

Dated 31 JULY 2013

Crook Hill Properties Limited (1)

Jeremy James Dearden (2)

The Borough Council of Calderdale (3)

Rochdale Metropolitan Borough Council (4)

Rossendale Borough Council (5)

**DEED OF variation UNDER SECTION 106 AND 106A OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

**of a Planning Obligation by Unilateral Undertaking dated 15th September 2011
relating to land at Crook Hill, Littleborough, Rochdale and Landgate, Shawforth,
Rossendale**

KEYSTONE LAW

53 Davies Street, London W1K 5JH
DX: 2307 Victoria
Telephone: 020 7152 6550
Fax: 0845 458 9398
enquiries@keystonelaw.co.uk
www.keystonelaw.co.uk

This Deed is dated

31 JULY

2013

Parties

- (1) **CROOK HILL PROPERTIES LIMITED** a Company incorporated in the British Virgin Islands under Company Number 1061699 and whose registered office is situated at Akara Building, 24 De Castro Street, Wickhams Cay 1, Road Town, Tortola, British Virgin Islands ("the Developer")
- (2) **JEREMY JAMES DEARDEN** of [REDACTED]
[REDACTED] c/o Andrew Crossley of G Crossley & Son of [REDACTED]
[REDACTED] ("the Landowner")
- (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 Number One Riverside, Smith Street,, Rochdale, OL16 1XU ("the Second Council")
- (5) **ROSSENDALE BOROUGH COUNCIL** of The Business Centre, Futures Park, Bacup, Lancashire, OL13 0BB ("the Third Council")

Background

- (A) A section 106 unilateral undertaking was given by the Landowner and the Developer to the First Council the Second Council and the Third Council on 15 September 2011 ("the Principal Undertaking").
- (B) The plans appended to the Principal Undertaking fail to include the whole of the Site referred to in the Principal Undertaking and do not accurately describe the boundaries of the common land units.
- (C) The First Council the Second Council and the Third Council are the local planning authorities for the purposes of this Deed of Variation for the area in which the Site is situated and are entitled to enforce the obligations in this Deed and the Principal Undertaking.
- (D) The Landowner and the Developer have agreed to enter into this Deed in order to vary the Principal Undertaking.

Agreed Terms

1. Interpretation

The definitions in this clause apply in this Deed.

- 1.1 "the 1990 Act" means the Town and Country Planning Act 1990 (as amended)
- 1.2 "the First Council" means the Borough Council of Calderdale whose principal office is at Town Hall Crossley Street Halifax West Yorkshire HX1 1UJ and any successor to its statutory functions and any duly appointed employee or agent of the Council or such successor



- 1.3 "the Second Council" means the Rochdale Metropolitan Borough Council whose principal office is Number One Riverside, Smith Street Rochdale OL16 1XU and any successor to its statutory functions and any duly appointed employee or agent of the Council or such successor
- 1.4 "the Third Council" means Rossendale Borough Council whose principal office is at The Business Centre, Futures Park, Bacup, Lancashire, OL13 0BB and any successor to its statutory functions and any duly appointed employee or agent of the Council or such successor
- 1.5 "the Developer" means Crook Hill Properties Limited a company incorporated in the British Virgin islands under company number 1061699 and whose registered office address is situated at Akara Building 24 De Castro Street Wickhams Cay 1 Road Town Tortola British Virgin Islands and its successors in title and assigns
- 1.6 "the Landowner" means Jeremy James Dearden of [REDACTED] [REDACTED] c/o Andrew Crossley of G Crossley & Son of [REDACTED] and his successors in title and assigns
- 1.7 "the Principal Undertaking" means the undertaking given on the 15th September 2011 to the First Council the Second Council and the Third Council pursuant to s106 of the 1990 Act relating to the construction of a twelve turbine wind farm together with access tracks, substation, meteorological mast and other associated development under application numbers 11/00080 by the First Council 11/D54145 by the Second Council and 2011/0030 by the Third Council on land at the Site
- 1.8 Terms and expressions defined in the Principal Undertaking shall have the same meaning in this Agreement unless otherwise provided
- 1.9 Any reference to an enactment includes any amendment to or modification of it and the version of it for the time being in force shall apply
- 1.10 Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
- 1.11 References to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed
- 1.12 Where the context so requires:-
- 1.12.1 The singular includes the plural and vice versa
- 1.12.2 The masculine includes the feminine and vice versa
- 1.12.3 Persons includes bodies corporate associations and partnerships and vice versa
- 1.13 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons
- 1.14 Where more than one party enters into an obligation or liability those parties are jointly and severally liable



1.15 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction

2. Preliminary

2.1 The Landowner is the sole registered freehold proprietor of the Site registered under Title Numbers LAN92942 LAN76018 MAN137857 MAN125373 MAN125174 WYK 886148 subject to options to purchase in favour of the Developer

2.2 For the purposes of the 1990 Act the First Council the Second Council and the Third Council are the local planning authorities for the area which includes the Site

2.3 This Deed varies the Principal Undertaking

2.4 This Deed is made under Section 106 and Section 106(A) of the 1990 Act Section 111 of the Local Government Act 1972 Section 1(1) of the Localism Act 2011 and is a planning obligation for the purposes of Section 106 of the 1990 Act entered into by the Landowner and the Developer in respect of the Site and enforceable by the First Council The Second Council and the Third Council

3. Agreement

3.1 The Landowner the Developer the First Council the Second Council and the Third Council agree that from the date of this Deed the Principal Undertaking is varied as follows:

3.1.1 The Plan A dated 21 March 2011 appended to the Principal Undertaking be substituted by the Plan A dated 19 April 2011 appended to this Deed

3.1.2 The Plan B dated 22 March 2011 appended to the Principal Undertaking be substituted by the Plan B dated 23 April 2013 appended to this Deed

3.2 Except as expressly amended by this Deed, the Principal Undertaking shall remain in full force and effect.

4. Legal Costs

4.1 The Developer shall on completion of this Deed pay the sum of £1224 (one thousand two hundred and twenty four pounds) to the Second Council in connection with the preparation and completion of this Deed

4.2 The Landowner and the Developer will reimburse the First Council the Second Council and the Third Council in respect of all legal and administrative costs in connection with the enforcement of any of the provisions of this Deed including but not limited to correspondence and monitoring on behalf of the First Council the Second Council or the Third Council

4.3 The Landowner and the Developer will not claim any compensation in respect of the provisions of this Deed from the First Council the Second Council and the Third Council



5. Registration of this Deed and Endorsement

Promptly following the completion of this Deed :-

(1) The Developer shall apply to register this Deed at HM Land Registry against registered title number LAN92942, LAN76018, MAN137857, MAN125373, MAN125174, WYK886148; and

(2) the parties hereto shall each endorse a memorandum of rectification upon each part of the s106 Agreements 106 Unilateral Undertaking in the following terms:-

" This Unilateral Undertaking has been rectified by a Deed of Rectification dated [] 2013 and made between The Developer, the Landowner, the First Council, the Second Council and the third Council"

(3) The Developer, the Landowner, the First Council, the Second Council and the Third Council consent to the removal of the entry against the Landowner's titles numbers LAN92942, LAN76018, MAN137857, MAN125373, MAN125174 and WYK886148 relating to an Agreement dated 20 May 2011 made between (1) Crook Hill Properties Limited (2) Jeremy James Dearden (3) The Borough Council of Calderdale (4) Rochdale Metropolitan Borough Council and (5) Rossendale Borough Council pursuant to section 106 of the Town and Country Planning Act 1990"

6. Governing law

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

7. Contractual rights of third parties

No term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party but this does not affect any right or remedy of a third party which exists or is available apart from under that Act and it may be enforced by the successors in title of the parties and by any successor to the First Council the Second Council and the Third Council's statutory functions.

8. No Waiver

No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the First Council the Second Council or the Third Council in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Landowner or the Developer from any liability under this Deed

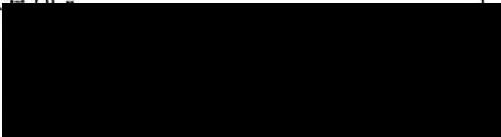
9. No Fetter

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the First Council the Second Council or the Third Council in the exercise of its functions in any capacity

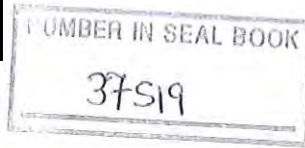
This Agreement has been entered into as a Deed on the date stated at the beginning of it.



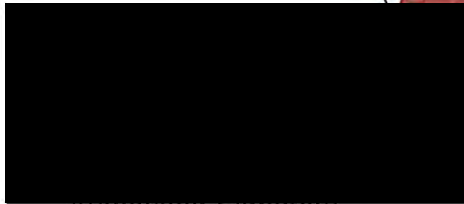
THE CORPORATE COMMON SEAL of)
THE BOROUGH COUNCIL OF)
CALDERDALE was affixed in the)
presence of:)



PRINCIPAL SOLICITOR



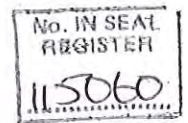
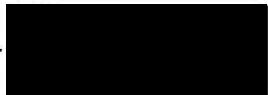
EXECUTED AS A DEED by affixing)
the Common Seal of THE ROCHDALE)
BOROUGH COUNCIL in the presence of:)



Authorised Signatory
Name: Drane Lund
Position: Senior Legal Officer



THE CORPORATE COMMON SEAL of)
ROSSENDALE BOROUGH COUNCIL)
was affixed in the)
presence of:-)

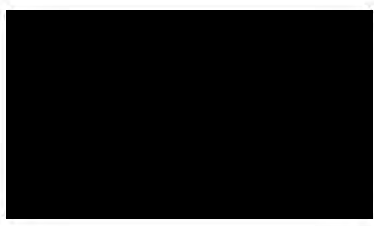


EXECUTED AS A DEED BY)
CROOK HILL PROPERTIES LIMITED)
acting by its duly authorised)
Director and Secretary)



Director
Director/Secretary

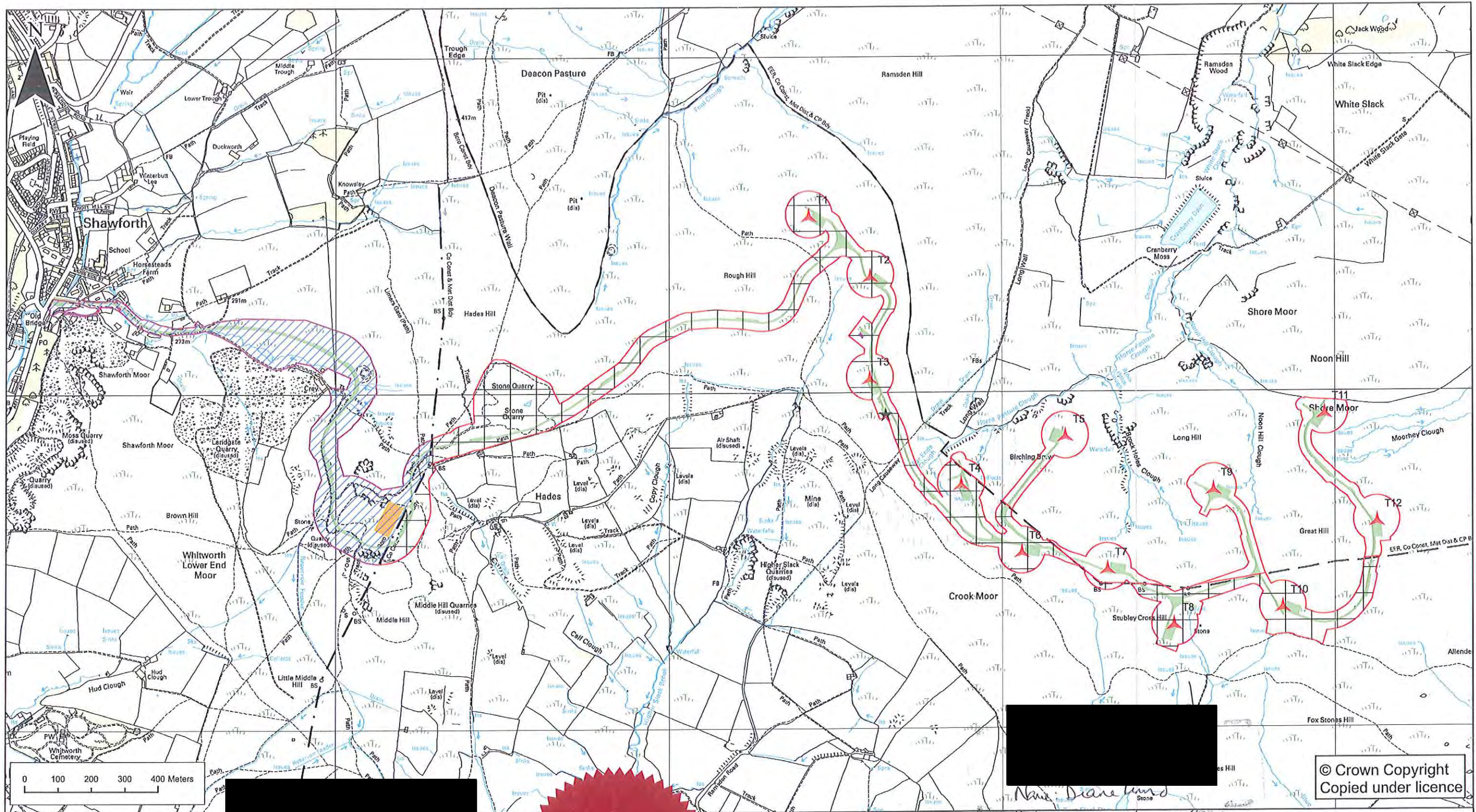
EXECUTED as a DEED AND DELIVERED)
By **Jeremy James Dearden**)
in the presence of:)



✓

Witness's signature
Witness's name (capital letter)
Address
.....
.....
Occupation





© Crown Copyright Copied under licence

- Key:**
- Planning Application Boundary
 - ▲ Turbine Location
 - Access Track, Passing Places and Hardstandings
 - Temporary Compound
 - Substation
 - ★ Meteorological Mast
 - Calderdale
 - Rochdale
 - Rossendale

PRINCIPAL SOLICITOR
Local Planning Authority

Client: Coronation Power

Prepared by:



Scale at A3: 1:11,000

Crook Hill 12 Wind Farm Infrastructure Refinement with Access Route via Hades Quarry

Date: 19 April 2011

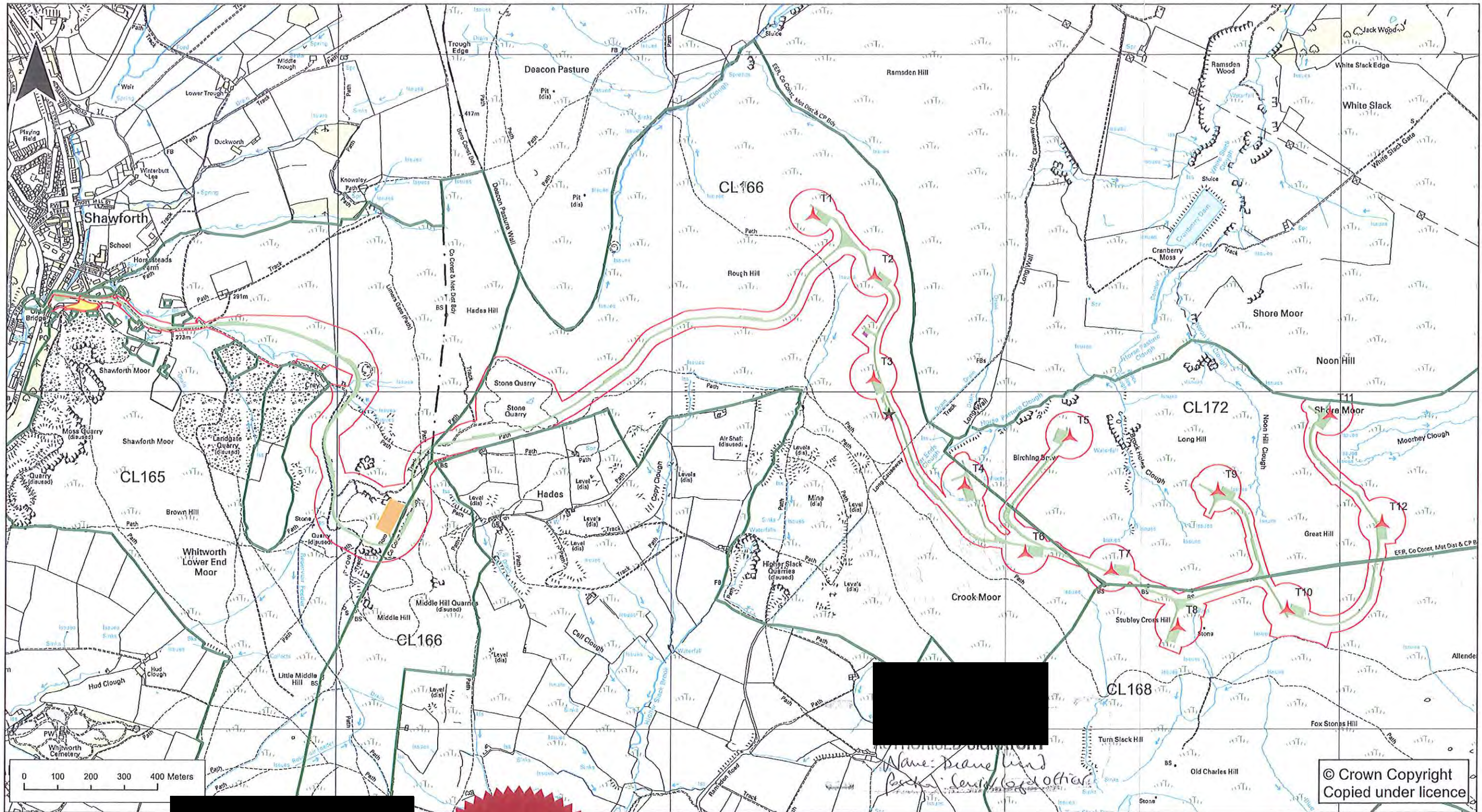
Version

Every effort has been made to ensure the accuracy of the information provided on this figure. Dulas Ltd cannot be held responsible for any omissions or errors in the data supplied by third parties and hereby expressly disclaims any responsibility for any losses, disappointment, negligence or damage caused by reliance on the information contained on this figure.

238523

Name: Diane Lund

Position: Senior Legal Officer



Key:

- Site
- ▲ Turbine Location
- Access Track, Passing Places and Hardstandings
- Temporary Compound
- Substation
- ★ Meteorological Mast
- Common Land
- Land Not Subject to the Unilateral Undertaking

[Redacted]
PRINCIPAL SOLICITOR

[Redacted]
 238522

I warrant the accuracy of the information provided. I cannot be held responsible for any omissions or errors in the data supplied by third parties and hereby expressly disclaims any responsibility for any losses, disappointment, negligence or damage caused by reliance on the information contained on this figure.

Client: Coronation Power

Prepared by: **Dulas ReSolutions**

Scale at A3: 1:11,000

Crook Hill 12 Wind Farm Infrastructure Refinement with Access Route via Hades Quarry

Date: 23 April 2013

Version 4

Plan B