall include:
 - a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - c. a dust management plan;
 - d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - f. soil storage and management;

- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. a programme of monitoring the condition of the public roads serving the site before, during and after the decommissioning of the Development, together with measures to carry out any remedial works, as approved by the planning authority, or payment of extraordinary maintenance costs incurred by the council as a result of the site traffic. The works shall be carried out or paid within three months of Final Decommissioning of the Development.
- l. details of watercourse crossings;
- m. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

Points a – m noted above are not exclusive and the decommissioning and restoration plan should cover all development and aftercare undertakings which are deemed to be required by the Planning Authority to suitably address the physical impact of the development upon the site.

iii. 6 months prior to the commencement of decommissioning of the Development, the approved detailed decommissioning, restoration and aftercare plan shall be reviewed by the Company and the Planning Authority, in consultation with SEPA and SNH. Any changes to the plan as required by the Planning Authority, SEPA or SNH shall be made by the Company and shall be submitted in writing for approval by the Planning Authority, in consultation with SEPA and SNH. The approved plan shall then be implemented in full.

iv. 6 months prior to the commencement of decommissioning of the Development, details of the appointment of an Ecological Clerk of Works shall be submitted to and approved in writing by the Planning Authority (in consultation with SNH and the SEPA). The decommissioning ECoW shall oversee the implementation of the detailed decommissioning, restoration and aftercare plan.

v. The Development Site shall be decommissioned, restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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

Reason: To ensure the decommissioning and removal of the Development concurrently with Fallago Rig 1 in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

33. Financial Guarantee

There shall be no Commencement of Development unless the Company has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 32 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 32. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

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

Appendix 1 – Drawing Numbers

Figure 1.1	Site Context
Figure 1.2	Site Boundary
Figure 3.1	Site Layout and Constraints
Figure 3.2	Design Iterations
Figure 4.1	Site Layout
Figure 4.2	Indicative Turbine
Figure 4.3	Typical Road Types
Figure 4.4	Typical Culvert
Figure 4.5	Typical Bridge / Culvert
Figure 4.6	Turbine Foundation
Figure 4.7	Crane pad hardstanding
Figure 4.8	Substation
Figure 4.9	Cable Trench
Figure 4.10	Indicative Construction Compound
Figure 4.11	Indicative Batching Plant
Figure 4.12	Indicative Construction Programme
Figure 4.13a	Borrow Pit A
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Figure 8.1	Designated Assets and ZTV to Blade Tip
Figure 8.2	Non Designated Heritage Assets
Figure 9.1	Ecological Designated Sites
Figure 9.2	NVC Survey Map
Figure 10.1	Location of Extension and Designated Ornithological Sites
Figure 11.1	Hydrological Features
Figure 11.3	Hydrological Constraints
Figure 12.1	Noise Monitoring Locations
Figure 13.1	Construction traffic route
Figure 16.1	Infrastructure locations

Appendix 2 - Definitions:

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

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

'Commencement of Development' Means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997.

The 'Development' (Fallago Rig 2 wind farm) is defined as 12 turbines, each to a height of up to 126.5m to blade tip and an installed capacity 3.45MW, and their supporting infrastructure comprising access tracks, crane hard standings, a transfer and control building (and electricity sub-station if required), two borrow pits and two temporary construction compounds authorised by this consent and deemed planning permission.

For the purposes of the conditions, "the company" means EDF Energy Renewables Limited Registered number: 06456689. Registered office: 40 Grosvenor Place, London, SW1X 7EN , and its permitted assignees who are in possession of a letter of authorisation from the Scottish Ministers in accordance with condition 3.

'Fallago Rig Wind Farm Site' comprises Fallago Rig 1 and Fallago Rig 2 Wind Farms. And is defined as the site area set out in Figure 1.1 of the Environmental Statement.

Appendix 3

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) Values of the LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS

4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

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

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound

level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10- metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

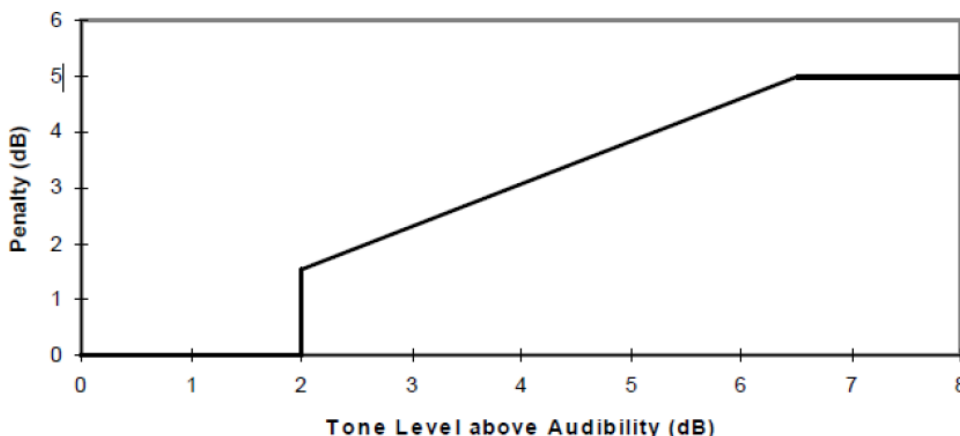
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e). Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

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

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
West Hopes	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Fasney Cottage	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Killpallet	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Byrecleugh	33.4	33.4	33.4	33.5	33.7	33.9	34.2	34.4	34.7	35.0	35.4	35.7

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

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
West Hopes	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.7	34.4	34.9
Fasney Cottage	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0
Killpallet	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0
Byrecleugh	33.0	33.0	33.0	33.0	33.0	33.9	35.3	36.7	38.0	39.3	40.6	41.8

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
West Hopes	355757	662730
Fasney Cottage	360968	663362
Killpallet	362880	660551
Byrecleugh	362821	658010

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