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Riaghaltas na h-Alba  
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**APPLICATIONS TO THE SCOTTISH MINISTERS UNDER  
SECTION 37 OF THE ELECTRICITY ACT 1989 WITHOUT AN  
EIA REPORT**

**GUIDANCE - PROCESSING APPLICATIONS**

**August 2019 update**

## **CONTENTS**

- 1. INTRODUCTION**
- 2. APPLYING FOR 37 CONSENT WITHOUT AN EIA REPORT**
- 3. LAND RIGHTS**
- 4. OBTAINING VIEWS OF RELEVANT PLANNING AUTHORITIES –  
SIMPLIFIED NOTIFICATION**
- 5. CONSULTATION**
- 6. DETERMINATION**

**ANNEX A: SIMPLIFIED NOTIFICATION TEMPLATE**

**ANNEX B: CONSENT LETTER TEMPLATE**

**ANNEX C: APPLICATION FORM**

**ANNEX D: SECTION 37 CONSENTS: TEMPLATE CONDITIONS**

## **1. INTRODUCTION**

Subject to certain exceptions, proposals to install and keep installed overhead power lines and associated ancillary development require consent under section 37 of the Electricity Act 1989. Applications must be made in accordance with the Electricity (Applications for Consent) Regulations 1990. On granting consent under section 37, Scottish Ministers may also direct that planning permission for that development shall be deemed to be granted in terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997. The consent and deemed planning permission may be subject to conditions. All applications for consent for overhead lines will be processed on behalf of Scottish Ministers by the Energy Consents Unit (ECU). Details of current applications and past decisions can be viewed on our website. <http://www.energyconsents.scot/Default.aspx>

**This guidance applies to applications for consent under section 37 of the Electricity Act 1989 which do not require to be accompanied by an EIA Report. This guidance is intended to provide applicants with advice on supporting information requirements and an overview of the processes applied by the ECU, and may also be used as a reference point for any other interested parties.**

## Is section 37 consent required? - Exemptions

Consent to install an overhead electric line, or to keep an existing line installed, is required under the Electricity Act 1989 unless covered by a statutory exemption. The Electricity Act 1989 itself has two exemptions from consenting procedures. Section 37(2) provides that the following exemptions apply:

- (i) any line up to and including 20kV which is used or intended to be used for supplying a single customer; and
- (ii) any part of a line that will be, or is in, premises in the occupation or control of the person responsible for its installation.

There are also exemptions from consent for certain minor works to overhead lines in the Overhead Lines (Exemption) (Scotland) Regulations 2013.

It is an offence to contravene the provisions of section 37 of the Electricity Act 1989. It is for prospective applicants to satisfy themselves whether a relevant exemption applies. If relevant exemptions apply, then no application is required under section 37 of the Electricity Act 1989.

Where no exemption applies, an application must be made to Scottish Ministers in accordance with the Electricity (Applications for Consent) Regulations 1990.

## Is an EIA required?

Where the proposed development is EIA development, i.e. it falls within either Schedule 1 to the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations), or Schedule 2 to the EIA Regulations and is likely to have significant effects on the environment by virtue of factors such as its nature, size or location, an Environmental Impact Assessment (EIA) will be required. Any application for consent for development which falls under this category must comply with the EIA Regulations and should be accompanied by an EIA report. **This guidance applies only to applications under section 37 of the Electricity Act 1989 which do not relate to EIA development within the meaning of the EIA Regulations, including applications for development which do not fall under Schedule 1 or Schedule 2 development and therefore would not require to be screened.**

Scottish Ministers may issue a screening opinion which determines whether a proposed overhead line is EIA development within the meaning of the EIA Regulations. Scottish Ministers may issue a screening opinion at their own volition, or on receipt of a request from a prospective developer in accordance with regulation 8 of the EIA Regulations. Regulation 8 describes the information required to accompany a request for a screening opinion.

Regulation 10 of the EIA regulations sets out that where an application under section 37 is received is an application for schedule 2 development in terms of the EIA regulations, the Scottish Ministers must adopt a screening opinion in respect of the

proposed development to which the application relates, unless a screening opinion has already been adopted for that development.

If it is determined that the development is not EIA development and that therefore the EIA Regulations do not apply, the application will be processed as outlined below.

## **2. APPLYING FOR SECTION 37 CONSENT WITHOUT AN EIA REPORT**

### **Who Can Apply for Section 37 Consent?**

The Electricity Act 1989 does not specify who may apply for a section 37 consent, therefore there is no restriction on who may apply.

It is important to note that only electricity licence holders can apply for necessary wayleaves under Schedule 4 of the Electricity Act 1989. Necessary wayleaves allow licence holders access to install and keep installed electric lines on land for which a voluntary agreement has not been reached with the relevant landowner or occupier. Chapter 3 of this guidance provides further information on necessary wayleaves.

### **Submission of Applications**

All applications for Electricity Act consent must comply with Schedule 8 to the Electricity Act 1989 and the Electricity (Applications for Consent) Regulations 1990 (as amended).

Applications should be made through the Energy Consents Unit Website: [www.energyconsents.scot](http://www.energyconsents.scot) Applicants experiencing difficulties using or accessing the website should contact us at [ECDUOnline@gov.scot](mailto:ECDUOnline@gov.scot)

**An application made under section 37 of the Electricity Act which is not for EIA development will not be treated as complete until all information on the checklist of supporting information requirements below has been received.** The information must be up to date - 'Form B' will no longer be accepted and the Simplified Notification form must be used.

The ECU will aim to acknowledge receipt of an application within 10 working days. If an acknowledgement has not been received within 10 working days, applicants should contact the ECU to confirm that the application has been received. An application reference number will be allocated to each application received, and this reference number should be quoted in all correspondence relating to the application between the applicant and the ECU.

### **Payment of application fees**

New application fee levels were introduced on 30<sup>th</sup> June 2019. Applicants should refer to [The Electricity \(Applications for Consent and Variation of Consent\) \(Fees\) \(Scotland\) Regulations 2019](#) in order to determine the correct fee which should be paid on making an application. A fee calculator has been produced to assist

applicants - this is available at the following web address - <https://www.gov.scot/publications/energy-consents-application-fee-calculator/>

From **23 September 2019**, all fee payments in respect of applications for Energy Consents must be made electronically using the following payment details:

Name of account	Scottish Government
Sort code and account number	60-70-80 10019502
Bank name and address	National Westminster Bank London Corporate Service Centre CPB Services 2nd Floor 280 Bishopsgate London EC2M 4RB
IBAN and SWIFT codes	GB15NWBK60708010019502 NWBKGB2L

Applications will not be validated until receipt of the correct payment into this account has been confirmed by ECU. The payment should be accompanied by the a payment reference number which should take the following format -

Reference number format	Application Type
ECU37N and first 10 characters of application title	Application under section 37 which is not for EIA development
ECU37 and first 11 characters of application title	Application under section 37 which is for EIA development
ECU36C and first 10 characters of application title	Variation application under section 36C for EIA development
ECU36CN and first 9 characters of application title	Variation application under section 36C which is not for EIA development
ECU36 and first 11 characters of application title	Application under section 36 which is for EIA development
ECU36N and first 10 characters of application title	Application under section 36 which is not for EIA development

The reference number used in making the payment should be clearly visible on either the application covering letter or application form submitted by the applicant.

Applicants will note that the website offers WorldPay as a means of payment. This is no longer the preferred method of payment. Should any applicants wish to pay by this method, please contact [econsents\\_admin@gov.scot](mailto:econsents_admin@gov.scot) in the first instance.

Should there be any issues with the above instructions, please contact [econsents\\_admin@gov.scot](mailto:econsents_admin@gov.scot) for advice

## Supporting Information Requirements

All applications should be accompanied by:

- A detailed description of the development, including all ancillary development e.g. temporary/permanent access tracks/limits of deviation etc. The description of the development will form the basis of any planning permission which Ministers may direct to be deemed to be granted for a proposed development. The onus is on the applicant to ensure that the description of the development for which consent and deemed planning permission is sought is comprehensive;
- A location plan – should be a scale that is appropriate to the size of the development and must identify the land to which the proposal relates and its situation in relation to the locality, in particular in relation to neighbouring land. This plan will be used to define the works for which any section 37 consent and deemed planning permission is issued. The onus is on the applicant to ensure that the plan adequately identifies the land to which the applicant relates, including any limits of deviation or ancillary development;
- A site plan – should be a scale that is appropriate to the size of the development and show the direction of North; general access arrangements, landscaping, site boundaries, buildings, roads and footpaths;
- Details of previous consultations carried out, including evidence of correspondence from consultees;
- Confirmation that the landowner(s) of the land to which the application relates has been notified (in writing) of the proposed application;
- A Simplified Notification template\* which has been completed and endorsed by the relevant planning authority (see section 4 for information on the Simplified Notification process);
- Appropriate application fee prescribed by the Electricity (Applications for Consent) Regulations 1990, as amended;
- Environmental Report/Appraisal\*\*, which should include information detailing the applicant's considerations of its obligations under Schedule 9 to the Electricity Act 1989; and evidence that it has complied with its duty to do what it can to mitigate the effects of the development.

\* Where an incomplete Simplified Notification Template is received (or none at all), the planning authority will be formally consulted by ECU.

\*\* An Environmental Report/Appraisal may be requested by Ministers, if considered necessary to inform consideration of the application having regard to the scale of the proposed development and its associated environmental impacts.

An application form is included at Appendix C. Should applicants wish to submit an application form, the form at Appendix C must be used and not any previous versions of the form as these are out of date. Note that applications made on the Energy Consents Unit Website do not require to include this form as the details within are requested to be entered on applying electronically.

## Section 37 Template Conditions

Annex D includes template conditions used by the ECU when drafting consents; the wording of these conditions has been agreed between Heads of Planning Scotland and Scottish Government colleagues, and will evolve over time to reflect emerging best practice. Not all of the template conditions in this list will be applicable in every case, the intention of the suite of conditions is to provide a 'menu' which covers mitigation measures for many of the main issues that typically arise during consultation for this type of development. Applicants are encouraged to submit a revised version of the template conditions alongside their completed Simplified Notification, providing their view of the conditions and modifications to the template conditions which they consider to be appropriate in the circumstances of the application. Ministers will take account of that representation when considering which conditions might be appropriate on determination of the application.

### **3. LAND RIGHTS**

The applicant will require permission from the relevant landowner and/or occupier to install and keep installed an electric line, and to access the land as required for maintenance. In the majority of cases, land rights are secured voluntarily with the landowner/occupier prior to an application for section 37 consent being made. At the point of application, it is expected that all required land rights will have been secured, however if this is not the case, the applicant should provide details of the current status of discussions. This includes details of the extent of outstanding land rights, negotiations held to date with the relevant landowner/occupier(s), and the issues surrounding the failure to agree the land rights voluntarily.

If voluntary land rights cannot be agreed the applicant, provided they are a licence holder, can apply to Scottish Ministers for a necessary wayleave. The ECU has produced guidance outlining the necessary wayleave process and good practice to be followed when applying for necessary wayleaves – *Applications to the Scottish Ministers for the Grant of a Necessary Electricity Wayleave in Scotland: Guidance for Applicants, Landowners and Occupiers*. Where possible, applicants are encouraged to submit applications for section 37 consent and necessary wayleaves at the same time.

Paragraph 6 of Schedule 8 to the Electricity Act 1989 sets out courses of action available to Ministers when an application is submitted for section 37 consent where land rights have not been agreed. The ECU will consider each application on a case by case basis, including which option available in this paragraph would be most appropriate in each case. The applicant will be kept fully informed throughout this consideration by the relevant case officer.

**It is the Scottish Ministers' intention to progress all applications for section 37 consent without delay. Ministers reserve the right to determine (to refuse or in exceptional circumstances to approve) applications for section 37 consent where necessary land rights have not been secured.**

#### **4. OBTAINING VIEWS OF RELEVANT PLANNING AUTHORITIES – SIMPLIFIED NOTIFICATION**

If the nominal voltage of the proposed overhead line is below\* 132kV, the applicant may serve notice of the proposed application on the planning authority within whose area the development will be located in advance of contacting the ECU. The Simplified Notification template forming Annex A to this guidance should be sent to the relevant planning authority with part I completed. Part I includes a detailed description of the proposed development and details of any consultations taken by the applicant to date. The planning authority should complete part II of the Simplified Notification template and return to the applicant. The applicant should attach the completed Simplified Notification template to its application for section 37 consent. The description of the development within the Simplified Notification must be consistent with the description given in the application.

Under paragraph 2 of schedule 8 to the Electricity Act 1989, if the relevant planning authority objects to the proposed development, Scottish Ministers must cause a public inquiry to be held. However, they need not do so where they propose to grant the application subject to modifications or conditions which will give effect to the objection of the planning authority.

A public inquiry may also be held in cases where the relevant planning authority does not object to the proposed development but where Scottish Ministers determine that a public inquiry would be appropriate having considered objections which have been submitted to them and all other material considerations.

\* Please note that for applications for overhead lines with a voltage of 132kV or above, it is not a requirement to provide Simplified Notification to the planning authority.

#### **5. CONSULTATION**

##### **Obtaining views of other consultees**

On receipt of an application for an overhead line with a nominal voltage of **under** 132kV which **has** been accompanied by a completed Simplified Notification template, the ECU will consider the sufficiency of the information contained therein and may carry out further consultation as required.

On receipt of an application for an overhead line with a nominal voltage of **under** 132kV which **has not** been accompanied by a completed Simplified Notification template or an application for a line with a voltage of 132kV or over, the ECU will consult the planning authority and those consultees likely to have an interest in the proposed development by reason of their specific environmental responsibilities. The planning authority has two months to provide its consultation response, or such longer period as may be agreed in writing with Scottish Ministers. Other consultees will be requested to provide their response within 30 days.

Taking into account all responses received including public representations, and other material considerations, a decision letter will be prepared on behalf of Scottish

Ministers, outlining the reasons for the decision, and in cases where consent is granted, attaching conditions, where appropriate.

### **Obtaining views of the public**

Applications for consent for overhead lines with a voltage of 132kV or above must be advertised by the applicant in accordance with the requirements of the Electricity (Applications for Consent) Regulations 1990, as amended. The advert will include details of how members of the public can make representations to the application.

Any representations to applications may be submitted via the energy consents website at [www.energyconsents.scot](http://www.energyconsents.scot); by email to the ECU mailbox at [representations@gov.scot](mailto:representations@gov.scot); or by post to the Scottish Government Energy Consents Unit, 4<sup>th</sup> Floor, 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8 LU, identifying the proposal and specifying the grounds for representation.

## **6. DETERMINATION**

Ministers may grant or refuse the application for consent, and any consent granted may be subject to conditions.

The ECU aims to expedite all applications to determination, however this is dependent upon applicants supplying sufficiently detailed information at application stage, and ensuring that all required land rights have been secured.

ECU may re-consult the planning authority in cases where there has been an extended period of time between receipt of the endorsed Simplified Notification Template and determination of the application.

The ECU will publish all decision letters pertaining to section 37 applications on the Energy Consents website.

## **ANNEX A**

### **SIMPLIFIED NOTIFICATION TEMPLATE**

ELECTRICITY (APPLICATIONS FOR CONSENT) REGULATIONS 1990

SIMPLIFIED NOTIFICATION

PART I

Notification to Planning Authority under the Electricity Act 1989 (as amended) and the Electricity (Applications for Consent) Regulations 1990

Applicants

Reference:

.....

To -

Dear Sir/Madam

**\*Development Description/Title\*: (Overhead Line of less than 132kv)**

Notice is hereby served that an application (bearing the above reference and date) will be made to the Scottish Ministers under Section 37 of the Electricity Act 1989 (as amended) for consent to the development as described at 1 below to be carried out by **\*Company Name\***. It is confirmed that due consideration has been given to the requirements of Paragraph 3 of Schedule 9 of the Electricity Act 1989 (as amended) in formulating this proposal. Further information in connection with the application is provided at 2 and 3 below.

In accordance with the Electricity (Applications for Consent) Regulations 1990 (SI 1990/455) regulation 9, an applicant may give written notice to a planning authority of a proposal to make an application to the Scottish Ministers under Section 37 of the Electricity Act 1989. I hereby request that you give written notification in respect of my proposed application as to whether or not you would object to the proposal in terms of the particulars given at items 1 to 5 on the following pages. I should be grateful if you would complete part II of this form in responding to this request, and return to me as soon as possible.

Yours faithfully

Signature .....

Print Name.....

Registered Address and Company Number:

.....

.....

.....

Designation .....

Date .....

For completion by applicant:

1. Particulars of proposed development including:
  - Details of all infrastructure to be installed and any associated demolition works
  - Description of construction methods to be used and proposed means of access and transport of materials to the areas where infrastructure will be installed
  - Any associated traffic management requirements
  - Estimated construction time frame
  - Location of development including grid reference points where appropriate – an OS map is included showing location of infrastructure and surrounding features and landmarks
  
2. Information to indicate that this proposal is outwith the scope of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017:
  
3. Information to indicate that the applicant has had regard to the provisions of Paragraph 3, Schedule 9 of the Electricity Act 1989 in formulating these proposals:
  
4. Details of consultations carried out by the applicant and any objections received. Please provide copies of all correspondence.
  
5. Are there any outstanding land rights issues associated with this proposal? Please give details of outstanding wayleaves and progress made in engaging with affected landowner(s):

I HEREBY CONFIRM THAT THE ABOVE LINE AND ITS SUPPORTS WILL COMPLY WITH THE ELECTRICITY SAFETY, QUALITY AND CONTINUITY REGULATIONS 2002 (AS AMENDED).

PART II



7. Does the Planning Authority approve the proposed development as described in Part I (1)?
  
8. If the planning authority approves the proposed development subject to modifications, please state the modifications agreed with the applicant below, on separate paper if necessary:
  
9. If the planning authority approves the proposed development subject to conditions, please state here, and provide conditions on a separate paper. Please have regard to the Section 37 model conditions published by the Scottish Government within guidance for these applications.
  
10. In some cases there may be extended periods of time between this notification and the determination of the Section 37 application by Scottish Ministers. Therefore, if this is a notification **not** objecting to the proposal, please indicate over what time period this notification is valid:

Signed .....

Designation .....

Date .....

Planning Authority .....

**ANNEX B**

**CONSENT LETTER TEMPLATE**



T: 0131-244-  
E: @gov.scot

*Applicant Name*  
*Applicant Address*

*Date*

Dear

**CONSENT UNDER SECTION 37 OF THE ELECTRICITY ACT 1989 AND DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 THAT PLANNING PERMISSION BE DEEMED TO BE GRANTED TO INSTALL A NEW [voltage and description of overhead line e.g. 132kV overhead electric Line] SUPPORTED BY [number of and details of support e.g. 24 steel lattice towers/wooden poles] BETWEEN [start of line] AND [end of line]; LOCATED WITHIN THE PLANNING AUTHORITY AREA OF [relevant planning authority]**

### **Application**

I refer to the application made by [Company name, Company number and registered address] (“the Company”) dated [date of application] for consent from Ministers under section 37 of the Electricity Act 1989 (“the Electricity Act”) and deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 to install a new [voltage and description of line] supported by [details of overhead line supports] with a route length of approximately XXkm between [start of line] and [end of line].

The Development (as described in Annex 1) will be located in the Planning Authority area of [planning authority] Council. This letter contains the Scottish Ministers’ decision on the application.

### **Planning Permission**

In terms of section 57(2) of the Town and Country Planning Act (Scotland) 1997 the Scottish Ministers may on granting consent under section 37 of the Electricity Act direct that planning permission be deemed to be granted in respect of the electric line and any ancillary development. This letter contains the Scottish Ministers’ decision on such a direction.

### **Background**

On [date of application], the Company submitted an application accompanied by an [e.g. Environmental Appraisal] for a [description of development].

This overhead line project and associated ancillary development [need for development – e.g. ‘will provide grid connection for the consented XXX Wind Farm which has a maximum generating capacity of XXMW’].

[If development has been previously screened, include details in this section].

## **Consultation**

In accordance with statutory requirements, advertisements of the application required to be placed in the local press and Edinburgh Gazette. Ministers note that these requirements have been met. [only applicable where the voltage of the overhead line is 132kV or above]. Under Schedule 8 of the Electricity Act, the Scottish Ministers consulted the relevant planning authority, [planning authority] Council, of the section 37 application [not applicable if a Simplified Notification template has been submitted with the application and there is no need to further consult the planning authority]. Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES) were also consulted [if applicable]

[Planning Authority] **Council** (Statutory Consultee and Planning Authority) [summarise consultee comments]\*

\*[if a completed Simplified Notification template has been received with the application and no further consultation is considered necessary, insert the following text:

“Written notice of the proposal to make the application was sent to [Planning Authority] in advance of the application being made. As [Planning Authority] notified the Company in writing on [date of signature on Simplified Notification template] of whether or not it would object to the application [regulation 9 of the Electricity (Applications for Consent) Regulations 1990 applies.”]

**Scottish Natural Heritage (SNH)** [summarise consultee comments].

**The Scottish Environment Protection Agency (SEPA)** [summarise consultee comments].

**Historic Environment Scotland (HES)** [summarise consultee comments].

*[insert any other consultee summaries here]*

## **Representations**

[If any public representations have been received – summarise the number of objections/support and the grounds of their representations].

## **Public Local Inquiry**

Under paragraph 2 of Schedule 8 to the Electricity Act, if the Planning Authority make an objection and that objection is not withdrawn, the Scottish Ministers must cause a

public inquiry to be held. The relevant Planning Authority did not object to the proposed Development. Therefore, paragraph 2 does not require that a Public Local Inquiry (PLI) be held.

Paragraph 3 of Schedule 8 provides that where objections or copies of objections have been sent to the Scottish Ministers in pursuance of regulations made under that paragraph, the Scottish Ministers must 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, they must cause a PLI to be held. The Scottish Ministers have taken all material considerations into account. The Scottish Ministers do not consider it is appropriate to cause a PLI to be held. They consider that there are no significant issues which have not been adequately considered in the application documents and consultation responses, and that they have sufficient information to be able to make an informed decision on the application without the need for a PLI.\*

\*[This is the paragraphs to be used where the planning authority has not objected – if the planning authority objects to the application, this section will need to be changed].

## **The Scottish Ministers' Considerations**

### **Planning**

The Scottish Planning Policy 2014 (SPP) introduces a presumption in favour of development that contributes to sustainable development. It sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure, including energy, and protecting natural heritage, including landscape and the wider environment. SPP is a material consideration in the Scottish Ministers' consideration of the application.

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that deemed planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such overhead lines, and the variables around renewable energy connections feeding into the line, a 5 year time scale for the commencement of the development is appropriate. A direction by Scottish Ministers under section 58(2) of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

### **Environmental Matters**

In accordance with paragraph 3 of Schedule 9 to the Electricity Act 1989, the Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Ministers have also had regard to the extent to which the Company has done what it reasonably can to mitigate the effects of the Development on those features.

The Scottish Ministers have considered fully and carefully the application, the accompanying documents and all responses from consultees and third parties. Ministers have assessed the environmental impacts of the Development and taken into account the extent to which any environmental effects will be mitigated by measures the Company will be required to take under the conditions attached to the section 37 consent or the conditions attached to the deemed planning permission. The Scottish Ministers are satisfied that environmental issues can be appropriately addressed by way of mitigation, and that any impacts which remain are outweighed by the benefits the Development will bring.

### **The Scottish Ministers' Determination**

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 37 of the Electricity Act 1989 to install and keep installed above ground an electric line as described in Annex 1.

This consent may, at any time after the expiry of a period of 6 months from the date of the consent, be varied or revoked by the Scottish Ministers under section 37(3)(b) of the Electricity Act 1989.

Subject to the conditions set out in Part 2 of Annex 2, Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that **planning permission be deemed to be granted** in respect of the Development described in Annex 1.

Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply to the deemed planning permission but that the permission is to lapse on the expiration of a period of 5 years from the date of this direction unless the Development has begun before the expiration of that period.

Copies of this letter and the consent have been sent to [\[planning authority\]](#) as the relevant Planning Authority. This letter has also been published on the Scottish Government Energy Consents website.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts – <http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=8>. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely,

[case officer]

A member of the staff of the Scottish Government

## Annex 1

### Description of Development

The installation of a new [voltage and description\* of overhead line] supported by [details and number of supports] with a route length of approximately XXkm between [start of line] and [end of line], and associated ancillary works including [details of ancillary works], all as more particularly described in the application made to the Scottish Ministers by [applicant] on [date of application], and the accompanying [e.g. Environmental Report if applicable], along the route and with [tower/pole] locations all as shown on plans comprising Annex 3.

\*consider relationship to any existing lines that are being dismantled as part of the Development.

## Annex 2

### CONDITIONS

#### Part 1

#### Conditions applying to section 37 consent

##### Commencement of Development

1. The Commencement of the Development must be no later than the date occurring 5 years after the date of this consent, or such other period as the Scottish Ministers may direct in writing.

Reason: To ensure the Commencement of the Development is within a reasonable time period.

##### Non-assignment

2. This consent must not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the 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. The Company shall notify the 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 ensure obligations under the consent are appropriately secured in the event of assignment to a third party.

##### Serious Incident Reporting

3. 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.

+ any other applicable section 37 conditions from the template conditions to be inserted in this section.

## Part 2

### Conditions applying to deemed planning permission

1. 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 plans listed at [Annex 3](#) to this decision, [environmental report](#), [further 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.*

### Construction Hours

2. Construction work which is audible from any noise-sensitive receptor shall only take place 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, development on the site shall be limited to maintenance, emergency works, dust suppression, and the testing of plant and equipment.

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

*Reason: In the interests of local amenity.*

+ any other applicable planning conditions from the template conditions to be inserted in this section.

Consider conditions which may be pertinent to any dismantling of existing lines to which the application relates.

## Definitions

In this consent and deemed planning permission:-

"Commencement of the Development" means the initiation of the Development by the carrying out of a material operation within the meaning of section 27(4) of the Town and Country Planning (Scotland) Act 1997;

"the Company" means the person for the time being entitled to the benefit of the consent under section 37 of the Electricity Act 1989, such person at the date of the consent being [applicant] registered at [company's registered address] (Registered company number XXXXXX);

"electric line" has the same meaning as in section 64 of the Electricity Act 1989.

## **Annex 3**

### **Site Layout Maps**

Plan References:

## **ANNEX C – APPLICATION FORM**

Application For Consent Under Section 37 of  
The Electricity Act 1989 (non-EIA development)

**Section 1: Applicant**

Company Name  
and number: \_\_\_\_\_

Company  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Your Reference: \_\_\_\_\_

Fee Payment  
Reference: \_\_\_\_\_

Applicants must ensure that this application is submitted in accordance with section 37 and schedule 8 to the Electricity Act, the Electricity (Applications for Consent) Regulations 1990 as amended, the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019 and in accordance with the published guidance: [Applications to the Scottish Ministers under section 37 of the Electricity Act 1989 without an EIA report](#).

**Section 2: The Proposed Development**

Development Title: \_\_\_\_\_

Voltage: \_\_\_\_\_

Total Route Length: \_\_\_\_\_

\_\_\_\_\_

Height of Highest  
Structure: \_\_\_\_\_

Description of Land: \_\_\_\_\_

Description of Location: \_\_\_\_\_

OS Grid References of  
start and end points of  
proposed line, or of  
individual poles/towers if  
appropriate. If this is a  
rebuild, please include  
grid references of all  
relevant start and end  
points:

\_\_\_\_\_

Comments sought from which Planning Authority on Simplified Notification:

Description of development and installation for which consent is sought,  
including any development which is ancillary to the overhead line:

Wayleaves:  
Simplified  
Notification (sub  
132kv only):

All Obtained  
 Simplified  
Notification Attached

Still Being Negotiated  
 Endorsed by Planning  
Authority

## Section 3: Screening

Please tick either Yes or No

Has this development proposal previously been the subject of a screening opinion from the Scottish Ministers as to whether it constitutes EIA development in terms of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) ('the regulations')?

Yes	No

If Yes, Please Give Details:

Does the proposed development constitute schedule 2 development in terms of the regulations, or do you wish Ministers to adopt a screening opinion?

Yes	No

If Yes, has all information required under regulation 8 of the regulations been supplied with this application?

Information requirements:

- I) a description of the location of the development, including a plan sufficient to identify the land (Ordnance Survey map in colour);
  - II) A description of the proposed development, including in particular the physical characteristics of the development, and a description of the location of the proposal with particular regard paid to the environmental sensitivity of the geographical areas likely to be affected
  - III) a description of the aspects of the environment likely to be significantly affected by the development
  - IV) a description of any likely significant effects on the environment resulting from expected emissions, residues and the production of waste, where relevant, and the use of natural resources - in particular, soil, land, water and biodiversity
- The information may also be accompanied by a description of any features of the development or measures proposed which are envisaged to avoid or prevent significant adverse environmental effects. The information above must be compiled taking into account, where relevant, the selection criteria set out in schedule 3 of the regulations and the available results of any relevant assessment.

Please tick the following boxes as applicable:

Does the proposed line:

Exceed 500 metres in total length

Exceed 15 kilometres in total length

Voltage:

Less than 132kV

132kV or more

	Yes	No
Is the purpose of the intended electric line to connect to a generating station which requires consent to be constructed or operated under section 36 of the Electricity Act 1989?	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Is the proposed electric line in a Sensitive Area as defined in schedule 2 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)?	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Are you aware of any Sensitive Areas nearby on which that the development may have an adverse effect? If yes please provide details on accompanying documentation.	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Is the proposed development likely to have a significant effect on the environment by virtue of factors such as its size, nature, or location? If yes please provide details.	<input type="checkbox"/>	<input type="checkbox"/>

Under the terms of Regulation 3 of the regulations Scottish Ministers must not grant Electricity Act consent for EIA development or direct that planning permission is deemed to be granted in respect of EIA development unless an EIA has been carried out in respect of that development.

## Section 4: Declaration

I hereby apply to the Scottish Ministers for Consent under Section 37 and Schedule 8 of The Electricity Act 1989 and for planning permission to be deemed to be granted under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the proposed electric line referred to herein.

This application is submitted and application fee paid in accordance with all applicable legislation and published guidance - [Applications to the Scottish Ministers under section 37 of the Electricity Act 1989 without an EIA report](#). Unless a screening opinion has been requested herein I confirm that to the best of my knowledge the development applied for is not EIA development and is not an application for schedule 2 development in terms of the regulations.

I understand that if granted the terms and conditions of any Consent will reflect the information provided with this application. It is the responsibility of the applicant to ensure that those terms are complied with.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

For: \_\_\_\_\_

## Section 5: Payment

I have paid the sum of \_\_\_\_\_ in accordance with [The Electricity \(Applications for Consent and Variation of Consent\) \(Fees\) \(Scotland\) Regulations 2019](#) and in accordance with instructions set out in the guidance - [Applications to the Scottish Ministers under section 37 of the Electricity Act 1989 without an EIA report](#).

I confirm that I have added the fee payment reference number on page 1 of this application form.

## **ANNEX D – TEMPLATE CONDITIONS**

This list of specimen conditions has been prepared for use by the ECDU, to assist consistency of decision making. However, this list is not comprehensive. Conditions should always be revised or adapted where appropriate to suit the particular circumstances of a case.

The consent granted under section 37 of the Electricity Act 1989 and direction that planning permission is deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 are subject to the following conditions:

<b>Conditions Attached to Section 37 Consent</b>	
<b>1.</b>	<p><b>Commencement of Development</b></p> <p>The Commencement of the Development shall be no later than [three years]<sup>1</sup> 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.</p> <p><i>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.</i></p>
<b>2.</b>	<p><b>Non-assignment</b></p> <p>This consent may not be assigned 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.</p> <p><i>Reason: To safeguard the obligations of the consent if transferred to another company.</i></p>
<b>3.</b>	<p><b>Serious Incident Reporting</b></p> <p>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.</p> <p><i>Reason: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.</i></p>
<b>4.</b>	<p><b>Grant of Section 37 Consent in circumstances where land rights have not been agreed</b></p> <p>No work is to proceed on or over land [insert description of land in respect of which land rights have not been secured, eg from towers 1 - 21 and from towers 29 – 31] as more particularly shown [delineated in red] on plan reference XXX, until Scottish Ministers have given their written permission.</p> <p><i>Reason: In implementation of powers conferred by paragraph 6 of Schedule 8 to the Electricity Act 198, to allow consent to be implemented only in respect of those areas of land</i></p>

<sup>1</sup> This period may be increased where a longer period for implementation is justified in the circumstances of the case.

	<i>where relevant land rights have been secured.</i>
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<b>Conditions Attached to Deemed Planning Permission</b>	
<b>5.</b>	<p><b>Implementation in accordance with approved plans and requirements of this consent</b></p> <p>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/ insert drawing reference showing site layout]), EIA report (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.</p> <p><i>Reason: to ensure that the Development is carried out in accordance with the approved details.</i></p>
<b>6.</b>	<p><b>Design of sub-station and ancillary development</b></p> <p>There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of the substation building, ancillary development, 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, ancillary development, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.</p> <p><i>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 EIA report and in the interests of the visual amenity of the area.</i></p>
<b>7.</b>	<p><b>Micro-siting and Limits of Deviation</b></p> <p>All towers, areas of hardstanding and tracks shall be constructed in the location shown on plan reference XXX. Towers, areas of hardstanding and tracks may be adjusted by micro-siting within limits of deviation specified in this condition. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH), micro-siting and limits of deviation are subject to the following restrictions:</p> <ol style="list-style-type: none"> <li>a. No tower shall positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on plan reference XXX;</li> <li>b. No tower or area of hardstanding shall be moved more than XXm from the position shown on the original approved plans;</li> <li>c. No towers, electric lines or other apparatus will be moved more than XXm from the centre line shown on plan reference XXXX, with lateral limits of deviation being restricted to the area shown [shaded in pink] on plan reference XXX;</li> <li>d. No access track shall be moved more than XXm from the position shown on the original approved plans;</li> <li>e. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).</li> </ol> <p>No later than one month after the Date of Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all towers, 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.</p> <p><i>Reason: to control environmental impacts while taking account of local ground conditions.</i></p>

<p>8.</p>	<p><b>Borrow Pits – Scheme of Works</b></p> <p>There shall be no Commencement of Development unless a site specific scheme for the working of [the/ 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;</p> <ul style="list-style-type: none"> <li>a. A detailed working method statement based on site survey information and ground investigations;</li> <li>b. Details of the handling of any overburden (including peat, soil and rock);</li> <li>c. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;</li> <li>d. A programme of implementation of the works described in the scheme; and</li> <li>e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.</li> </ul> <p>The approved scheme shall thereafter be implemented in full.</p> <p><i>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 EIA report 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.</i></p>
<p>9.</p>	<p><b>Borrow Pits – Blasting</b></p> <p>Blasting shall only take place 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.</p> <p>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.</p> <p><i>Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.</i></p>
<p>10.</p>	<p><b>Planning Monitoring Officer</b></p> <p>There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the Planning Authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent (“PMO”). The terms of appointment shall;</p> <ul style="list-style-type: none"> <li>a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;</li> <li>b. Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and</li> <li>c. Require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.</li> </ul>

	<p>The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.</p> <p><i>Reason: To enable the development to be suitably monitored to ensure compliance with the consent issued.</i></p>
11.	<p><b>Ecological Clerk of Works</b></p> <p>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;</p> <ol style="list-style-type: none"> <li>a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the EIA report and other information lodged in support of the application, the Construction and Environmental Management Plan, the Habitat Management Plan approved in accordance with condition 12, [any species or habitat management plans identified in the EIA report] and other plans approved in terms of condition 14 (“the ECoW works”);</li> <li>b. Require the EcoW to report to the Company’s nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;</li> <li>c. Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and</li> <li>d. Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.</li> </ol> <p>The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12p.</p> <p><i>Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.</i></p>
12.	<p><b>Construction and Environmental Management Plan</b></p> <p>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.</p> <p>The CEMP shall include (but shall not be limited to)<sup>2</sup>:</p> <ol style="list-style-type: none"> <li>a. a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;</li> <li>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;</li> <li>c. a dust management plan;</li> <li>d. site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);</li> <li>e. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;</li> <li>f. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;</li> </ol>

<sup>2</sup> Select from the following list those requirements which are relevant to the circumstances of the application.

	<ul style="list-style-type: none"> <li>g. soil storage and management;</li> <li>h. a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;</li> <li>i. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;</li> <li>j. 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;</li> <li>k. sewage disposal and treatment;</li> <li>l. temporary site illumination;</li> <li>m. the construction of the access into the site and the creation and maintenance of associated visibility splays;</li> <li>n. the method of construction of tower foundations and erection of steel lattices;</li> <li>o. details of watercourse crossings;</li> <li>p. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;</li> <li>q. a wetland ecosystems survey and mitigation plan<sup>3</sup></li> <li>r. a felling and tree management plan<sup>4</sup></li> </ul> <p>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.</p> <p><i>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 EIA report accompanying the application, or as otherwise agreed, are fully implemented.</i></p>
13.	<p><b>Pre- Construction Species Survey Work</b></p> <p>(1) Prior to the Commencement of Development, surveys for protected species shall be carried out by a suitably qualified person or persons in a manner appropriate to the phasing of the development.</p> <p>(2) The results of these surveys shall be used to inform preparation of a Species Mitigation and Management Plan.</p> <p>(3) There shall be no Commencement of Development until the Species Mitigation and Management Plan has been approved in writing by the Planning Authority.</p> <p>(4) The approved Species Mitigation and Management Plan shall be implemented in full.</p> <p><i>Reason: To minimise disruption to protected species and their habitats.</i></p>
14.	<p><b>Construction Hours</b></p> <p>Construction work which is audible from any noise-sensitive receptor shall only take place 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, development on the site shall be limited to</p>

<sup>3</sup> This requirement should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications

<sup>4</sup> This requirement should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications

	<p>maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.</p> <p>HGV movements to and from the site (excluding abnormal loads) during construction of the Development shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to for from site taking place on a Sunday or on national public holidays.</p> <p><i>Reason: In the interests of local amenity.</i></p>
15.	<p><b>Traffic Management Plan</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>The routing of all traffic associated with the Development on the local road network;</li> <li>Measures to ensure that the specified routes are adhered to, including monitoring procedures;</li> <li>Details of all signage and lining arrangements to be put in place;</li> <li>Provisions for emergency vehicle access;</li> <li>Identification of a nominated person to whom any road safety issues can be referred; and</li> <li>A plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width, axle configuration of all extraordinary traffic accessing the site.</li> </ol> <p>The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.</p> <p><i>Reason: In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.</i></p>
16.	<p><b>Habitat Management Plan<sup>5</sup></b></p> <p>There shall be no Commencement of Development unless a habitat management plan has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The habitat management plan shall set out proposed habitat management of the wind farm site during the period of construction and shall provide for the maintenance, monitoring and reporting of [insert site specific details where appropriate] habitat on site.</p> <p>The approved habitat management plan will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with SNH and SEPA.</p> <p>Unless otherwise agreed in advance in writing with the Planning Authority, the approved habitat management plan shall be implemented in full.</p> <p><i>Reason: In the interests of good land management and the protection of habitats.</i></p>
17.	<p><b>Programme of Archaeological Works<sup>6</sup></b></p> <p>There shall be no Commencement of Development unless the Planning Authority has</p>

<sup>5</sup> Include only where relevant in response to demonstrable requirement.

<sup>6</sup> This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

	<p>approved the terms of a programme of archaeological works to be observed during construction of the Development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved. The approved scheme of archaeological works shall thereafter be implemented in full.</p> <p><i>Reason: To ensure the protection or recording of archaeological features on the site.</i></p> <p><u>OR</u></p> <p><b>Archaeological Clerk of Works<sup>7</sup></b></p> <p>There shall be no Commencement of Development unless the Planning Authority has approved the terms of appointment by the Company of an independent Archaeological Clerk of Works (AcoW) in consultation with Historic Scotland. The scope of the AcoW's appointment shall include:</p> <ul style="list-style-type: none"> <li>a. Monitoring compliance with the archaeological mitigation works that have been approved in this consent;</li> <li>b. Advising the Company on adequate protection of archaeological interests on the site;</li> <li>c. Checking for new records of archaeological interests for which additional mitigation may be required;</li> <li>d. Directing the micro-siting and placement of towers and other apparatus;</li> <li>e. Monitoring the compliance with mitigation measures approved in this consent; and</li> <li>f. Reporting any breaches of the mitigation measures approved in this consent to the Planning Authority in writing.</li> </ul> <p>The AcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition <a href="#">12</a>.</p> <p><i>Reason: To ensure the protection or recording of archaeological features on the site.</i></p>
18.	<p><b>Replanting of Forestry<sup>8</sup></b></p> <p>There shall be no Commencement of the Development unless a woodland planting scheme to compensate for the removal of [insert area which corresponds to woodland to be removed<sup>9</sup>] hectares of existing woodland ("the Replanting Scheme") has been submitted for the written approval of the Planning Authority in consultation with Forestry Commission Scotland Conservator.</p> <p>The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include-</p> <ul style="list-style-type: none"> <li>(a) details of the location of the area to be planted;</li> <li>(b) details of land owners and occupiers of the land to be planted;</li> <li>(c) the nature, design and specification of the proposed woodland to be planted;</li> <li>(d) details of all consents required for delivery of the Replanting Scheme and timescales</li> </ul>

<sup>7</sup> This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

<sup>8</sup> This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.

<sup>9</sup> This figure should reflect the area to be felled as a consequence of the development. The total area of replanting may differ, depending upon nature and quality of area felled/ replanted etc in accordance with Control of Woodland Removal policy.

	<p>within which each will be obtained;</p> <p>(e) the phasing and associated timescales for implementing the Replanting Scheme;</p> <p>(f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and</p> <p>(g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.</p> <p>Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned unless all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.</p> <p>In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained, then the Company shall submit an amended Replanting Scheme to the Planning Authority for approval in consultation with Forestry Commission Scotland. Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned unless all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.</p> <p>The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Forestry Commission Scotland Conservator.</p> <p><i>Reason: To secure replanting to mitigate against effects of deforestation arising from the Development.</i></p>
19.	<p><b>Peat Landslide Management<sup>10</sup></b></p> <p>There shall be no Commencement of the Development until a detailed peat landslide risk assessment, addressing construction phase of the development and post-construction monitoring, has been approved in writing by the Planning Authority.</p> <p>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.</p> <p>The approved peat landslide risk assessment shall thereafter be undertaken in full prior to Commencement of Development.]<sup>11</sup></p> <p>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.</p> <p>The Company shall undertake continuous monitoring of ground conditions during the construction and deforestation phases of the Development. Continuous analysis and call out</p>

<sup>10</sup> To be imposed only in response to demonstrable requirement following peat risk assessment – not to be applied in all cases. Peat landslide risk should be assessed as part of the EIA process to ascertain whether the environmental risk is acceptable, prior to consent being granted. This condition should be used to control any acceptable risks which have been identified and should not be used to postpone the assessment of acceptability until post-grant.

<sup>11</sup> This section will only be relevant in circumstances where updated landslide assessment is required prior to commencement of development.

	<p>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 and deforestation phases of the Development.</p> <p><i>Reason: To minimise the risk of peat failure arising from the Development.</i></p>
20.	<p><b>Private Water Supplies<sup>12</sup></b></p> <p>There shall be no Commencement of Development unless a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.</p> <p><i>Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the development.</i></p>

“Commencement of the Development”	Means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.
“Date of Commissioning”	Means the date on which electricity is first [distributed/transmitted] via the Development.
“ the Development”	Means the development described in Annex 1.

<sup>12</sup> This condition should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications.