



Title of Report:	Planning Committee Report – LA01/2021/0175/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	21st December 2022
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Principal Planning Officer

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:

	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

No: LA01/2021/0175/F **Ward:** BENBRADAGH

App Type: Full Planning

Address: Land located at Smulgedon Hill, South of Legavallon Road, approx. 9km to the North East of Dungiven and 8km West of Garvagh

Proposal: Proposed amendments to the original consent B/2009/0070/F consisting of: - a reduction in the overall turbine tip height from 120.5m to 114.90m; a reduction in height from 85m to 68.9m and an increase in rotor diameter from 71m to 92m, for all 7 turbines - a new development site entrance; relocation of the combined substation and construction compound area; and a revised access track route to service T1, T2, T5 & T6 (as per previous consent B/2013/0196/f) - all ancillary development including minor increases in the size of the crane pads & wind turbine foundations to accommodate the newly proposed turbine models - The installed capacity will be 16.45MW

Con Area: n/a **Valid Date:** 15.02.2021

Listed Building Grade: n/a **Target Date:** 13.09.2021

Agent: Neo Environmental Limited, 83-85 Bridge Street, Ballymena, BT43 5EN

Applicant: Smulgedon Wind Farm Limited, C12 Rainey Street, Randalstown, BT45 5AJ

Objections: 1 **Petitions of Objection:** 0

Support: 5 **Petitions of Support:** 0

Executive Summary

- The proposal is for 7no. wind turbines with a maximum tip height of 114.90m. The principal of a wind farm on this site was established under B/2009/0070/F. The proposal seeks to reduce the tip height consented under B/2009/0070/F.
- As a major application this proposal was subject to the Proposal of Application Notice (PAN) process and the public consultation laid out within that before the application was submitted.
- As EIA development it was accompanied by a voluntary Environmental Statement (ES).
- There has been 1 objection received regarding the proposed development. All concerns raised by the statutory consultees have been addressed and the required mitigation will be dealt with by the proposed conditions attached.
- There have been 5 letters of support received regarding the proposed development.
- The proposal has been assessed against the relevant policy, mainly Planning Policy Statement 18: Renewable Energy, and has been found acceptable in terms of the principle of development, impact on the public, safety, human health, residential amenity, visual amenity, landscape character, biodiversity, nature conservation, and local natural resources.
- This proposal is considered acceptable at this location having regard to the Northern Area Plan 2016 and all other material considerations.
- Approval is recommended subject to the proposed conditions.

Drawings and additional information are available to view on the Planning Portal-
<https://planningregister.planningsystemni.gov.uk/simple-search>

Representations are not currently available to view online, however, they have been included in an appendix to this report.

1.0 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** planning permission subject to the conditions set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is located approx. 9km to the north east of Dungiven and 8km west of Garvagh. The site is bounded to the east and south by Gortnamoyagh Forest. The site is located on Smulgedon Hill which sits to the south of the higher plateau formed by Donalds Hill, Rigged Hill and Boyds Mountain.
- 2.2 The surrounding area is rural in nature and is characterised by undulating hills. The site is currently mainly used for grazing with areas of heath, unmanaged grassland and semi improved grassland within.
- 2.3 The Legavallon Road runs along the north eastern boundary of the site with the Belraugh Road running along the most eastern part of the northern boundary.
- 2.4 The site is located within Binevenagh Landscape Character Area (LCA 36). This is an expansive moorland landscape, dominated by a large-scale mosaic of rough pasture, bog and conifer plantations.
- 2.5 This site is not within any other designations but is in proximity to, and is hydrologically linked to the River Roe and Tributaries SAC and ASSI, Smulgedon ASSI, Brockagh Quarry ASSI and Castle River Valley ASSI.

3.0 RELEVANT HISTORY

B/2009/0070/F - Proposal to construct a wind farm to include 7 no. wind turbines with the maximum tip height of 120.5m (hub height 85m and blade diameter of 71m) and ancillary infrastructure including external transformers and associated hardstandings and underground cabling; upgraded site access points from the public highway; new and upgraded on site tracks; substation and one 80m meteorological mast – Approved 02.10.2012

B/2013/0196/F - Amendment to previously consented application (B/2009/0070/F) to facilitate a new development site entrance, relocation of the combined substation and construction compound area and a revised access track route to service T1, T2, T5 and T6 – Approved 18.08.2015

LA/2015/1011/F - Application to vary the wording of Condition No 3 attached to application Ref: B/2013/0196/F, relating to the provision of wheel washing facilities for the operational life time of the wind farm – Approved 05.02.2016

LA01/2019/0239/F - Section 54 application for the variation of Conditions 7, 29 and 30 of Consent B/2009/0070/F to incorporate the following proposed wording: Condition 7 " All above ground structures shall be dismantled and removed from the site 30 years from the date when the wind farm is commissioned to the electricity grid". Condition 29: " Prior to the commencement of any haulage and main stage construction traffic to site, the developer shall in association with Department for Infrastructure's Road Service Maintenance Section carry out a condition survey of all haul routes and, at the Developer's expense, shall carry out and provide to the Department a DVD detailing the condition of the existing public roads being considered as haul routes" Condition 30: During condition works, the Developer shall carry out and record weekly inspections of all haul routes and submit this information to the Department on a monthly basis. However, should it be identified that an associated deterioration of the haulage routes is occurring, the full requirements of the original condition 30, which required daily inspections and weekly reporting, will be reverted to." – Approved 23.05.2019

LA01/2020/0462/F - Substation building measuring 13,800mm (w) x 5,900mm (d) x 5,759mm (h) with 13,800mm (w) x 3,000mm

concrete apron to be located at approximately 185m South East of consented turbine T2 and 180m North East of consented turbine T6 at an approximate elevation height of 226 AOD and at grid reference E276184, N414858. The building is required to facilitate the electrical grid connection of the consented wind farm, (as consented under Ref: B/2009/0070/F) – Approved 03.02.2021 LA01/2020/0410/PAN - Amendment to consent B/2009/0070/F with slight amendments to the following elements: 7 no. turbines (now proposing 69m hub; 92m rotor diameter; 115m tip), crane pads, hardstanding, 2 no. substations and associated ancillary development – PAN Acceptable 04.05.2020

4.0 THE APPLICATION

- 4.1 The proposal is for an amendment to the consented Smulgedon Wind Farm which was approved under extant permission B/2009/0070/F. The amendment includes a reduction in the overall tip height reducing it from 120.5m to 114.90m. It is proposed to reduce the hub height from 85m to 68.9m and increase the rotor diameter from 71m to 92m for all 7 turbines. The proposal includes minor increases in the size of the crane pads and wind turbine foundations to accommodate the newly proposed turbine models. The installed capacity will be 16.54MW.
- 4.2 The associated access infrastructure including tracks, underground cabling, crane hardstandings, control building, substation have all been approved under the previous application. A previous amendment was approved under B/2013/0196/F. This included a new site entrance, relocation of the combined substation and construction compound area and a revised access track route to service T1, T2, T5 and T6. The submitted plans reflect this amendment. An additional substation building was also approved under LA01/2020/0462/F.
- 4.3 Micrositing has not been proposed.
- 4.4 The application was accompanied by a voluntary Environmental Statement.

Design & Access Statement

- 4.5 A Design & Access Statement is required under Article 6 of the Planning (General Development Procedure) Order (NI) 2015 as the application is considered to be a major application. The application falls within the major category due to the 16.54MW generation capacity of the wind farm.
- 4.6 The Design and Access Statement is to provide details of the design principles and concepts that have been applied to the development and how issues relating to access to the development have been dealt with.
- 4.7 The Design and Access Statement states how the site was selected and how the original layout of the wind farm and the proposed amendments were considered giving regard to the landform, topography, and environmental/locational constraints while meeting the technical siting requirements of wind turbines.
- 4.8 The statement demonstrates that the applicant undertook significant consideration of siting of the wind turbines and ancillary development to avoid or minimise the impact on environmentally sensitive features such as peat, bats and archaeological features etc. It goes on to state how the design of the turbines was chosen to maximise the potential of the site.
- 4.9 Access to the site is as approved under B/2013/0196/F. Due to the nature of windfarms, there is no provision for formal public access to the site and access will be controlled and restricted to authorised persons. There are no designated public rights of way or footpaths or recognised tourism or recreation resources within the site boundary.
- 4.10 It is accepted that due to the inherent design characteristics of wind farms and for health and safety that there will be no requirement for access for those with disabilities onto the site.

5.0 PUBLICITY & CONSULTATIONS

External

- 5.1 No neighbours were identified for notification within the terms of the legislation. The application was initially advertised on 03.03.2021 in the Coleraine Chronicle. It was advertised again,

upon receipt of additional environmental information, on 09.06.2021 and 04.05.2022.

5.2 There was one objection to this proposal. The main issues raised in the letter included:

- There has no public consultation with the residents of Drumsurn and those who live in the surrounding area;
- There has been no accumulative impact statement concerning the quantity of windfarms and turbines in the local area in regard to visual impact and environmental impact;
- High visual impact on Kings Fort and other historical archaeological sites located nearby;
- Highly detrimental impact on tourists who visit the area e.g to walk the nearby Ulster way;
- Increased rotor diameter will make the turbines more noticeable, increasing visual impact.

It should be noted that the principle of the development has already been established under the extant approval (B/2009/0070/F). The commencement of development approved under B/2009/0070/F was confirmed during the processing of application LA01/2019/0239/F for the variation of conditions. Pre commencement conditions were also discharged under LA01/2015/0212/DC. Matters concerning cumulative impact, impact on tourism and archaeological sites were assessed and deemed acceptable under that application (B/2009/0070/F). The extant approval is a fallback which can still be implemented should this application be refused and therefore is a material consideration. The issues raised in the letter of objection are discussed below within the “Considerations and Assessment” section of the report.

5.3 The six letters of Support made the following points in support of the application:

- Economic benefit to local community;

- Green energy reduces reliance on fossil fuels which currently contribute to climate change and impact on human health;
- Proposed amendments will make wind farm more efficient, increasing capacity and contribution to renewable energy;
- No additional impacts over the already consented wind farm;
- Create/sustain employment in local area during construction;
- Will contribute to meeting NI targets for renewable energy;
- Community benefit fund will help to provide much needed services and initiatives to the local community;

Internal

5.4 See appendix 1 for details of consultations carried out and the responses provided. All consultees that responded were content subject to conditions and informatives.

Proposal of Application Notice

5.5 As this application is considered a major application it must comply with the Proposal of Application Notice and carry out community consultation at least 12 weeks prior to the submission of the application.

5.6 A Proposal of Application Notice was submitted on 20th March 2020 under LA01/2020/0410/PAN. Shortly after the time the PAN was submitted there was a temporary suspension of the requirement for a public event in accordance with The Planning (Development Management) (Temporary Modifications) (Corona Virus) Regulations (NI) 2020 which took effect on 1st May 2020. The accompanying guidance advised that a public event was no longer required but the other requirements remained.

5.7 The applicant advised that they intended to undertake the following forms of consultation:

- Dedicated website providing online access to all information that would have been available at a public exhibition including background to the development, details of the proposed amendments and both information and visual productions in relation to the additional survey work that has taken place to

ensure the viability of the proposal. The website would be available from 28th April 2020 with responses to the information being presented being accepted until Friday 29th May 2020.

- Provision of a consultation questionnaire for completion by visitors to the website. The questionnaire would also be available by post for those who cannot access the internet.
- Letters to Councillors and MLAs advising of the proposed development and the consultation arrangements.

- An information letter will be issued to all addresses within 5km advising of the online event.

- Details to be published in the local press, outlining where further details could be accessed and how to respond. The press ad would be published in The Derry Post and Derry and Northern Constitution group of papers, (which includes the Limavady Constitution, Coleraine Chronicle, Ballymoney Chronicle & Ballycastle Chronicle).

Community Consultation Report

5.8 The community consultation report was submitted as part of the planning application, received on 4th November 2020 which is more than 12 weeks after the Proposal of Application Notice was received, as required by the legislation.

5.9 Copies of the following have been provided in the report:

- List of addresses within 5km of development who were mailed a copy of the information leaflet and a copy of the leaflet;
- Copy of Public Consultation Newspaper Advertisements;
- Copy of website pages including the questionnaire;
- List of elected members and MLA's who were notified.

5.10 The report states that formal notices advertising the website were placed in the Derry Post and Derry and Northern Constitution group of papers, (which includes the Limavady Constitution, Coleraine Chronicle, Ballymoney Chronicle & Ballycastle Chronicle) on 5th May 2020. An information leaflet was delivered to residents within 5km of the site boundary. The website provided sufficient details and information with regard to the proposal and provided a questionnaire to enable interested parties to provide feedback.

- 5.11 Overall, sufficient evidence has been provided to demonstrate that appropriate consultation has been carried out to show compliance with section 27 of the Planning Act (Northern Ireland) 2011.
- 5.12 A total of 7 responses were received during the community consultation process. Mostly, the comments were supportive of the proposal. Concerns raised included the visual impact, no comparable data provided in relation to noise and power output, benefits to the local community and impact on traffic i.e. distraction. The applicant has demonstrated that all comments raised have been considered and addressed during the design and EIA processes and are covered within the Design and Access Statement.

6.0 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is the Northern Area Plan 2016 (NAP).
- 6.3 The site falls within Landscape Character Area (LCA) 36 – Binevenagh which has been assessed to have a high to medium landscape sensitivity to impact from wind turbine development.
- 6.4 The site is not within any European designations however it is in proximity to, and hydrologically linked to the River Roe and Tributaries Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI), Smulgedon ASSI, Brockagh Quarry ASSI and Castle River Valley ASSI which are of international and national importance and are protected by the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002 (as amended).
- 6.5 The Regional Development Strategy (RDS) is a material consideration.

- 6.6 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.7 Due weight should be given to the relevant policies in the development plan.
- 6.8 The previous planning approvals B/2009/0070/F and B/2013/0196/F are a material consideration.
- 6.9 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 15: Planning and Flood Risk

Planning Policy Statement 16: Tourism

Planning Policy Statement 18: Renewable Energy

Planning Policy Statement 18: Renewable Energy – Best Practice Guidance

Planning Policy Statement 18: Renewable Energy – Supplementary Planning Guidance – Wind Energy Developments in Northern Ireland’s Landscapes

PPS 21: Sustainable Development in the Countryside

Supplementary Guidance

8.0 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: the principle of development, impact on public safety, human health, residential amenity, visual amenity, landscape

character, biodiversity, nature conservation, and local natural resources.

Principle of development

- 8.2 The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations in order to achieve Northern Ireland's renewable energy targets. It advises that the Council should take account of the proposal's contribution to the wider environmental benefits along with consideration of impact on health, safety and amenity, visual impact and landscape character, impact on biodiversity, habitat and built heritage, natural resources, public access to the countryside and future decommissioning. These considerations are discussed in detail below.
- 8.3 The principle for a windfarm on this site has been established through the granting of planning permission B/2009/0070/F in 2012. This application is seeking to reduce the maximum tip height of the approved turbines from 120.5m to 114.90m (including a reduction in hub height from 85m to 68.9m and increasing the rotor diameter from 21m to 92m).
- 8.4 The Northern Area Plan 2016 is silent on the matter of wind farm development in this area.

HRA

- 8.5 An assessment was carried out by Shared Environmental Services under Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended) as the site has potential hydrological links to the River Roe and Tributaries Special Area of Conservation (SAC). Causeway Coast and Glens Borough Council in its role as the competent authority has adopted the HRA report, and conclusions therein. The test of likely significance i.e. Stage 2, concluded that the proposal would not have an adverse effect on the integrity of any European site, either alone or in combination with other plans or projects, subject to mitigation. Shared Environmental Service has advised mitigation should be controlled through conditions in the event of an approval.

EIA consideration

- 8.6 The application was accompanied by a voluntary Environmental Statement because it was accepted that the proposal falls within

Schedule 2, Class 3(j), of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and exceeds the threshold of 'more than 2 turbines'.

SPPS Development in the Countryside and PPS 21 Sustainable Development in the Countryside

- 8.7 Planning Policy CTY 1 of PPS 21 allows for renewable energy projects in accordance with PPS 18 which is assessed below.

SPPS Renewable Energy and PPS 18 Renewable Energy

- 8.8 Policy RE1 and paragraph 6.224 of the SPPS requires that all renewable energy development, associated buildings and infrastructure will not result in an unacceptable adverse impact on:

(a) public safety, human health, or residential amenity; Public safety

- 8.9 Policy RE1 states that supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' (Best Practice Guidance) will be taken into account in assessing all wind turbine proposals.
- 8.10 With regard to safety, paragraph 1.3.54 of the guidance requires that the turbines should be set back at least fall over distance plus 10% from the "edge of any public road", right of way or railway line. The maximum base to tip height in this proposal is 114.90m which constitutes the fall over distance, therefore the fall over distance plus 10% is 126.39m. All turbines should be least 126.39m back from the public road. The closest turbine to a road is T2 which is approx. 140m from the edge of Legavallon Road and the closest turbine to a public right of way is T1 which is approx. 656m from the Ulster Way, therefore policy has been satisfied. There are no railways in proximity to the site.
- 8.11 In relation to public safety, paragraph 1.3.52 of the Best Practice Guidance states that 'for wind farm development the best practice separation distance of 10 times rotor diameter to occupied property should comfortably satisfy requirements'. No minimum distance is specified. Whilst the guidance acknowledges that wind turbines are a safe technology, it still stipulates a separation distance as there is still the potential for failure and injury. In this instance the proposed rotor diameter is up to 92m which equates to a separation distance of at least 920m.

- 8.12 The ES shows that there are seventeen receptor properties (see Table 9.4 of ES Vol 2) within the 10 times rotor diameter separation distance of 920m. The closest of these to a turbine is receptor 42 which consists of a site for a dwelling approved under B/2011/0253/F. It should be noted that this permission was not implemented and has now expired. It would also appear that this is the case for receptor 41. Receptors 40 and 6 appear to be the same and consist of a site which has been approved for a dwelling. The dwelling has not been constructed but the permission is still live. Again, receptors 8 and 38 appear to be the same as 38 appears to be a replacement dwelling which was built to replace receptor 8. Therefore, there are currently twelve inhabited receptors and one live permission. The nearest inhabited receptor to a turbine is receptor 7, 245 Legavallon Road, which is 748m from turbine 7.
- 8.13 Although less than the recommended 920m, these reduced separation distances are considered to be acceptable. This is in light of a Planning Appeals Commission decision on application LA01/2017/1654/F (appeal ref: 2018/A0199) Armoy windfarm, which is within the Council area, where the PAC accepted a separation distance of 623m when the 10 times rotor diameter separation distance was 998m. In its decision, the PAC concluded that the use of the word ‘comfortably’ in the BPG allows a degree of latitude to be applied to separation distances and that 10 times rotor diameter need not rigidly apply. Further, the BPG describes wind energy developments as safe technology and failure is unlikely. The PAC, therefore, concluded that the proposal wouldn’t present a public safety risk and was satisfied that the appeal proposal would not cause significant harm or result in an unacceptable adverse impact on public safety. In the instance of the current application, the distance is 125m more than that considered acceptable by the PAC.

Human Health

- 8.14 There is no indication from any consultees or allegations from objectors that the proposed development will result in any detriment to human health. Environmental Health who is the competent authority on human health, has not raised any objections on these grounds.

Residential Amenity

- 8.15 Policy RE 1 stipulates that a separation distance of 10 times rotor diameter, with a minimum distance not less than 500m, will generally apply to protect residential amenity from noise. This is reiterated in the Best Practice Guidance at para 1.3.43 specifically in relation to noise. As outlined above there are twelve inhabited residential properties, and one live permission, within the 10 times rotor diameter buffer, but they are all outside the minimum 500m separation distance.
- 8.16 With regard to noise, Environmental Health (EHO) have assessed the proposal and have no objection to the predicted noise levels at any of the receptor locations. EHO are content with the proposal, subject to conditions being applied in the event of an approval.
- 8.17 With regard to shadow flicker, the Best Practice Guidance states that at distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low. It also states that only properties within 130 degrees either side of north, relative to the turbines can be affected at these latitudes in the UK – turbines do not cast long shadows on their southern side. Twelve inhabited properties and one live permission have been identified within 920m of turbine locations and 130 degrees of north.
- 8.18 The guidance also states that for dwellings within 500m, shadow flicker should not exceed 30 hours per year or 30 minutes per day. There are no dwellings within 500m. The guidance does not give figures for what is deemed an acceptable amount of time for shadow flicker for dwellings outside 500m.
- 8.19 Figures have been provided for the worst case scenario for potential shadow figure. These figures show that 5 of the properties listed fall have the potential to exceed the limits set out in the best practice guide. The figures have then been adjusted to reflect actual expected sun hours. These figures show that 4 properties have the potential to marginally exceed the daily limit on a given day. Again, as above, it should be noted that only one of these properties is inhabited and one has a live permission. Therefore, only two properties have the potential to be affected. However, these properties are outside the guidance distance of 500m. Taking this into consideration, along with the proposed mitigation measure of employing turbine shut down during periods

of potential shadow flicker, the topography and vegetation cover in the area (which may screen houses from potential shadow flicker) and the fact that actual shadow flicker instances will be lower than the worst case scenario figures presented, it is considered that shadow flicker will not present an unacceptable impact on residential amenity. The issue of shadow flicker is regulated by condition 22.

- 8.20 In terms of impact on the visual amenity of the residents in proximity to the site, it is not considered that the increase in the blade length of the turbines would have an over bearing impact due to the overall tip height decreasing and the turbines appearing smaller than what was originally considered to be acceptable.

(b) visual amenity and landscape character;

- 8.21 The principal of a windfarm on this site has been established under B/2009/0070/F. The visual impact of the windfarm on the landscape was deemed acceptable. NIEA Landscape Architects Branch in its original assessment of the consented wind farm considered the landscape and visual impacts to be limited primarily due to the positioning of the turbines behind the summit of Smulgedon Hill which reduced visibility. The consideration now falls to the impact of the change in turbine dimensions on visual amenity. Although the tip height is decreasing, the turbine geometry is changing with a reduction in hub height and an increase in the blade length.
- 8.22 The site is located on Smulgedon Hill which is within Binevenagh LCA. It is not within an AONB. The LCA is assessed as having a high to medium sensitivity to wind energy development with much of the landscape being of *'extreme sensitivity due to its iconic, landmark character and very wide visibility. However lower and less prominent sections of the escarpment, and areas where there is extensive forestry, might be somewhat less sensitive to wind energy development'*. Smulgedon Hill is lower and less prominent than the surrounding hills and is not highlighted as one of the sensitive hills within this LCA.
- 8.23 As part of the submission a series of photomontages were submitted to show the indicative visual setting of the proposed development from a range of viewpoints (VP) in the near and wider landscape. A number of the viewpoints in relative proximity to the

site would experience a significant or moderate visual impact from the development, these include Kilhoyle Road (VP1), Drumsurn Village (VP4), Cuuraghmore Road (VP8), Benbradagh Mountain (VP12) and Pollys Brae Road junction with Drumrane Road (VP16). From these viewpoints the turbines are to varying degrees, prominent and skyline and dominate the landscape when viewed moving along the roads.

- 8.24 All of these viewpoints are within 10km of the site with 4 being within 5km. It should be noted that the PPS 18 BPG states that within 5kms of a wind farm it will be perceived as being relatively prominent and even within 15km it is perceived as being prominent in clear visibility.
- 8.25 When taking the baseline of the consented turbines into consideration and given the proposal includes the same number and location of turbines as consented and it involves a reduction in the tip height, it is considered that the visual impact will be reduced as the turbines will be less prominent in the landscape. The proposed differences in turbine geometry will not affect the overall principle of development or its potential effects on the characteristics of the Binevenagh LCA. It is also considered due to screening from surrounding landscape the changes will not be noticeable across the wider extents of the LCA and over medium to distant views.
- 8.26 The application site is not located within any other landscape designations.

(c) biodiversity, nature conservation or built heritage interests;

- 8.27 The Environmental Statement has assessed the impact of the development on designated sites, habitats and species through conducting extensive survey works and has provided mitigation measures to avoid significant adverse impacts.
- 8.28 The site is not within or adjacent to any nationally or internationally designated sites for nature conservation, but it is in close proximity to, and hydrologically linked to the River Roe and Tributaries Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI), Smulgedon ASSI, Brockagh Quarry ASSI and Castle River Valley ASSI which are of international and national

importance and are protected by the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002 (as amended).

- 8.29 In addition to this, the site is used by bats which are a European protected species under the Habitats Regulations and it contains breeding birds, protected under the Wildlife (Northern Ireland) Order 1985 (as amended). The site also contains the Northern Ireland priority habitats (NIPHS) blanket bog, upland heathland, upland flushes, fens and swamps, hedgerows and rivers and streams.
- 8.30 DAERA NED and Shared Environmental Services has considered the impacts of the proposal on the designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns provided proposed mitigation measures are implemented in accordance with a CEMP and HMP which are required to be submitted to the Council for agreement prior to the commencement of any development. This will be conditioned in the event of an approval.
- 8.31 With regard to built heritage, Historic Environment Division has advised that it is content that the proposal satisfies PPS 6 policy requirements, subject to conditions.

(d) local natural resources, such as air quality or water quality;

- 8.32 Chapter 7 of the Environmental Statement assess the impacts of the development on land, soils and water. The ES sets out a number of mitigation measures to be implemented to ensure minimal impact on the soil and water environments. NED is content with the mitigation measures described and require the submission of a final CEMP and Habitat Management Plan to be conditioned as part of any approval. This is to ensure implementation of the proposed mitigation so as to prevent any adverse impact on natural resources within the immediate and wider vicinity of the site.
- 8.33 Water Management Unit (WMU) of NIEA has considered the impacts of the proposal on the surface water environment and has advised that it content with the proposal subject to condition.

- 8.34 Regulation Unit (Land and Groundwater Team) of NIEA has considered the impacts of the proposal on the groundwater environment and is content with the proposal.
- 8.35 Due to the nature of the development there will be limited impact on air quality except for the potential impact from dust primarily during the decommissioning and constructions phases.

(e) public access to the countryside.

- 8.36 The lands within the application site boundary are owned by numerous landowners, and subsequently leased by the applicant, and used primarily for agricultural use. There are no Rights of Way within the site therefore public access to the site upon the construction of the proposed development will be no different than before, that is, access to the land will depend on the landowners consent. The proposed development will not have any significant adverse impact on access to the countryside.

PPS 18 Requirements for Wind Development

- 8.37 In RE1 of PPS 18 applications for wind energy development will also be required to demonstrate all of the following:

(i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;

- 8.38 It has been assessed above that the proposed development will not have an increased visual impact than the consented wind farm. The proposed development will appear as a prominent and skyline feature in the landscape when viewed from key vantage points in relatively close proximity to the site. However, critical views of the development diminish with distance from the site, and while still visible they are less obtrusive when viewed in the wider setting.
- 8.39 The LCA in which the proposed development is located has already been changed by the presence of the operational windfarms at the Dunmore and Dunbeg cluster, Rigged Hill, Craiggore and Evishagaran. The site is not set within any other landscape character designations or will not significantly affect their setting. It is considered that the visual impact of the development is acceptable.

(ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;

8.40 The proposed development represents a change in the geometry of a consented wind farm. The cumulative impact of the turbines was assessed under B/2009/0070/F. In assessing the proposed cumulative impact of this proposal weight needs to be given to the consented turbines.

8.41 Chapter 4 of the ES has considered the cumulative impact of the development along with other wind energy developments. It considers that there will be no change from the previous assessment of the consented wind farm. The number of turbines remains unchanged. As such, there will be no cumulative impact through additional turbines. Also, given the decrease in the tip height of the proposed turbines, the proposed wind farm would be less visible in the landscape and therefore may to some extent decrease the visual linkage with the existing windfarms.

8.42 Given that the proposed windfarm occupies the same lands as the consented windfarm, there are no extra turbines and the proposed turbines will be less visible in the landscape, it is considered that there is no increase in cumulative impact.

(iii) that the development will not create a significant risk of landslide or bog burst;

8.43 A Peat Stability Risk Assessment was included within the Environmental Statement which concluded that there was a low risk of peat slide. Geological Survey NI are satisfied that there are no issues of geological concern arising.

(iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;

8.44 None of the consultees have indicated that the development will give rise to unacceptable interference to communication installations, emergency services communications or other telecommunications systems.

(v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;

- 8.45 Both City of Derry Airport (CoDA) and Belfast International Airport (BIA) were consulted as the site lies within 30km of them. Neither airport had any concerns over aviation safety and have no objection to the proposal. BIA recommend that the developer installs a Low Intensity, Omni-directional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week and it is to warn low flying aircraft that there is an obstacle at this location. The submission of warning lighting system details will be conditioned in the event of an approval.
- 8.46 National Air Traffic Services (NATS) have advised that they have no objection to the proposal in terms of safeguarding. The Civil Aviation Authority have no objection to the proposal. They have advised that the applicant will need to report the structures to the Defence Geographic Centre (DGC).
- 8.47 The proposed development will not result in unacceptable risk to road safety. Transport and access issues are discussed below, while the risk to road safety due to separation distance was clarified above.

(vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and

- 8.48 As discussed above EHO have no objections to the noise levels predicted within the submission and would be content for noise to be managed by condition in the event of any approval. The potential for shadow flicker is deemed low as previously discussed.
- 8.49 Paragraph 1.3.79 of the Best Practice Guidance advises that ice throw is unlikely in Northern Ireland and as such limited consideration has been given to this.
- 8.50 The applicant has advised that the turbine blades will be finished with a light grey semi-matt finish. This means that they do not reflect light as strongly as polished materials. Also, due to factors such as the convex surfaces of blades, differing orientations of rotor directions and the specific weather conditions and solar

position which are required before an observer would experience the phenomenon, the potential for reflected light is low and will not cause a material reduction to amenity.

(vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

- 8.51 The removal of the turbines and any of the associated infrastructure will be dealt with by condition requiring the submission of a final Decommissioning and Site Restoration Plan prior to removal.

Development on Active Peatland

- 8.52 There is no development proposed on active peatland.

Habitat Management Plan

- 8.53 Policy RE1 of PPS 18 specifies that a Habitat Management Plan (HMP) should be submitted and agreed before any permission is granted. Policy NH5 of PPS 2 also states that appropriate mitigation and/or compensatory measure will be required. A HMP for the original consent B/2009/0070/F was submitted and agreed in 2014. An updated HMP to reflect the amendments approved under B/2013/0196/F and LA01/2015/1011/F was submitted and agreed in 2017 under LA01/2017/0583/DC. A further updated HMP has been submitted with this proposal. NIEA NED is content that a final HMP is submitted for approval prior to any works commencing which incorporates all measures in the previously agreed HMP.

Economic, Environmental and Social Consideration

- 8.54 Paragraph 4.1 of policy RE1 of PPS18 states that “the Department would support renewable energy proposals unless they would have unacceptable adverse effects which are not outweighed by the local and wider environmental, economic and social benefits.” In this case the development is considered acceptable with no unacceptable adverse effects therefore there is no need to scrutinise the wider environmental, economic and social benefits.

SPPS Natural Heritage and PPS 2 Natural Heritage

- 8.55 The SPPS and policies NH1, NH2, NH3, NH4, NH5 and NH6 of PPS 2 require consideration of the impact of the proposal on European and National sites, protected species, sites on nature conservation importance, habitats, species or features of natural heritage importance and AONBs.
- 8.56 These issues have all been addressed under the consideration of the SPPS Renewable Energy and PPS 18 Renewable Energy above. The proposal satisfies all policy requirements of the SPPS Natural Heritage and PPS 2.

SPPS Transportation and PPS 3 Access, Movement and Parking

- 8.57 The proposed access to the windfarm is to be located on Legavallon Road which is not a Protected Route. DfI Roads have no objection to the proposal. The access is as approved under B/2013/0196/F.

SPPS Archaeology and Built Heritage and PPS 6 Planning, Archaeology and the Built Heritage

- 8.58 Chapter 8 of the Environmental Statement assesses the impact of the proposal on archaeological and cultural heritage assets. The chapter assesses both the direct effects, mainly through construction and decommissioning works, and indirect effects, primarily visual, on both archaeological and cultural heritage sites. The assessment outlines that there are no known archaeological features within or adjacent to the site. Therefore, there would be no direct effects upon known archaeological features or heritage assets. The assessment also outlines that there are no significant indirect effects, associated with changes to settings, upon heritage assets in the surrounding historic environment, from the development, in isolation or cumulatively with other windfarm development. Mitigation for encountering unknown archaeological features is proposed by way of archaeological programme of works.
- 8.59 Historic Environment Division has advised that it is content that the proposal satisfies PPS 6 policy requirements, subject to conditions. HED require a programme of archaeological works, in the event of an approval, to identify and record any archaeological remains in

advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.

SPPS Flood Risk and PPS 15 Planning and Flood Risk

- 8.60 Dfl Rivers have indicated that no part of the application site is within the identified 1 in 100 year fluvial floodplain, therefore DFI Rivers is content that the proposal meets the requirements of Policy FLD 1 of PPS15 and the SPPS. DFI Rivers confirm that a number of undesignated watercourses exist within the application site. DFI Rivers advise that satisfactory access should be provided for maintenance by the landowner to ensure the proposal complies with Policy FLD 2 of PPS15.
- 8.61 Due to the size and nature of the development FLD3 of PPS15 applies. A drainage assessment was provided as part of the Environmental Statement. The assessment outlines the surface water management measures to be installed at the development. Dfl Rivers are content with the assessment and have not raised any concerns.
- 8.62 Details relating to site drainage management including Sustainable Drainage Systems (SUDS) are required as part of a final CEMP to be submitted and approved prior to the commencement of development. The Planning Department considers the proposal to meet with Policy FLD 3 of PPS15.
- 8.63 The proposal includes a number of watercourse crossings for access. Artificial modification of a watercourse is not normally permitted under FLD 4 of PPS 15 unless it is necessary to provide access to a development site or for engineering reasons. Dfl Rivers are not opposed to the use of culverting. However, the applicant must seek consent from Dfl for any culverting. The use of culverting falls to the Council to consider.
- 8.64 The culverts are to provide watercourse crossings for the access tracks. These were considered under the original consent and the subsequent consent for amendments to the access track. They were considered acceptable. No amendments are being proposed to the access tracks, or the culverts.

Northern Area Plan, SPPS Tourism and PPS 16 Tourism

- 8.65 TSM 8 considers the safeguarding of tourism assets by not granting permission for development which would in itself or in combination with existing and approved development in the locality have an adverse impact on a tourism asset. There are no tourism or recreational assets within the site, the closest public right of way to the site is the Ulster Way which is approx. 656m from the nearest turbine. The proposed development will not have any adverse impact on its functionality or access to it.

Issues raised in letters of representation

Note – issues raised by objectors are in italics and are followed by Council's response.

- 8.66 *There was no public consultation with the residents of Drumsurn and those who live in the surrounding area* – The Council is content that sufficient public consultation was carried out as required by legislation.
- 8.67 *There has been no accumulative impact statement concerning the quantity of windfarms and turbines in the local area in regard to visual impact and environmental impact* – The cumulative impact of the proposal with existing windfarms and turbines, with regard to visual impact, was considered in chapter 4 of the Environmental Statement. All environmental impacts have been assessed with the ES and all consultees are content.
- 8.68 *High visual impact on Kings Fort and other historical archaeological sites located nearby* – The impact of the proposed development on archaeological sites and cultural heritage sites has been considered in chapter 8 of the ES. Historical Environment Division are content that the proposal will not adversely affect any archaeological sites or their settings.
- 8.69 *Highly detrimental impact on tourists who visit the area e.g. to walk the nearby Ulster way* – No evidence has been presented as to how the proposal would impact tourism. There is no evidence to suggest that the existing windfarms have impacted on tourism in the area. As it is considered that the proposal will not have an unacceptable impact on visual amenity then it is not considered that the development would have an adverse impact on amenity of the Ulster Way.

8.70 *Increased rotor diameter will make the turbines more noticeable, increasing visual impact* – Although the rotor diameter is increasing, the overall tip height is decreasing therefore it is considered that the visual impact of the proposed turbines will be less than that of the extant consented turbines.

9.0 CONCLUSION

9.1 The proposal is considered acceptable in this location having regard to the Area Plan and other material considerations. The principle of development, impact on the public, safety, human health, residential amenity, visual amenity, landscape character, biodiversity, nature conservation, and local natural resources are considered acceptable. The proposal is an amendment to the scheme consented in 2012. As this approval is extant, it offers a fallback position against which this proposal was assessed. Approval is recommended.

10.0 PROPOSED CONDITIONS

1. The permission hereby granted shall be for a limited period of 35 years only and shall expire on INSERT DATE.

Reason: To enable The Council to consider the development in the light of circumstances then prevailing.

2. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Council. The CEMP shall include the following:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including details of the establishment of buffer zones to watercourses (e.g. 50m to streams and 20m to minor drains) and details of watercourse crossings;
- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;

- d) Peat/Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil;
- e) Mitigation measures for construction in peatland habitats including mitigation proposed in the Peat Stability Risk Assessment (Whiteford, 08/03/22);
- f) Mitigation measures for protected/priority species including birds, badgers, newts, and lizards;
- g) Water Quality Monitoring Plan;
- h) Environmental Emergency Plan;
- i) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities;
- j) Draft Decommissioning Plan detailing the removal of infrastructure, protection of habitats, pollution prevention measures and the restoration of habitats and natural hydrological processes on the site.

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on designated sites.

3. No development activity, including ground preparation or vegetation clearance, shall take place until a final Habitat Management Plan (HMP) has been submitted to and approved in writing by the Council. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise approved in writing by the Council. The HMP shall include the following:

- a) Clear aims and objectives of proposed habitat management/restoration;
- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas;
- d) Detailed methodology and prescriptions of habitat management and restoration measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities;
- f) Confirmation of landowner agreement with all proposed habitat management measures for the lifetime of the wind farm;
- g) Details of the regular monitoring of the effectiveness of habitat management and restoration measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) in years 1, 3, 5 and 10 after construction;

h) Details of the production of regular monitoring reports which shall be submitted to the Council within 6 months of the end of each monitoring year and which shall include details of any necessary contingency or remedial measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats and to mitigate for impacts to priority species and breeding birds.

4. Prior to any works, including ground preparation or site clearance, taking place between 1 March and 31 August, a bird survey shall be carried out by a suitably experienced and competent ornithologist. The location of any active nests or breeding activity shall be recorded and appropriate mitigation measures, including buffer zones (to be agreed with NIEA), shall be implemented to prevent disturbance to breeding birds. A report of the findings of the bird survey and a Mitigation Method Statement, showing buffers to active nests, shall be submitted to and agreed in writing by the Council.

Reason: To protect breeding birds.

5. All works, including ground preparation or site clearance, between 1 March and 31 August in any year, shall be monitored on a weekly basis by a suitably experienced and competent ornithologist. The location of any active nests or breeding activity shall be recorded and appropriate mitigation measures, including buffer zones (to be agreed with NIEA), shall be implemented to prevent disturbance to breeding birds. All monitoring, findings and mitigation measures shall be detailed in reports which shall be submitted in writing to the Council no later than 6 weeks after the bird breeding season ends.

Reason: To protect breeding birds.

6. There shall be no storage of materials within the Blanket Spagnum bog, valley mire, flushes (excluding flush 1) or patches of Devils Bit Scabious shown in Figure 7.2, Phase 1 Habitat with Infrastructure Map, Volume 2 Environmental Statement, received by the Department 18 February 2009 with application B/2009/0070/F.

Reason: To ensure construction activity and infill is limited within highly sensitive peatland habitats.

7. All above ground structures shall be dismantled and removed from

the site (“decommissioning”) either 35 years from the date of this permission or shall be removed if electricity generation has ceased on site for a period of 12 months (unless further consent has been granted), whichever is the shorter.

Reason: To restore the peatland habitat and maintain the landscape quality of the area.

8. The applicant shall submit a Decommissioning Construction Environmental Management Plan (CEMP) for agreement and approval by the Council at least 8 weeks before commencement of any future decommissioning works on site of the windfarm hereby approved. This plan must contain appropriate decommissioning environmental mitigation similar to that detailed within the Outline DCEMP in Appendix A3.1 of the Environmental Statement dated July 2019. The approved future Decommissioning CEMP shall be implemented in accordance with the approved details/timeframe and all works on site shall conform to the approved Decommissioning CEMP, unless otherwise approved in writing by the Council.

Following decommissioning of the windfarm hereby approved, the land shall be restored in accordance with an agreed scheme to be submitted to the Council at least one year prior to the commencement of any decommissioning works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works.

Reason: To ensure implementation of mitigation measures identified within the Environmental Statement that will avoid adverse effects on the integrity of the River Roe and Tributaries SAC during future decommissioning of the new turbines.

9. No turbine shall become operational until a Bat Mitigation and Monitoring Plan (BMMP) has been submitted to and approved in writing by the Council. The approved BMMP shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Council. The BMMP shall include the following:

- a) Details of the proposed monitoring of bat activity across the site post construction using appropriate methodology for a period of 3 to 5 years;
- b) Details of bat carcass searches at selected turbines using appropriate methodology for a period of 3 to 5 years;
- c) Details of appropriate weather monitoring;

- d) Details of the production of yearly monitoring reports to be submitted to the Council within 3 months of the end of each monitoring year;
- e) Provision for additional mitigation or contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Council;
- f) Provision for review of the mitigation measures and the length of the monitoring plan.

Reason: To monitor the impact of the proposal on bats.

10. No infill, disturbance, construction activity or storage of materials shall take place within 50m of streams on site.

Reason: To ensure adequate buffers are in place to protect the water quality of designated sites downstream.

11. The developer shall notify the Council in writing of the date of commencement of works on site and of the date when the turbines have become fully operational.

Reason: In the interests of residential amenity.

12. The level of noise emissions from the combined effects of the permitted wind turbines (including the application of any Tonal Penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97 shall not exceed values set out in Table 1. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be represented by the physically closest location listed in Table 1 unless otherwise agreed by the Council.

Reason: In the interests of residential amenity.

Table 1: Permitted Wind Farm Noise Limits dB LA90,10mins

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
R1	24.0	29.3	32.1	34.6	36.1	37.1	37.7	38.0	38.0	38.0

R2	18.9	24.2	27.0	29.5	31.0	32.0	32.6	32.9	32.9	32.9
R3	24.4	29.7	32.5	35.0	36.5	37.5	38.1	38.4	38.4	38.4
R4	24.0	29.3	32.1	34.6	36.1	37.1	37.7	38.0	38.0	38.0
R5	24.1	29.4	32.2	34.7	36.2	37.2	37.8	38.1	38.1	38.1
R6	25.5	30.8	33.6	36.1	37.6	38.6	39.2	39.5	39.5	39.5
R7	24.8	30.1	32.9	35.4	36.9	37.9	38.5	38.8	38.8	38.8
R8	23.2	28.5	31.3	33.8	35.3	36.3	36.9	37.2	37.2	37.2
R9	21.2	26.4	29.2	31.7	33.2	34.2	34.8	35.1	35.1	35.1
R10	20.2	25.5	28.3	30.8	32.3	33.3	33.9	34.2	34.2	34.2
R11	17.2	22.5	25.3	27.8	29.3	30.3	30.9	31.2	31.2	31.2
R12	22.2	27.5	30.3	32.8	34.3	35.3	35.9	36.2	36.2	36.2
R13	22.0	27.3	30.1	32.6	34.1	35.1	35.7	36.0	36.0	36.0
R14	21.9	27.2	30.0	32.5	34.0	35.0	35.6	35.9	35.9	35.9
R15	22.8	28.1	30.9	33.4	34.9	35.9	36.5	36.8	36.8	36.8
R16	21.2	26.5	29.3	31.8	33.3	34.3	34.9	35.2	35.2	35.2
R17	21.1	26.4	29.2	31.7	33.2	34.2	34.8	35.1	35.1	35.1
R18	21.3	26.6	29.4	31.9	33.4	34.4	35.0	35.3	35.3	35.3
R19	21.1	26.4	29.2	31.7	33.2	34.2	34.8	35.1	35.1	35.1
R20	21.9	27.2	30.0	32.5	34.0	35.0	35.6	35.9	35.9	35.9
R21	21.9	27.2	30.0	32.5	34.0	35.0	35.6	35.9	35.9	35.9
R22	21.1	26.4	29.2	31.7	33.2	34.2	34.8	35.1	35.1	35.1
R23	23.3	28.6	31.4	33.9	35.4	36.4	37.0	37.3	37.3	37.3
R24	20.8	26.1	28.9	31.4	32.9	33.9	34.5	34.8	34.8	34.8
R25	21.9	27.2	30.0	32.5	34.0	35.0	35.6	35.9	35.9	35.9
R26	22.7	28.0	30.8	33.3	34.8	35.8	36.4	36.7	36.7	36.7

R27	20.5	25.8	28.6	31.1	32.6	33.6	34.2	34.5	34.5	34.5
R28	20.3	25.6	28.4	30.9	32.4	33.4	34.0	34.3	34.3	34.3
R29	19.3	24.6	27.4	29.9	31.4	32.4	33.0	33.3	33.3	33.3
R30	18.7	24.0	26.8	29.3	30.8	31.8	32.4	32.7	32.7	32.7
R31	18.6	23.9	26.7	29.2	30.7	31.7	32.3	32.6	32.6	32.6
R32	18.3	23.6	26.4	28.9	30.4	31.3	32.0	32.3	32.3	32.3
R33	18.2	23.5	26.3	28.8	30.3	31.3	31.9	32.3	32.3	32.3
R34	20.7	26.0	28.8	31.3	32.8	33.8	34.4	34.7	34.7	34.7
R35	17.8	23.1	25.9	28.4	29.9	30.9	31.5	31.8	31.8	31.8
R36	16.9	22.2	25.0	27.5	29.0	30.0	30.6	30.9	30.9	30.9
R37	17.4	22.7	25.5	28.0	29.5	30.5	31.1	31.4	31.4	31.4
R38	23.3	28.6	31.4	33.9	35.4	36.4	37.0	37.3	37.3	37.3
R39	21.4	26.7	29.5	32.0	33.5	34.5	35.1	35.4	35.4	35.4
R40	25.5	30.8	33.6	36.1	37.6	38.6	39.2	39.5	39.5	39.5
R41	25.5	30.8	33.6	36.1	37.6	38.6	39.2	39.5	39.5	39.5
R42	26.0	31.3	34.1	36.6	38.1	39.1	39.7	40.0	40.0	40.0
R43	24.0	29.3	32.1	34.6	36.1	37.1	37.7	38.0	38.0	38.0
R44	17.9	23.3	26.0	28.5	30.0	31.0	31.6	31.9	31.9	31.9
R45	20.6	25.9	28.7	31.2	32.7	33.7	34.3	34.6	34.6	34.6
R46	20.4	25.7	28.5	31.0	32.5	33.5	34.1	34.4	34.4	34.4
R47	19.9	25.2	28.0	30.5	32.0	33.0	33.6	33.9	33.9	33.9
R48	20.5	25.8	28.6	31.1	32.6	33.6	34.2	34.5	34.5	34.5
R49	22.2	27.5	30.3	32.8	34.3	35.3	35.9	36.2	36.2	36.2
R50	21.5	26.8	29.6	32.1	33.6	34.6	35.2	35.5	35.5	35.5

13. Within 6 months of the development first becoming fully operational (unless otherwise extended with the Council) the wind farm operator shall at his/her expense employ a suitably qualified and competent person to undertake a noise survey to assess the level of noise emissions from the wind farm. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with all turbines operating across the range of wind speeds referred to in Table 1 and covering a range of wind directions. The assessment shall be undertaken in accordance with the assessment protocol that shall, prior to the commencement of any measurements have been submitted to and approved in writing by the Council and which has been endorsed as good practice by the Institute of Acoustics at such time. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise survey.

Reason: In the interests of residential amenity.

14. Within 4 weeks of a written request by Council, following a reasonable noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise emissions from the combined effects of the permitted wind turbines, at the complainant's property, following the procedures described in Pages 102-109 of ETSU-R-97 and if necessary, those described in Table 1. Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: In the interests of residential amenity.

15. The wind farm operator shall provide to the Council the results, assessment and conclusions regarding the noise monitoring required by Conditions 13 and 14, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the completion of the monitoring unless otherwise extended in writing by the Council.

Reason: In the interests of residential amenity.

16. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind farm. This data shall be retained for a period of not less than 12 months. The recorded wind data, standardised to 10m height above ground level and

relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be provided within 3 months of the date of a written request of the Council unless otherwise extended in writing by the Council.

Reason: In the interests of residential amenity.

17. Unless otherwise agreed in writing by the Council construction/decommissioning activities shall take place only within the hours of 07:00 – 19:00 hours Monday to Friday and 07:00 – 13:00 hours on Saturdays with no activities to take place on Sundays or Public Holidays.

Reason: In the interests of residential amenity.

18. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities.

The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

19. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 18.

Reason: to ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

20. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the

programme of archaeological work approved under condition 18. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

21. Prior to the commencement of development hereby approved a scheme providing for the avoidance of shadow flicker at any affected residential receptors, lawfully existing at the date of this permission shall be submitted to and approved in writing by the Council. The scheme shall be Implemented as approved and shall be retained for the operational lifetime of the turbine.

Reason: To ensure that shadow flicker is within good practice limits and will not have an adverse impact on sensitive receptors.

22. Within 28 days of a written request by the Council of a reasonable complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of the grant of planning permission, alleging that shadow flicker experienced at the dwelling exceeds 30 hrs per year or 30 mins per day at the complainants property, the wind turbine operator shall, at his/her expense employ a suitably qualified person or consultant to assess the levels of shadow flicker from the approved turbine at the complainants dwelling. This assessment shall be provided within 3 months of the date of the written request from the Council unless otherwise agreed in writing with the Council. In the event the above stated limits are exceeded, the assessment shall present mitigation measures to ensure the effects of shadow flicker are brought to within the thresholds above and these measures shall be put in place and retained for the operational lifetime of the turbine.

Reason: To protect the amenity of existing/ committed receptors.

23. All services within the development should be laid underground.

Reason: In the interests of visual amenity

24. No development shall commence until the vehicular access, including visibility splays and any forward sight distance, have been

provided in accordance with Figures 11.1.18 & 11.1.19 date published 27th April 2021. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

25. The area within the visibility splays and any forward sight lines shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted becomes operational and shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

26. The gradients of the accesses shall not exceed 4% (1 in 25) over the first 10 metres outside the road boundary.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

27. Any gates or security barriers at the access shall be located at a distance from the edge of the carriageway that will allow a 16 metre long vehicles to stop clear of the carriageway when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

28. The agreed wheel washing facilities, submitted to the Department on 13th November 2013 under B/2009/0070/F, shall be installed and operated for the duration of the construction period. The wheel wash shall be placed on a hardened surface with a stone surfaced access.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience of road users.

29. Prior to the commencement of any haulage and main stage construction traffic to site, the Developer shall in association with Council for Infrastructure's Roads Service Maintenance Sections carry out a

condition survey of all haul routes and, at the Developer's expense, shall carry out and provide to the Council a DVD detailing the condition of the existing public roads being considered as haul routes.

Reason: In the interests of road safety and the convenience of road users.

30. During construction works, the Developer shall carry out and record weekly inspections of all haul routes and submit this information to the Council on a monthly basis. However, should it be identified that an associated deterioration of the haulage routes is occurring, the full requirements of the original condition 30 of B/2009/0070/F, which required daily inspections and weekly reporting, will be reverted to.

Reason: In the interests of road safety and the convenience of road users.

31. The approved temporary compounds shall be removed and the ground reinstated within 24 months from the date of the commencement of the development hereby approved. The measures for ground reinstatement shall be submitted and agreed in writing with the Council prior to any reinstatement taking place.

Reason: In the interests of visual amenity

32. All turbine blades shall be "feathered" when wind speeds are below the "cut-in speed" of the operational turbines. This shall involve pitching the blades to 90 degrees and/or rotating the blades parallel to the wind direction to reduce the blade rotation speeds below two revolutions per minute while idling.

Reason: To protect bats.

33. No development shall take place until details of the model of the turbine to be installed, its noise specification, colour and finish, have been submitted to and approved in writing by the Council.

Reason: In the interests of residential amenity.

34. The turbine structure including blades shall be finished in a matt/semi-matt finish.

Reason: To protect the amenity of existing/ committed receptors from reflected light.

35. Turbines 1 & 2 will switch to 500kW operating mode between 6-8m/s during daytime when R6, R40, R41 & R42 are downwind of these turbines.

Reason: In the interests of residential amenity.

36. In the event that any turbine is required to be micro-sited closer to any noise-sensitive receptor identified than is currently proposed, the developer shall submit a revised noise impact assessment for prior approval by the Council. In the event that an exceedance of noise limits, as detailed in Table 1 above is identified, the operator shall submit a noise mitigation scheme for approval by the Council prior to operation.

Reason: In the interests of residential amenity.

37. Within 4 weeks from receipt of a written request from the Council, following a reasonable amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall submit a scheme for the assessment and regulation of AM to Council for its written approval. The scheme shall then be implemented within 3 months of the written request of the Council unless otherwise extended in writing by the Council.

Reason: In the interests of residential amenity.

38. If silt traps and settlement ponds are utilised, they must be capable of settling out materials prior to discharge off site. The traps and ponds must be regularly inspected and maintained accordingly.

Reason: To prevent pollution of surface waters which is detrimental to fisheries.

39. Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

Reason: In the interest of public health

40. Development shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

Reason: To safeguard the site and adjacent land against flooding and standing water.

41. Prior to the commencement of development the developer must notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information prior to development commencing:

- a. Precise location of development.
- b. Date of commencement of construction.
- c. Date of completion of construction.
- d. The height above ground level of the tallest structure.
- e. The maximum extension height of any construction equipment
- f. Details of aviation warning lighting fitted to the structure(s).

Reason: In the interest of flight safety.

42. A scheme of warning lighting shall be submitted to, and agreed, by the Council prior to commencement of development.

Reason: In the interest of flight safety.

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

5. You should refer to any other general advice and guidance provided by consultees in the process of this planning application by reviewing all responses on the Planning Portal at <https://www.nidirect.gov.uk/articles/finding-planning-application>

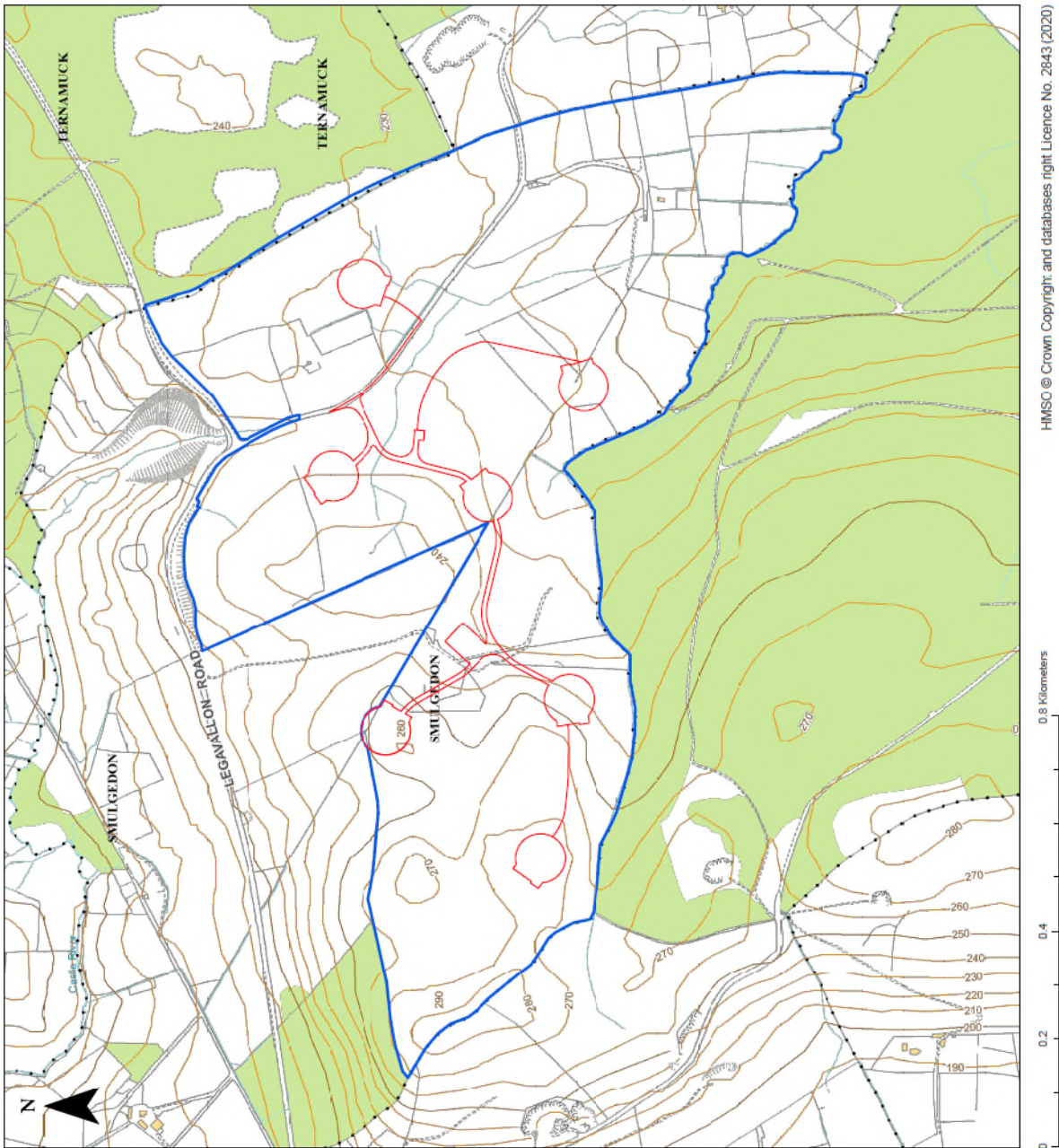
Appendix 1: Consultation Responses

Consultee	Response Date	Responses
Rivers Agency	06/07/2022	No objection – advise consideration of SuDS required – check NIEA response to see if WMU consider SuDs
Environ Health	24/03/2021	No objection – subject to conditions
Historic Environment Division (HED)		No objection – subject to conditions
DFI Roads	29/04/2021	No objection – subject to conditions
NIEA	23/09/2022	No objection – subject to conditions
SES	13/12/2022	No objection – subject to conditions
DETI Energy Division	14/04/2021	No objection
CAA	20/07/2021	No objection
DETI - Geological Survey (NI)	27/05/2022	No objection
NIE - Windfarm Developments	16/03/2021	No objection
NI Water - Strategic Applications	04/05/2021	No objection – subject to conditions
National Air Traffic Services	09/03/2021	No objection
Ofcom	31/08/2021	No objection
Loughs Agency	06/05/2021	No objection – subject to conditions
Ulster hand gliding ass.		No Response – notifiable consultee only
Belfast International Airport	12/05/2021	No objection – subject to conditions
Derry City Airport	03/03/2021	No objection

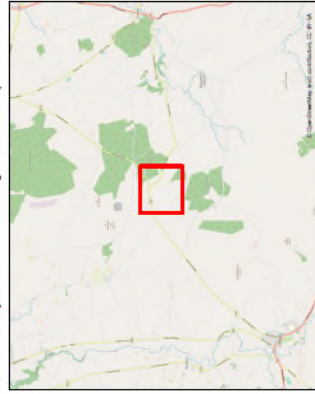
Site Location

Smulgedon Wind Farm
Site Location Map
Figure 1 (Rev B)

Key
— Application Site
 Ownership Boundary



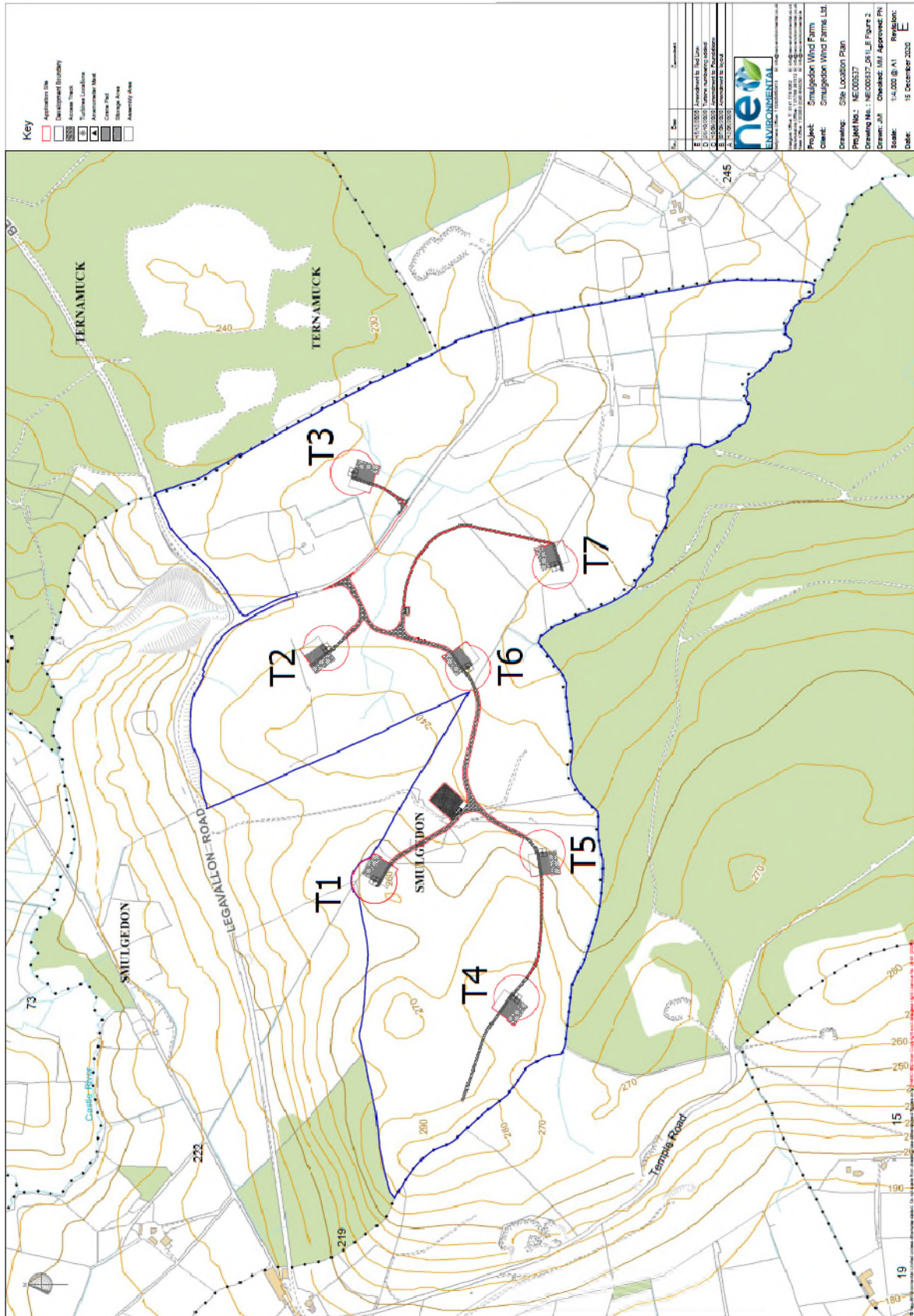
Neo Office Address:
Unit 3, The Courtyard Business Park, Galgorm Castle, Ballinena, BT42 1HL



Date: 15/12/2020
 Drawn By: Jamie McGhee
 Scale (A2): 1:3,500
 Drawing No.: NEO00537/108/IB

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Site Layout



Comments for Planning Application LA01/2021/0175/F

Application Summary

Application Number: LA01/2021/0175/F

Address: Land located at Smulgedon Hill South of Legavallon Road approx. 9km to the North East of Dungiven and 8km West of Garvagh

Proposal: Proposed amendments to the original consent B/2009/0070/f consisting of: - a reduction in the overall turbine tip height from 120.5m to 114.90m; a reduction in height from 85m to 68.9m and an increase in rotor diameter from 71m to 92m, for all 7 turbines - a new development site entrance; relocation of the combined substation and construction compound area; and a revised access track route to service T1, T2, T5 & T6 (as per previous consent B/2013/0196/f) - all ancillary development including minor increases in the size of the crane pads & wind turbine foundations to accommodate the newly proposed turbine models - The installed capacity will be 16.45MW

Case Officer: McKeary, Cathy

Customer Details

Name: Mr David McGroggan

Address: Galgorm Industrial Estate, 7 Corbally Road, Corbally Ballymena, Antrim BT42 1JQ

Comment Details

Commenter Type: Unsolicited

Stance: Customer made comments in support of the Planning Application

Comment: As qualified engineers, who are hugely supportive of renewable energy, we would be delighted to see the wind farm developments start construction after extensive delays. The windfarm will undoubtedly provide significant economic benefit to the local area. With the committed NI targets for renewable energy starting to lag behind it is important such projects advance without further delay to produce the green energy required to minimise our reliance on fossil fuels. Having family ties to Ballyness we also support this application on the basis of the benefits to the local area through the community fund programme. We support the proposed, efficiency improving, amendments to the original planning consent which upon success will lead to the development of the wind farm. Sincerely Dr David McGroggan and Dr Grace McGroggan

Aileen McGarry

From: Cathy McKeary
Sent: 27 April 2021 10:56
To: Aileen McGarry
Subject: FW: Comments for Planning Application LA01/2021/0175/F

From: ~~Support~~
Sent: 07 April 2021
To: Cathy McKeary
Subject: Comments for Planning Application LA01/2021/0175/F

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 8:12 PM on 07 Apr 2021 from Mr Seamus Farrell.

Application Summary

Address: Land located at Smulgedon Hill South of Legavallon Road approx. 9km to the North East of Dungiven and 8km West of Garvagh

Proposal: Proposed amendments to the original consent B/2009/0070/f consisting of: - a reduction in the overall turbine tip height from 120.5m to 114.90m; a reduction in height from 85m to 68.9m and an increase in rotor diameter from 71m to 92m, for all 7 turbines - a new development site entrance; relocation of the combined substation and construction compound area; and a revised access track route to service T1, T2, T5 & T6 (as per previous consent B/2013/0196/f) - all ancillary development including minor increases in the size of the crane pads & wind turbine foundations to accommodate the newly proposed turbine models - The installed capacity will be 16.45MW

Case Officer: McKeary, Cathy

[Click for further information](#)



Customer Details

Name: Mr Seamus Farrell

Email:

Address: Flat 66, Rock Mills, 126 Strand Road Londonderry, Londonderry BT48 7AD

Comments Details

Commenter Type: Unsolicited

Stance: Customer made comments in support of the Planning Application

Reasons for comment:

Comments: I supported the original planning application for this project. I support the proposal to increase the blade-size of the Windmills. The amended proposal will increase the output of renewable energy without any expansion in the space occupied. The compelling evidence that the continued use of fossil fuels constitutes an existential threat to human life is both a local and a global issue. It isn't something that can be left to other people in other places to deal with. This opportunity at local level to enable the generation of electricity by means of renewable technologies constitutes a significant contribution to the future of us all. It isn't the end of our responsibility individually or collectively, but it is a start.

Aileen McGarry

From: Cathy McKeary
Sent: 27 April 2021 10:56
To: Aileen McGarry
Subject: FW: Comments for Planning Application LA01/2021/0175/F

From: 
Sent: 08 April 2021 14:29
To: Cathy McKeary 
Subject: Comments for Planning Application LA01/2021/0175/F

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 2:28 PM on 08 Apr 2021 from Mrs Maureen Hetherington.

Application Summary

Address: Land located at Smulgedon Hill South of Legavallon Road approx. 9km to the North East of Dungiven and 8km West of Garvagh

Proposal: Proposed amendments to the original consent B/2009/0070/f consisting of: - a reduction in the overall turbine tip height from 120.5m to 114.90m; a reduction in height from 85m to 68.9m and an increase in rotor diameter from 71m to 92m, for all 7 turbines - a new development site entrance; relocation of the combined substation and construction compound area; and a revised access track route to service T1, T2, T5 & T6 (as per previous consent B/2013/0196/f) - all ancillary development including minor increases in the size of the crane pads & wind turbine foundations to accommodate the newly proposed turbine models - The installed capacity will be 16.45MW

Case Officer: McKeary, Cathy

[Click for further information](#)



Customer Details

Name: Mrs Maureen Hetherington
Email:
Address: 5 Ballystrone Lane, Coleraine BT51 4NQ

Comments Details

Commenter Type: Unsolicited
Stance: Customer made comments in support of the Planning Application

Reasons for comment:

Comments: I was in support of the original planning application for this initiative, given my own interest in sustainable renewable energy and my own personal experience in this field. I do not see that any of the aforementioned changes made to the application will have any negative consequences, but rather will improve performance overall. I stand firmly in the belief that the generation of electricity by means of renewable technologies will make an important contribution to the quality of our lives and our planet and I wish to reiterate my support for this initiative.


Dear Sir / Madam

I wish to submit an objection to the proposed application: LA01/2021/0175/F

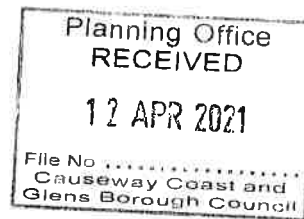
1. This highly visualised windfarm will be located close to the village of Drumsurn. There has been no public consultation to the residents of the village and those people who live in the surrounding areas.
2. There has been no accumulative impact statement concerning the quantity of windfarms and wind turbines in the local area in regard to visual impact and environmental impact on flora and fauna.
3. It will have a high visual impact on Kings Fort and other historical archaeological sites located near-by.
4. It will have a highly detrimental impact on tourists who visit the area. For example, the Ulster Way passes very close to the proposed windfarm.
5. The proposed increased rotor diameter will make the turbines more noticeable which will increase the visual impact of the turbines and make them less likely to blend into the local landscape.



Cathy McKeary
Planning Officer
Causeway Coast and Glens
Local Planning Office
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY



'Laragh'
Newtownpark Ave
Blackrock,
Co Dublin
A94 F9V2



8 April 2021

Dear Ms Mc Keary,


Planning Ref No LA01/202 1/0175/F)

I am writing in support of the above application.

As I stated in a previous submission, I believe this project is very much in line with all community efforts to harness renewable energy and hence reduce our dependence on non-sustainable fossil fuels. It will also have a very positive, if shorter term, economic impact by bringing much needed employment into the project area during construction.

I am fully convinced that the relatively minor modifications now being proposed to the original project design, will not have any impacts beyond those already approved.

I therefore trust that the project can very quickly be given its final approval

Thank you 

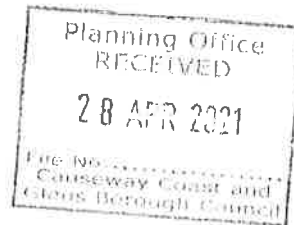
Kevin Farrell 



John Farrell
205A Legavallon Road
Ballyness
Dungiven
BT47 4QW

26th April 2021

Cathy McKeary
Planning Officer
Causeway Coast and Glens
Local Planning Office
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY



Re: Planning reference no: LA01/2021/0175/F

I am writing to convey my support for the above-named planning application. This amended application is simply a change to the project's design, not a new wind farm. The rotor blades are increasing in size which will facilitate a greater output and further environmental benefits. It is important to note that therefore it does not have any additional impacts over the original approved application. We believe strongly that the application has significant environmental and economic benefits.

Yours sincerely 

John Farrell