

THE HIGHLAND COUNCIL

**PLANNING APPLICATIONS COMMITTEE
4 August 2015**

Agenda Item	5.12
Report No	PLN/049/15

**15/02006/FUL: Partnerships for Renewables Development Company Ltd
Land at North Clare Forest, west of Fannyfield, Swordale, Evanton**

Report by Area Planning Manager

SUMMARY

Description : Installation of 80m high meteorological mast for temporary period of 3 years

Recommendation - GRANT

Ward : 7 – Cromarty Firth

Development category : Local

Pre-determination hearing : Not required

Reason referred to Committee : Community Council objection

1. PROPOSED DEVELOPMENT

- 1.1 The application proposes the installation of a meteorological mast, with a maximum height of 80m for a temporary period of 3 years. The mast will support equipment required to measure wind speed and direction which will help inform possible future applications for wind energy development.
- 1.2 The mast is a slender lightweight pole, sited on a metal footplate measuring 2m x1m. The pole has a diameter of 219mm up to 60m then 194mm from 60m to 79.5m. The top boom upstand takes the mast height to 80m. This 'boom' refers to the horizontal axis holding the proposed wind vanes and anemometers.
- 1.3 Access to the site is via existing forestry tracks. There are no proposals to form any additional tracks and there are no other servicing requirements.
- 1.4 No supporting information has been provided.
- 1.5 **Variations:** None

2. SITE DESCRIPTION

- 2.1 The site lies within a commercial forestry plantation at North Clare at an altitude of approximately 300m. The area of the forest around and including the application site has been clear felled in recent years and has been subject to replanting. The site lies on a south-east facing slope with rising afforested land to the rear (north

and north-west) with the small top of Cnoc nan Each (467m) approximately 1.5km to the north-west and the higher tops of Meall na Speireig and Meall an t-Slugain (over 600m) over 3km beyond this. The summit of Ben Wyvis (1006m) lies over 8km distant.

3. PLANNING HISTORY

3.1 No planning history.

Application for a windfarm at Clath Liath - seventeen turbines (42.5MW) and associated infrastructure (12/01689/FUL), covering a swathe of land over 1km to the north-west - Refused - 13 February 2013.

4. PUBLIC PARTICIPATION

4.1 Advertised : Schedule 3 Development 05.06.2015

Representation deadline : 19.06.2015

Timeous representations : One

4.2 Material considerations raised are summarised as follows:

- Detrimental impact on landscape, specifically in relation to the Ben Wyvis massif;
- Lack of consultation;
- Previous windfarm application which was refused had wind monitoring data which could be used;
- Site adjacent to a capercaillie nest site.

4.3 The letter of representation is available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **Kiltearn Community Council** : No response

5.2 **Ferintosh Community Council** : Object on the following grounds:

- Detrimental impact on landscape and scenery;
- Contrary to Policy 28 of the Highland wide Local Development Plan, as due to the height and position of the mast, it will be readily visible from the surrounding landscape.

5.3 **SNH**: No objections

5.4 **SEPA** : No objections

5.5 **MOD** : No objections. In the interests of air safety, the development should be fitted with aviation warning lighting. Due to the height of the proposed mast this will necessitate that aeronautical charts and mapping records are amended. A

condition should be attached to any planning permission granted to require the developer to notify the Defence Geographic Centre with certain detailed information prior to development commencing.

5.6 **HIAL** : No objections. Due to the height and position of the proposed mast, an aviation warning light will require to be fitted at the highest point possible on the mast. Please note that the CAA specifications are for steady red omnidirectional light at a minimum of 32cd. Infra-red lights are suitable for military aircraft only and cannot be seen or detected by civil aircraft.

5.7 **CAA** : No response.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland wide Local Development Plan 2012 (HwLDP)

Policy 28	Sustainable Design
Policy 51	Trees and Development
Policy 52	Principle of Development in Woodland
Policy 58	Protected Species
Policy 61	Landscape
Policy 67	Renewable Energy Developments

6.2 Ross and Cromarty East Local Plan 2007 (As Continued in Force)

Relevant Policies superseded by HwLDP

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Inner Moray Firth Local Development Plan - Adopted 25 June 2015 (yet to be constituted by The Scottish Government)

7.2 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide Supplementary Guidance (January 2013)

Onshore Wind Energy Interim Supplementary Guidance (March 2015)

7.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (June 2014)

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Policy Assessment**

The development requires to be primarily assessed against Policy 28 (Sustainable Design) and Policy 61 (Landscape) of the HwLDP. Policy 67 (Renewable Energy Developments) and associated supplementary guidance is not directly relevant as the mast is a proposed temporary structure to obtain information only and not part of a renewable energy development in itself. The development will accommodate a small area within a working forest and there will therefore be no significant loss of woodland. There is therefore no conflict with Policies 51 (Trees and Development) and 52 (Principle of Development in Woodland).

8.4 Policy 28 aims to ensure that development is sustainable and states that proposals should be assessed on the extent to which they 'impact upon individual and community residential amenity' and 'demonstrate sensitive siting and high quality design in keeping with local character'. Proposals which are judged to be significantly detrimental in terms of the Policy will not accord with the development plan. Policy 61 requires design of new developments to reflect landscape characteristics. The aim is to ensure that the landscape has the capacity for development whilst promoting sustainable growth.

8.5 Consideration is therefore focussed substantially upon visual and landscape impact and the resultant impacts on individual and community residential amenity. The mast is proposed approximately 1.5km from the nearest house at Fannyfield and over 2km from the end of the nearest public road at Swordale within a wider actively managed commercial forestry plantation. The site is located on a slope with rising land, including forestry, as a backdrop. The third party objector and Ferintosh Community Council express concerns that the mast will be highly visible and will detract from the landscape in the foreground of the Ben Wyvis Massif. It is not accepted that this will be the case. The site does not lie within any national or local landscape designations and the development will make use of existing tracks within a managed afforested landscape. The slender and lightweight nature of the proposed mast will ensure that it will not be highly visible and rather that the surrounding landscape has the capacity to absorb the development. It is therefore considered that the visual and landscape impact will not be significant and accordingly that the development will be compatible with Policies 28 and 61. Furthermore, the mast is only proposed for a maximum period of 3 years and will have no permanent impact whatsoever.

8.6 **Material Considerations**

8.7 **Servicing**

The mast will be delivered to be constructed on site using existing access tracks. Due to the type of structure and its temporary nature it will generate little traffic other than that required during its erection, removal and routine inspections.

8.8 **Aviation Safety**

As noted in Section 5 above no consultees have raised any objections in terms of air safety, however HIAL and MOD have stated that there is a need for an aviation warning light. MOD also requires detailed information to be provided prior to development commencing. This can be secured by condition.

8.9 **Nature Conservation**

The third party objector has expressed concerns that the site is close by a capercaillie nest site. In this regard, the site lies outwith Ben Wyvis Special Protection Area (designated for breeding dotterel) and Novar Special Protection Area (designated for breeding capercaillie). SNH has been consulted and has raised no objections. Nonetheless, the agents for the developers have confirmed that as the RSPB indicative map does show that the area is one of resident capercaillie and surveys of this wider area have been undertaken since 2012. These surveys show that the area is of sub-optimal condition for capercaillie and that only one female bird is present, which is not thought to be breeding. There is no evidence of any males being present and no nests or leks have been identified. However given that capercaillie is a Schedule 1 protected species, pre-construction checks are proposed to be carried out prior to the installation of the met mast to ensure that there will be no detrimental impacts on capercaillie nesting. This matter can be addressed by an informative note on the decision notice.

8.10 **Lack of consultation and potential of using existing information**

The third party objector has expressed concerns that no consultation or notification has taken place in respect of this application. As the application is for a local development, no formal consultation by the developer is required. No statutory neighbour notification was required to be undertaken by the Planning Authority due to the distance of the proposed mast site from any other properties. Nonetheless the application has been advertised in the Ross-shire Journal allowing a two week period for third party representations; and both the local Community Council (Kiltearn) and, following a request, a Community Council on the Black Isle (Ferintosh) have been consulted. Statutory and non statutory consultations have been carried out as reported at Section 5 above. The objector also suggests that there should be existing wind data held by previous applicant for the wind farm nearby which was refused. This is not a realistic or practical option as the met masts sited for the previous proposed development were situated at a higher altitude on land to the north and will not provide accurate information in respect of the area within which the current proposal is located.

8.1 **Matters to be secured by Section 75 Agreement**

None

9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons:

1. Planning Permission is hereby granted for a temporary period of three years only and shall cease to have effect on 10 August 2018 (the 'cessation date'). Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission and reinstated in accordance with a scheme approved in writing by the Planning Authority under condition 2 of this permission.

Reason : In recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development after a given period of time and secure removal and restoration.

2. No development shall commence until full details of a scheme for restoring the application site to its condition prior to the temporary development being carried out, has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the site shall be reinstated in accordance with those approved details prior to the cessation of this permission.

Reason : To ensure that the restoration of the site is carried out in an appropriate and environmentally acceptable manner.

3. No development shall commence until the developer has notified the MOD (Defence Infrastructure Organisation) of the precise location of the development; the date of commencement of construction; anticipated date of completion of the construction; the height above ground level of the tallest structure; the maximum extension height of any construction equipment; and details of aviation warning lighting fitted to the structure. No work shall commence on site until this information has been received and acknowledged by the MOD.

Reason : In the interests of air safety.

4. Within 7 days of the mast being erected it shall be fitted with aviation warning lighting in accordance with MOD and HIAL advice (a steady red omnidirectional light at a minimum intensity 32 candela), fitted at the highest practicable point of the structure). Such lighting shall be maintained operational for the lifetime of the mast to the satisfaction of the Planning Authority.

Reason : In the interests of air safety.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Schedule 3 Development Site Notice

Prior to the commencement of this development, the attached Site Notice must be posted in a publicly accessible part of the site and remain in place until the development is complete. This is a statutory requirement of the Town and Country Planning (Scotland) Acts and associated regulations.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building

Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Mud and Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

MOD Notification

With regard to Condition 3 above, you can email the required information to the Defence Geographic Centre dvof@mod.uk or post it to D-UKDVOF and Power Lines, Geospatial Air Information Team, Defence Geographic Centre, DGIA, Elmwood Avenue, Feltham, Middlesex, TW13 7AH.

Protected Species - Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

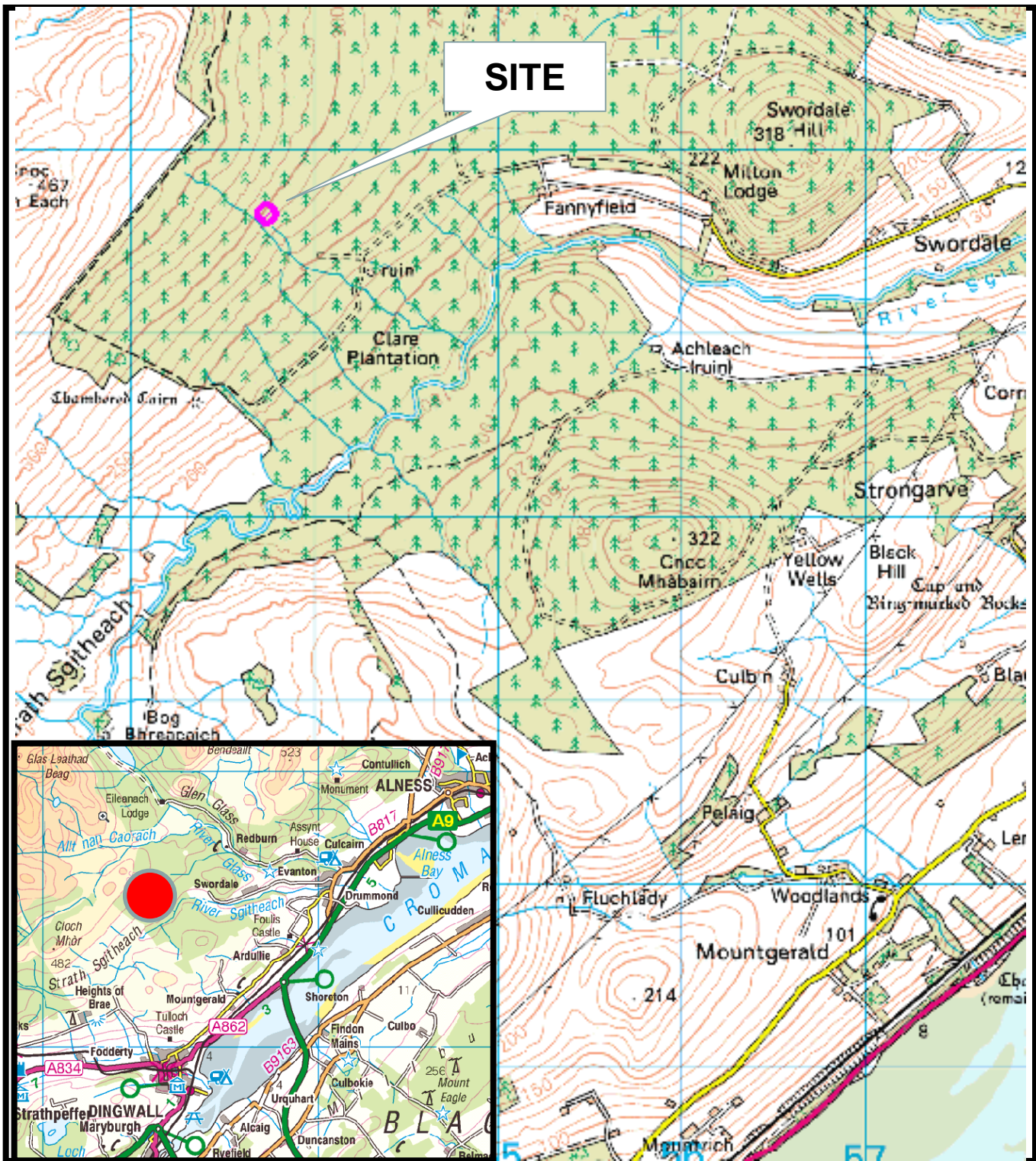
Protected Species - Contractors' Guidance

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

Protected Species - Ground Nesting Birds

Construction/demolition works have the potential to disturb nesting birds or damage their nest sites, and as such, checks for ground nesting birds should be made prior to the commencement of development if this coincides with the main bird breeding season (April - July inclusive). All wild bird nests are protected from damage, destruction, interference and obstruction under the Wildlife and Countryside Act 1981 (as amended). Some birds (listed on schedule 1 of the Wildlife and Countryside Act) have heightened protection where it is also an offence to disturb these birds while they are in or around the nest. For information please see: www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp

Signature: Dafydd Jones
Designation: Area Planning Manager North
Author: Dorothy Stott
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 –Location Plan
Plan 2 – Site Layout Drawing
Plan 3 –Elevation Drawing



The Highland Council
Comhairle na Gàidhealtachd

Planning & Development
Service

15/02006/FUL

Installation of meteorological mast at
Land to West of Fannyfield,
Swordale, Evanton

04 August 2015

N



- Meteorological Mast Location
- Guy Rope
- Planning Application Boundary

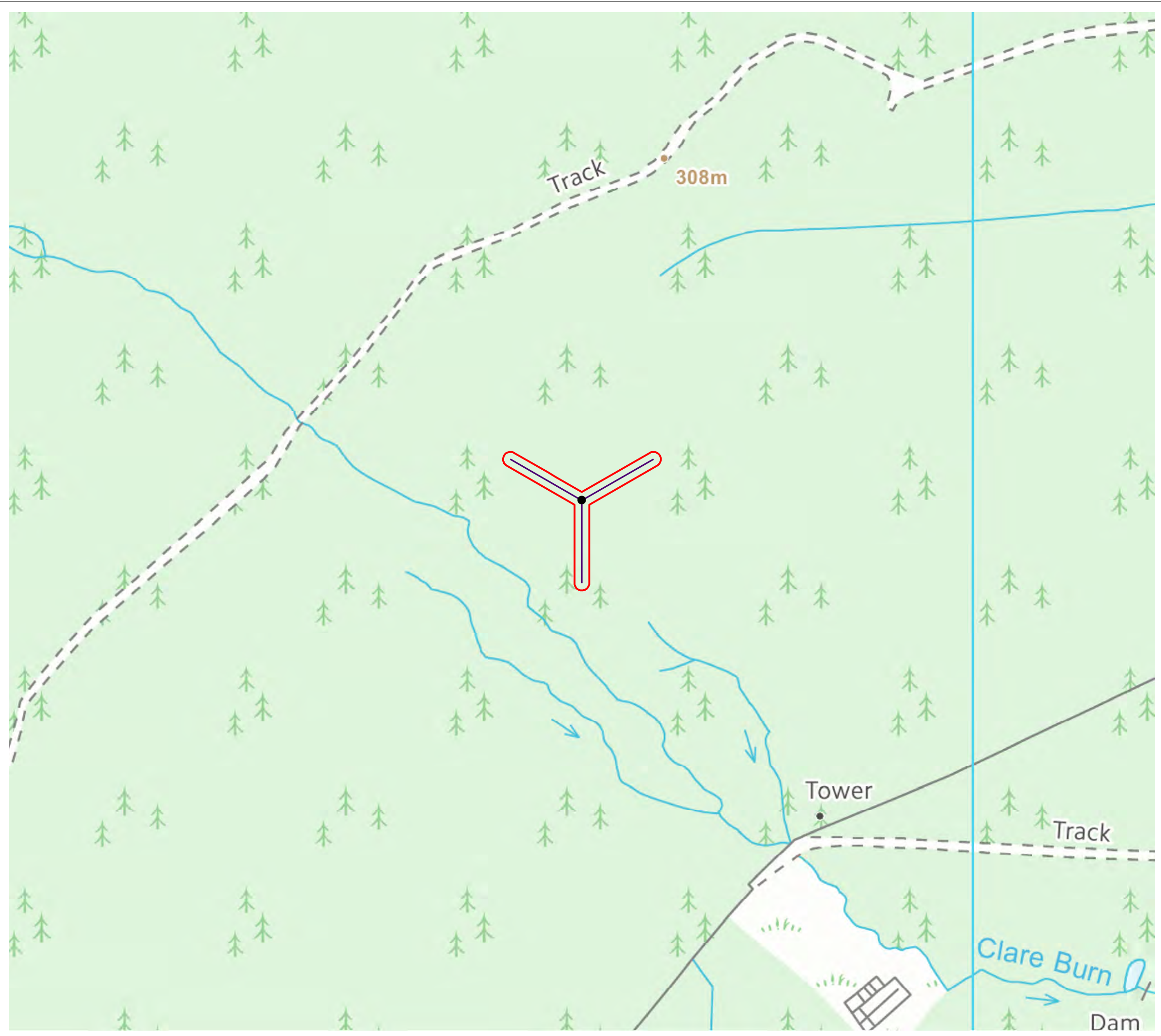
Meteorological Mast Coordinates
National Grid Reference
253735 865651



Produced: TC	Ref: 1772/REP/023
Reviewed: SC	Date: 13/05/2015
Approved: AG	

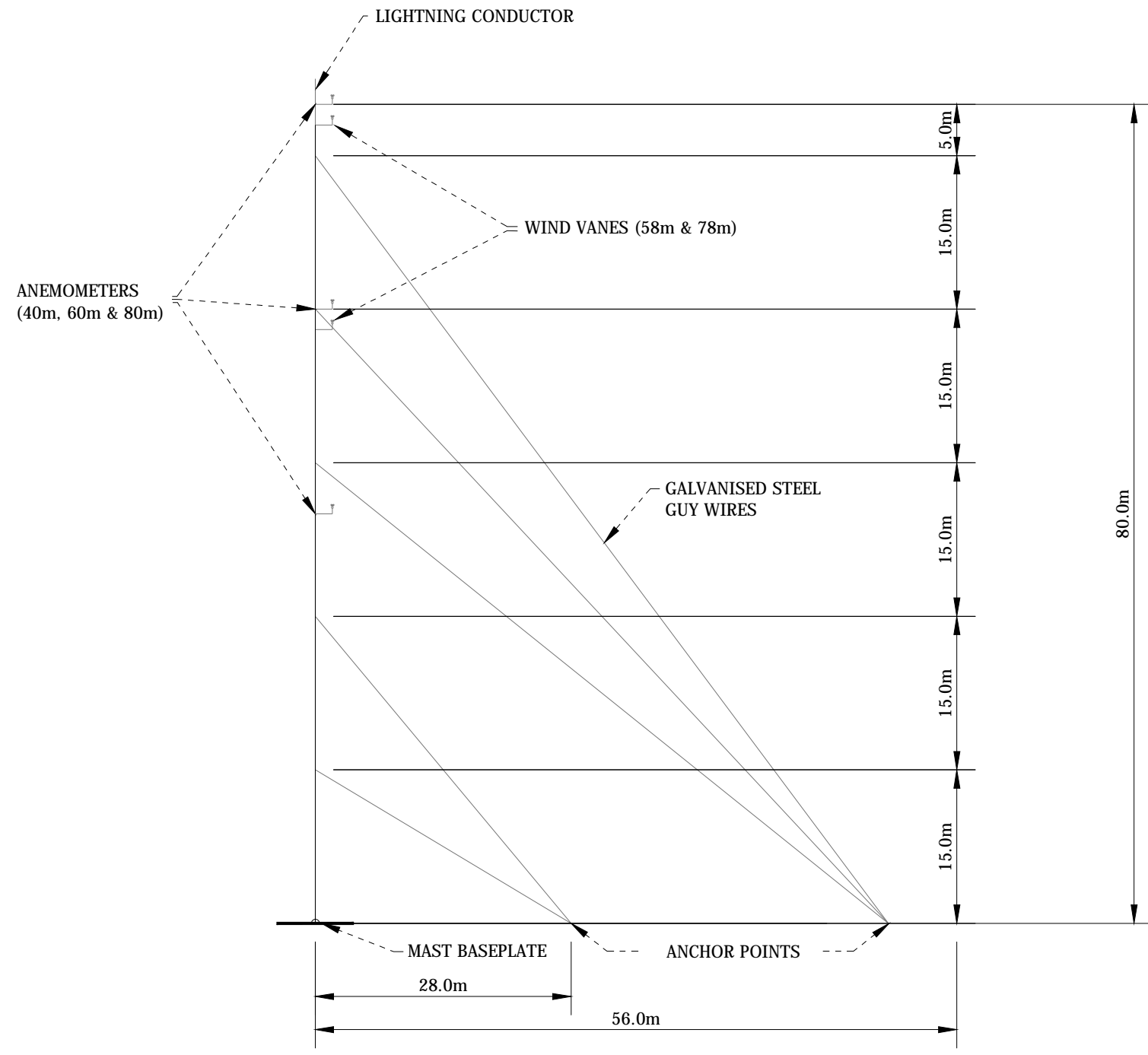
Site Layout
Figure 2

Clare Meteorological Mast
Planning Application




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Plot Date : 12 May 2015 15:22:56
File Name : G:\PROJECTS\1772 SOUTH CLARE EIA\ENGINEERING\CAD_DATA\02-ISSUED\02_01-DRAWINGS\1772-DR-P-0100



METEOROLOGICAL MAST ELEVATION

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