

20 May 2011

**Planning Obligation by Unilateral Undertaking
Pursuant to Section 106 of the Town and
Country Planning Act 1990**

relating to land at Crook Hill, Littleborough Rochdale and
Landgate, Shawforth, Rossendale

Parties

Crook Hill Properties Limited (1)

Jeremy James Dearden (2)

To

The Borough Council of Calderdale (3)

Rochdale Metropolitan Borough Council (4)

Rossendale borough Council (5)

THIS UNILATERAL UNDERTAKING is made on the 20th day of May 2011

BY:

- (1) **CROOK HILL PROPERTIES LIMITED** a Company incorporated in the British Virgin Islands under Company Number 669322 and whose registered office is situated at Akara Building, 24 De Castro Street, Wickhams Cayl, Road Town, Tortola, British Virgin Islands ("the Developer")
- (2) **THE LANDOWNER** being Jeremy James Dearden of [REDACTED] c/o Andrew Crossley of G Crossley & Son of [REDACTED] ("the Landowner")

to
- (3) **THE BOROUGH COUNCIL OF CALDERDALE** of Town Hall, Crossley Street, Halifax, West Yorkshire HX1 1UJ ("the First Council")
- (4) **ROCHDALE METROPOLITAN BOROUGH COUNCIL** of the Town Hall, Rochdale, OL16 1AB ("the Second Council")
- (5) **ROSSENDALE BOROUGH COUNCIL** of Lord Street, Rawtenstall, Rossendale BB4 7LZ ("the Third Council")

WHEREAS:

- (1) The First Council, the Second Council and the Third Council (together "the Councils" are the Local Planning Authorities for the purposes of the Act for the Site as indicated on Plan A;
- (2) The Landowner is the owner in fee simple of the Site registered as part of Title Numbers LAN92942, LAN76018, MAN137857, MAN125373, MAN125174, WYK886148;
- (3) The Developer has a legal interest in the Site by way of two options dated and 9 February 2007 with the Landowner in respect of the Site ("the Options");
- (4) An application for planning permission has been submitted to the Councils and given the reference 11/00080 by the First Council the reference 11/D54145 by the Second Council and reference 2011/0030 by the Third Council. The applications are for the construction of a twelve turbine wind farm together with access tracks, substation, meteorological mast and other associated development.
- (5) The land on which the wind farm is to be built is common land.
- (6) The Landowner to enable the construction of the Development needs to apply to the Secretary of State under s16 of the Commons Act 2006 to exchange and deregister areas of the Common land contained within the Site;
- (7) The Developer and the Landowner have agreed to enter into this planning obligation by way of Unilateral undertaking delivered to the Councils ("the Undertaking") to carry out certain actions relevant to the Planning Application and the Commons Application.

NOW THIS DEED WITNESSES as follows:

1 Interpretation

- 1.1 In this Undertaking unless the context otherwise requires the following expressions shall have the following meanings:-

of agreement, as shall be determined pursuant to clause 14 of Schedule 3; and

RPI_n means the RPI for the month preceding the date on which the indexation calculation is to be effective;

RPI_a means the RPI for the month of March 2010

1.1.10 the Order means an order made by the Secretary of State under Section 17 of the Commons Act 2006 relating to the Commons Application;

1.1.11 the Planning Applications means the applications made to the Councils for the construction of a twelve turbine wind farm together with access tracks, substation, meteorological mast and other associated development and as validated by the Councils and given the references 11/00080, 11/D54145 and 2011/0030;

1.1.12 the Planning Permission means the granting of planning permission for the Planning Applications by the Councils or by the Secretary of State on appeal

1.1.13 Rights means the rights of the Commoners as listed in the commons registers of the Common;

1.1.14 Site means the land edged red but excluding the land coloured yellow on Plan B attached to this agreement being land at CL165, CL166, CL168 and CL172 and forming part of land registered at HM Land Registry under Title Numbers LAN92942, LAN76018, MAN137857, MAN125373, MAN125174, WYK886148;

1.1.15 Termination Date means the date which is 25 years after the date that electricity from the Development is first supplied to the grid or if earlier the date on which electricity from the Development permanently ceases to be supplied to the grid or if earlier the date on which the development is abandoned prior to electricity being generated;

1.1.16 Turbine a wind turbine generator erected pursuant to the Planning Permission

1.2 Where the context so requires:

1.2.1 The singular includes the plural;

1.2.2 The masculine includes the feminine;

1.2.3 References to clauses plans and schedules are references to clauses and plans in and schedules to this Agreement.

1.3 References to any parties shall include the successor person or body or the successors in title of that party.

2 Legal Effect

2.1 This Agreement is a deed enforceable by the Councils as local planning authorities for the Site and the Dedicated Land for the purposes of S106 of the Act and each and every obligation imposed by this Agreement is a planning obligation for the purposes of Section 106 of the Act.

- 2.2 Insofar as any of the covenants contained in this Agreement are not planning obligations within the meaning of Section 106(1) of the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and all other enabling powers.
- 2.3 The obligations in Schedules 1 and 2 of this Agreement shall not take effect until the Order has been made by the Secretary of State;
- 2.4 Save for paragraph 2 of Schedule 3, the obligations in schedule 3 of this Undertaking shall not take effect until:
- 2.4.1 the Planning Permission has been granted; and
- 2.4.2 The date of the Commencement of Development
- 2.5 Paragraph 2 of Schedule 3 shall take effect upon the grant of Planning Permission.
- 2.6 No person or the Developer or the Landowner shall be liable for any breach of this Undertaking unless he or it holds an interest in the part of the Site in respect of which such breach occurs or held such an interest at the date of the breach.
- 2.7 Nothing in this Undertaking shall be construed as prohibiting or limiting the development of the whole or any part of the Site in accordance with any planning permission granted by the Council or the Secretary of State after the date of this Agreement (save and except the Planning Permission).
- 2.8 In the absence of contrary provision any reference to a statute or statutory instrument includes any modification or re-enactment of it.
- 2.9 Unless otherwise provided for in this Undertaking (and subject to the Developer and/or Landowner as appropriate using reasonable endeavours to obtain the agreement of the Councils), any dispute or difference arising between the parties with regard to their respective rights and obligations as to any matter or anything in anyway arising out of or connected with this Undertaking shall be referred to the decision of a single arbitrator to be agreed between the parties or failing agreement between them within 10 working days of any party calling upon the others to agree to be nominated by the President of the Royal Institution of Chartered Surveyors and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996. The single arbitrator shall act as an expert and make his determination within 20 working days from the date of his appointment such determination to be made in writing giving full reasons therefore and shall be binding upon the parties. The single arbitrator shall afford the parties the opportunity to make representations in writing within 10 working days from the date of his appointment. The arbitrator shall have unfettered discretion to determine the reference to him and his costs and expenses shall be borne equally between the parties unless the arbitrator directs otherwise.
- 2.10 It is a pre-condition of the requirement of the Landowner and its successors in title to carry out any of the Landowner's obligations and covenants set out in Schedule 1 hereof that (unless the Landowner or its successors in title implements or operates the Development without the Developer) the Developer shall on demand make payment in advance to the Landowner or its successors in respect of all reasonable and proper costs and expenses anticipated by the Landowner or its successors in title to be incurred by the Landowner or its successors in title in complying with all the covenants set out in Schedule 1 hereof.

3 Developer's Obligations

- 3.1 The Developer covenants to carry out and comply with the obligations and covenants set out in Schedule 2 and Schedule 3 of this Agreement.

IN WITNESS the parties have executed this Agreement as a Deed on *20 May* 2011

EXECUTED AS A DEED AND DELIVERED

BY **Crook Hill Properties Limited**

acting by its duly authorised

Director and Secretary



Director

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Director/Secretary

EXECUTED as a DEED AND DELIVERED

By **Jeremy James Dearden**

in the presence of:

Witness' signature.....

Witness' name (capital letters).

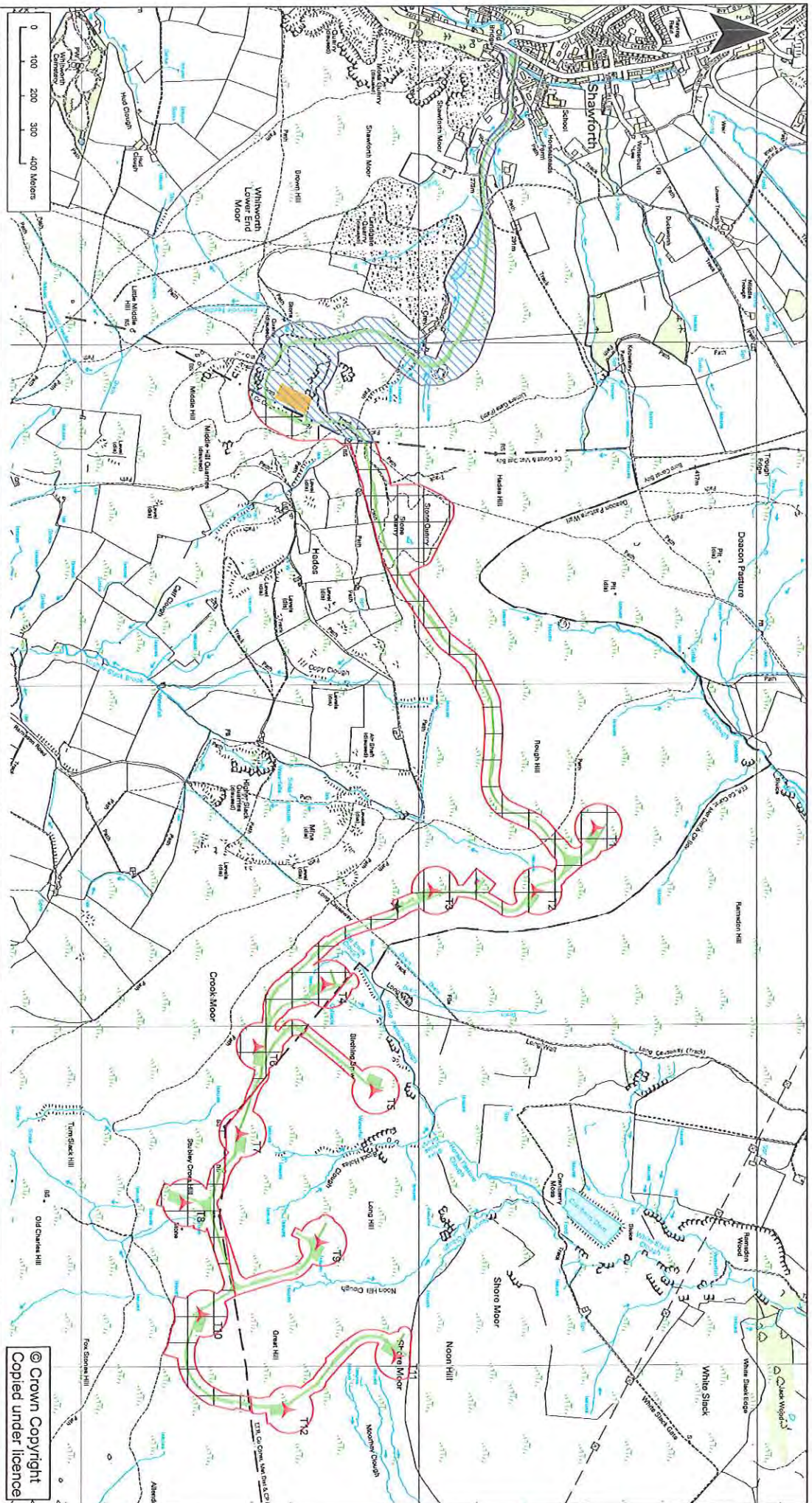
Address.....

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Occupation.....





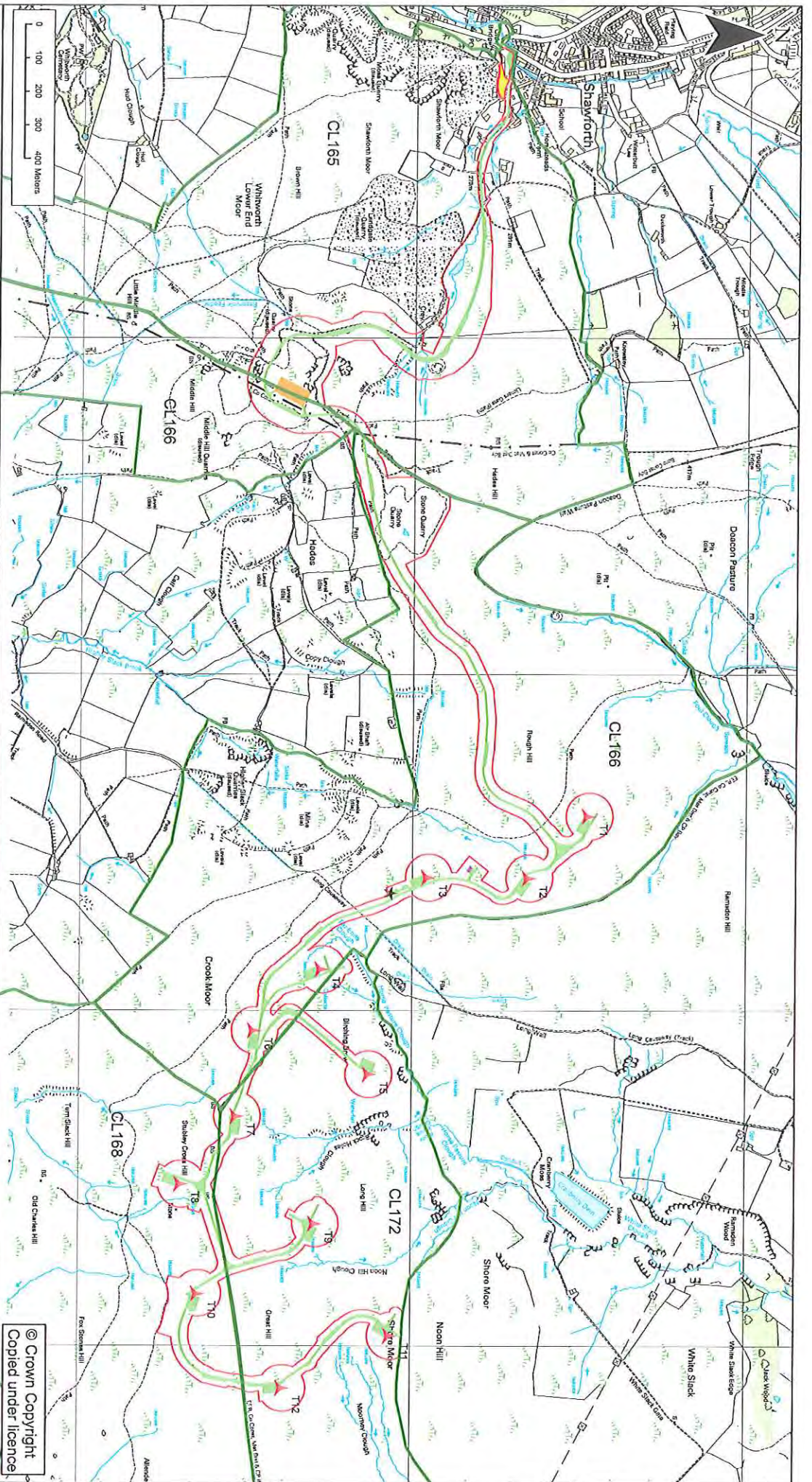
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- Key:**
- Planning Application Boundary
 - Turbine Location
 - Access Track, Passing Places and Handstandings
 - Temporary Compound
 - Substation
 - Meteorological Mast

- Local Planning Authority**
- Calderdale
 - Rochdale
 - Rossendale

Notes: Effort has been made to ensure the accuracy of the information provided on this plan. Data is correct to the best of our knowledge and we accept no responsibility for any omissions, inaccuracies or damage caused by reliance on the information contained on this plan.

Client: Coronation Power		Prepared by:	
Scale at A3: 1:11,000		Crock Hill 12 Wind Farm Infrastructure Refinement with Access Route via Hades Quarry	
Date: 19 April 2011		Version 2	
		Plan A	



- Key:**
- Site
 - ▲ Turbine location
 - Access Track, Passing Places and Handstandings
 - Temporary Compound
 - Substation
 - ✱ Meteorological Mast
 - Common Land
 - Land Not Subject to the Unilateral Undertaking

Every effort has been made to ensure the accuracy of the information provided on this figure. Data obtained by field inspection for any details are not responsible for any omissions, misstatements, inaccuracies or errors caused by reliance on the information contained on this figure.

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<p>Client: Coronation Power</p>	<p>Prepared by:</p>
<p>Scale at A3: 1:11,000</p>	<p>Crook Hill 12 Wind Farm Infrastructure Refinement with Access Route via Hades Quarry</p>
<p>Date: 19 April 2011</p>	<p>Version 3</p>
<p>Plan B</p>	