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**17/08/2023**

Dear Allan

### Application for Variation Under Section 36C of the Electricity Act 1989

Sandy Knowe Wind Farm Limited ('the Applicant') requests a variation under Section 36C of the Electricity Act 1989 (as amended) of the Section 36 Consent and deemed planning permission for Sandy Knowe Wind Farm, on the basis of terms detailed below.

In particular the Applicant seeks to extend the operational life of the Sandy Knowe Wind Farm by amending Condition 7(1) of the deemed planning permission. The existing condition states that:

*'7(1) The wind turbines shall be decommissioned and cease to generate electricity by no later than the date falling twenty-eight years from the Date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed 12 months from the date upon which the Development ceases to generate electricity without the prior written approval of the Scottish Ministers in consultation with the Planning Authority'*

The Applicant seeks to extend the operational lifespan of Sandy Knowe Wind Farm from 28 years (current) to 40 years (proposed) (The 'Proposed Variation').

The Proposed Variation seeks to extend the consented operational life by 12 years. No changes are proposed to the site boundary, the physical configuration of Sandy Knowe Wind Farm or to any conditions which control the manner of operation of Sandy Knowe Wind Farm.

### Sandy Knowe Wind Farm

Sandy Knowe Wind Farm is located south-west of Kirkconnel in the Dumfries and Galloway Council (DGC) area and consists of 24 wind turbines at a tip height of 125m and associated infrastructure including, hardstandings, cabling, substation and access roads. Sandy Knowe Wind Farm has an output of 86.4MW.

Sandy Knowe Wind Farm was consented under Section 36 of the Electricity Act 1989 to construct and operate a wind farm following a decision letter issued by the Scottish Ministers on 07 July 2020 (ECU Reference: ECU00000660).

The application for Sandy Knowe Wind Farm was submitted in 2018 and was accompanied by an Environmental Impact Assessment Report ('the 2018 EIA'). This was prepared in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations).

The 2018 EIA can be found on the ECU Planning Portal searching the reference: ECU00000660.

The Date of First Commissioning was 13 October 2022 and the Date of Final Commissioning was 18 February 2023. The date of expiry of the current consented operational period is therefore 18 February 2051.

The as-built layout is shown in Drawing SAK-ENG-MAP-006 which was submitted to Dumfries and Galloway Council on 14 November 2022. Sandy Knowe Wind Farm was built in line with the S36 consent and deemed planning permission; a Section 42 variation for noise (20/1798/S42); an application for alternate route for access track and alternate hardstanding placement (22/2149/FUL).

In accordance with the requirement of Regulation 3(1)(d)(iii) of the Electricity Generating Stations (Applications for Variation Consent) (Scotland) Regulations 2013 (the “2013 Regulations”), copies of the Section 36 Consent and the decision letter from the Scottish Ministers are enclosed.

The Applicant remains the owner of the Sandy Knowe Wind Farm and is entitled to the benefit of the Section 36 Consent. The Applicant is therefore entitled to make the variation application as submitted.

## The Proposed Variation

The Proposed Variation seeks to extend the operational life of the development by amending Condition 7(1) of the deemed planning permission. The existing condition states that:

*‘7(1) The wind turbines shall be decommissioned and cease to generate electricity by no later than the date falling twenty-eight years from the Date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed 12 months from the date upon which the Development ceases to generate electricity without the prior written approval of the Scottish Ministers in consultation with the Planning Authority’*

The draft proposed variation is therefore:

*‘7(1) The wind turbines shall be decommissioned and cease to generate electricity by no later than the date falling **forty** years from the Date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed 12 months from the date upon which the Development ceases to generate electricity without the prior written approval of the Scottish Ministers in consultation with the Planning Authority’.*

The date of expiry of the consented operational period (if variation is approved) is therefore calculated as 18 February 2063.

The Applicant is therefore also seeking a Direction from the Scottish Ministers under Section 57 (2ZA) of the Town and Country Planning (Scotland) Act 1997 that deemed the planning permission is varied in respect of this condition.

In accordance with the Regulation 3(1)(C) of the 2013 Regulations, the reasons for seeking a variation to the Section 36 Consent are stated in the Supporting Statement that accompanies the variation application.

A technical report supporting the capabilities of the infrastructure to operate for the extended time period is also provided following formalisation of ERG's Lifetime Extension process in 2022.

In summary, the extension to the operational life of Sandy Knowe Wind Farm would contribute to an increased energy output over the life of the wind farm and would secure the continued provision of a renewable source of energy for a further 12 years. The Applicant is also committed to continuing, at a national level, to promote community benefits of the value equivalent to £5,000 per installed megawatt per annum, index linked for the operational lifetime of the project.

## Environmental Impact Assessment (EIA)

The Applicant has considered the need for EIA under the terms of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the “2017 EIA Regulations”).

The 2017 EIA Regulations were amended in December 2017 to clarify that an EIA should only be required where the changes proposed by a variation may themselves be likely to give rise to significant environmental effects. Where the proposed variation itself is unlikely to have significant effects, no EIA report is required for Variation Application.

As detailed within the accompanying Supporting Statement, the original application for the Sandy Knowe Wind Farm included a detailed Environmental Impact Assessment (EIA) which evaluated the potential significant effects related to the construction, operation, and decommissioning phases. Following the establishment of confirmed mitigation measures, the EIA indicated that no significant adverse effects were anticipated to occur, with the exception of a limited number of visual effects.

All technical specialties which were previously assessed as part of the original application have been re-appraised within the Supporting Statement based on the advice from technical specialists, other environmental experts, and an appraisal of the 2018 EIA. This appraisal assessed The Proposed Variation against Schedule 1, 2 and 3 of the EIA Regulations. Appendix C of the Supporting Statement provides a summary of this assessment in a Screening Checklist. This concludes that:

- There will be no material change to the scale of the development as a result of the Proposed Variation;
- There is no construction work associated with the Proposed Variation;
- No material additional waste production is associated with the Proposed Variation;
- The Proposed Variation not likely to give rise to any new or additional significant adverse effects on noise. Operational noise would continue to be controlled by and comply with planning conditions; and
- No sensitive land uses will be impacted by the Proposed Variation and no loss of greenfield land will occur associated with the Proposed Variation.

The Proposed Variation does not amend the turbine dimensions, locations and/or other infrastructure at Sandy Knowe Wind Farm and the Applicant will continue to operate following the conditions under which S36 Consent was granted. Furthermore, the Habitat Management Plan (HMP) which is currently in place will continue to be employed for a further 12 years, making positive contributions to the natural environment.

Accordingly, it has been concluded that the Proposed Variation would not be likely to give rise to any new or different significant effects on the environment and as such, it is not considered to constitute EIA Development.

## Variation Application Publicity and Advertising

A copy of the Variation Application will be served on Dumfries and Galloway Council and on the owners of the site in accordance with Regulations 4(2)(b) and (d) respectively of the 2013 Regulations.

The Variation Application will be advertised in accordance with the 2013 Regulations, after the application documents have been served on the ECU planning portal and copies have been published on the project website, as follows:

- Edinburgh Gazette for one week;
- The Herald for one week;
- The Dumfries and Galloway Standard for two weeks; and
- The notice of the application will be posted on the project website.

The advertisement will provide details of the date by when representations should be made which Atmos Consulting will confirm with the ECU.

On the basis of information provided in the Variation Application, the Applicant requests that the Scottish Ministers grant the Variation Application and make the Proposed Variation to the Section 36 Consent and vary the deemed planning permission and issue direction under Section 57 (2ZA) of the Town and Country Planning (Scotland) Act 1997.

We confirm the application fee of £18,750 has been paid with the reference number: [ECU36CN SANDYKNOW].

We look forward to your acknowledgement in early course that the Variation Application has been accepted for determination. Please do not hesitate to contact me should you have any queries or if you require any additional information.

Yours sincerely



**Martina Tully**  
Assistant Project Manager

**E:** [Redacted]

**T:** [Redacted]

**Enclosed**

- 36408\_R1\_ Sandy Knowe Wind Farm S36C Application\_Supporting Statement
- ERG LTE Policy Statement\_Sandy Knowe
- Sandy Knowe Wind Farm - Decision Letter and Conditions - 07 July 2020 Redacted
- 36408\_Figure 1\_BP\_002a\_Site Location
- SAK-ENG-MAP-006-02-3.1\_consented vs asbuilt