

THE HIGHLAND COUNCIL

CAITHNESS, SUTHERLAND AND EASTER ROSS  
PLANNING APPLICATIONS COMMITTEE 29 March 2011

|             |            |
|-------------|------------|
| Agenda Item | 2.1        |
| Report No   | PLC/013/11 |

Application reference: 06/00676/FUL

Applicant: Npower Renewables Ltd

Report by Head of Planning and Building Standards

## SUMMARY

**Description :** Erection of wind farm comprising 9 wind turbines, control and welfare building, permanent anemometry mast, temporary construction compound, access tracks etc. at Land at Burn of Whilk, Caithness

**Recommendation - GRANT PLANNING PERMSSION**

**Ward :** Landward Caithness, Ward 4

**Development category :** Major Development

**Pre-determination hearing:** Hearing required as invitations sent before August 2009.

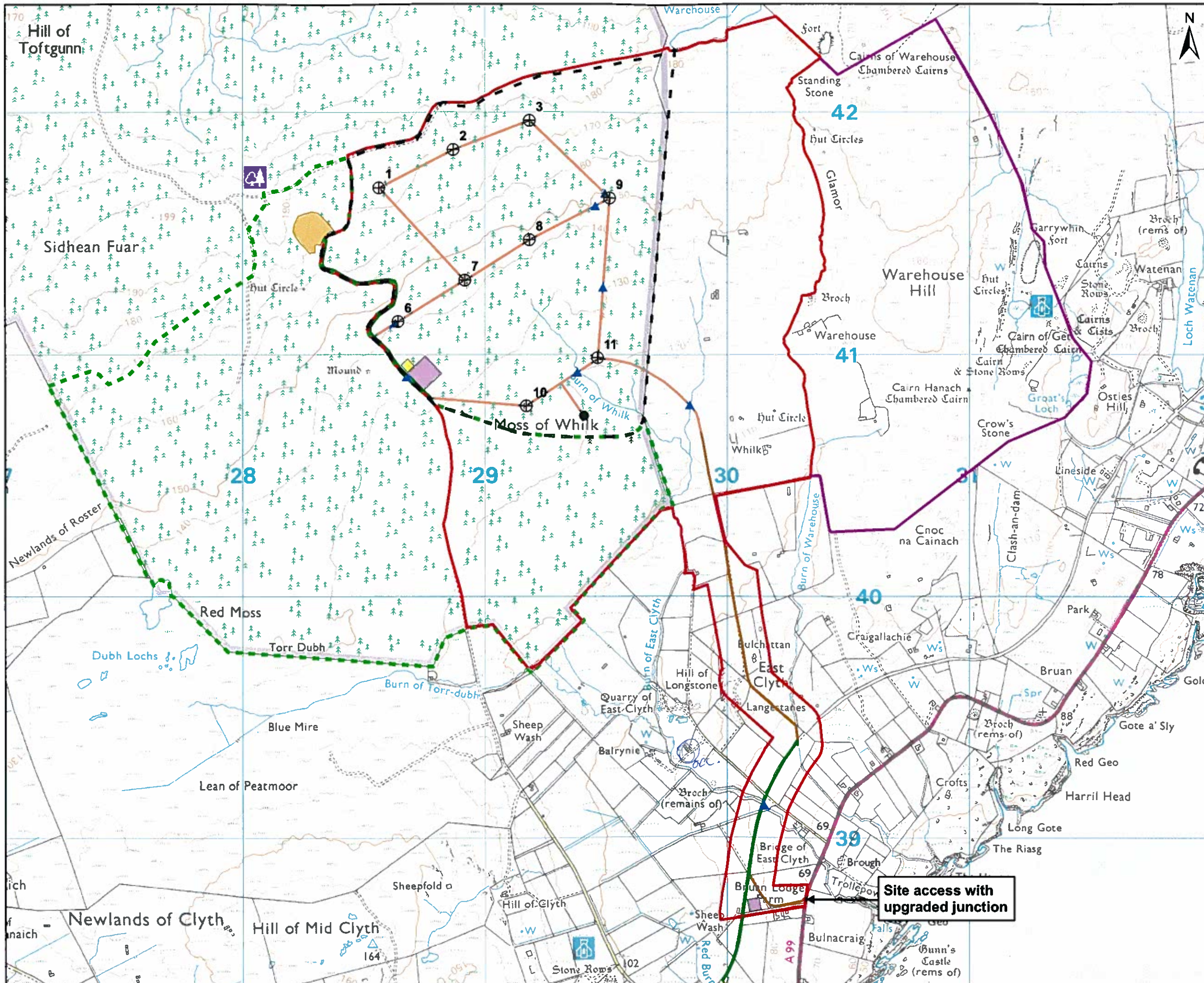
**Reason referred to Committee:** Reason per scheme of delegation, more than 5 objections. Hearing offered.

## 1. PROPOSED DEVELOPMENT

- 1.1 The proposal is for a wind farm of 9 turbines of up to 116 metres to maximum blade tip height on farm and forestry land at Burn of Whilk, Caithness. The wind farm would have a maximum generating capacity of **27 Mega Watts**. The proposal also includes associated infrastructure including site roads, a wind monitoring mast, electrical works and a control building. The turbines are shown as a staggered 3 line array spaced 300m to 500m apart between 185m and 120m Above Ordnance Datum (AOD). The application is supported by an Environmental Impact Assessment 2006 and with an amended EIA submitted in February 2010. Borrow pits are shown outside the site boundary to the immediate north west and south. An EIA screening and a further application will be required for these borrow pits should the wind farm be permitted.
- 1.2 The operational lifespan of the development is 25 years after which time the development will be decommissioned, with above ground facilities being removed. Turbines are to be delivered to the site by road from Wick Harbour. The grid connection (not part of this application) is likely to be directed to the sub-station at Mybster, which lies to the north of the site. The project both at the construction

### Burn of Whilk Wind Farm

Figure 3.1: Site Layout



- Proposed Turbine
- Stream Crossings
- Met Mast

- Access Roads
- New Track - Excavated
  - New Track - Floating
  - Existing Track - Upgrade

- Red Line Boundary
- Area of permanent felling
- Area to be felled and re-planted

- Control Building / Switch Room
- Temporary Construction Compound
- Borrow Pit
- Habitat Management

Drawn: FJ  
Scale: 1:15,000 (at A3)  
Date: 23/06/2010

stage and operation stage is anticipated by the applicant to have a positive economic impact both nationally, regionally and locally.

## **2.0 SITE DESCRIPTION**

- 2.1 The site is approximately 10km south-west of Wick and extends about 1.5km northwest to southeast and is about 1.5km wide. The dispersed communities of East and Mid Clyth lie to the south and east of the site (1.5 to 2km from the turbines). The communities of Roster and Upper Lybster lie about 2km to the west of the site. The site occupies an area of 1.2 sq kilometres with the topography being a mainly north to south slope on Moss of Whilk but within an area currently under plantation forest. The site is rural in character with a number of small agricultural holdings and crofts in the vicinity of the site. There are no residential properties within 1km of the site. The nearest occupied houses to the turbines are at Balrynie (1.5k to Turbine T10). A proposed house site at Torrie Dhu (09/00406/PIPCA) is just over 1Km to turbine T10.
- 2.2 There are 2 land ownerships involved in this proposal with the majority of turbines on the forestry lands. These are:- John Swanson, Banks Lodge, Watten, Caithness Forestry Commission, Dornoch
- 2.3 The development lies within 0.4km of the Caithness Cliffs Site of Special Scientific Interest (SSSI) Special Protection Area (SPA) and Special Area of Conservation (SAC) and 0.7km from Oliclett SSSI, SPA, SAC and 0.66km from Hill of Warehouse SSSI and 2.5km from Shielton Peatlands SSSI, SPA, SAC, RAMSAR (Shielton and Oliclett form part of the larger Caithness and Sutherland Peatlands SPA, SAC, RAMSAR site.)
- 2.4 While there are no significant known archaeological remains within the site the proposals lie within an historic ritual and burial landscape containing 5 designated Scheduled Ancient Monuments (SAM) of national importance at Yarrows where the impact of the proposals on the setting of the monuments will be major. These include:-
- Warehouse, broch and outworks 100m north of Ulbster (Index no. 664)
  - Cairn Hanach, chambered cairn south side of Warehouse Hill (Index no. 433)
  - Watenan, cairn & stone setting 400m west of Ulbster (Index no. 504)
  - Hill O' Many Stanes, stone rows (Index no. 90162)
  - Cairns of Warehouse, cairns at north end of Warehouse Hill (index no. 436)
- 2.5 An amendment to the site layout reducing the number of proposed turbines from 13 to 9 was made in February 2010 to address issues raised on the original submission by Historic Scotland, SNH and the public.

## **3.0 PLANNING HISTORY**

- 3.1 A scoping opinion was issued on 23 June 2003.

## **4.0 PUBLIC PARTICIPATION**

- 4.1 The proposal was advertised on 23 February 2007 as a potential departure from the Development Plan as well as an application accompanied by an Environmental Statement. The application was advertised again on 16 July 2010 following receipt

of the amended EIA and the amended layout.

Representation deadline : 20 April 2007 and 16 August 2010

Timeous representations : 148 objections, 55 supporters

Late representations : 5 objections

4.2 Material considerations raised against the proposals are summarised as follows:

- The proposed development would have a significant long-term detrimental impact on the amenity of people living nearby.
- Bruan Lodge will be directly and detrimentally affected by the construction and operation of the wind farm.
- Hummacroft of Torriedhu, Sunrise Cottage, Roster and Lhaid Farm, Roster will be adversely affected by the development
- There are numerous houses located within 2Km of the proposed development that will be adversely affected.
- The proposals are too close to houses, there will be noise and adverse flicker effects on residential properties
- There will be negative impacts on amenity and health arising from low level sound wave and flicker;
- Turbine noise will detract from the tranquillity of the area;
- The turbines are too close to the communities of East and Mid Clyth and Roster.
- The amenity and attraction of the Highland Council promoted Yarrows Trail will be destroyed.
- The proposals represent a monstrous intrusion into one of the finest untouched ritual landscapes in Northern Europe.
- The impact on archaeology and monuments of national importance has been underplayed
- There will be adverse impacts on local archaeology, particularly its setting;
- The visual impact of the development is unacceptable;
- There will be a loss of an internationally famous falconry business because of the intrusion of turbines in "The Garden of Falconer's Eden".
- The development will detract from the current views from the A9 and other locations valued by tourists / visitors to the area;
- There will be adverse impacts on the scenic beauty of the area and the exceptional open landscape;
- The cumulative impact of this wind farm development upon the area and Caithness taken with other proposals planned and approved would be unacceptable
- There will be adverse impacts on nature conservation interests, including protected species (geese, swans, ospreys) and valued habitat;
- Avian surveys are incomplete and inaccurate
- The development is contrary to many Development Plan policies and the Highland Renewable Energy Strategy;
- There will be negative impacts on wild life including wild cat, pine martin, otter, bats and many protected bird species
- The proposal is contrary to EU Directives on the conservation of Wild Birds;
- The overall result of this development on the local economy will be negative
- The need for these turbines is unfounded

- Wind farm traffic will disrupt local roads, homes and businesses
- The proposals could pollute streams and water supplies

Material considerations raised in support the proposals are summarised as follows:

- The need to address climate change concerns;
- The need to secure a clean energy supply;
- This is a project that significantly helps to meet government renewable energy targets;
- The economic value of such construction projects is essential to the local economy;
- The project will help to sustain local families and businesses;
- The environmental benefits that such projects can bring to the local Countryside by restoration of peatlands;
- Wind farm projects can reduce carbon emissions;
- Wind Farm projects are beneficial and would not deter visitors to the area.

4.3 All letters of representation can be viewed at the Planning and Development Service, HQ, Glenurquhart Road, Inverness and for Councillors, will be available for inspection immediately prior to the Committee Meeting.

## 5.0 CONSULTATIONS

5.1 **Tannach and District Community Council: Do not object to the amended proposal but comment as follows:**

- A photo from the highest point on the Yarrows Trail should be produced as views from this point to the windfarm have been of concern from the outset of this proposal.
- The Community Council should be included in discussions on traffic management during the wind farm construction.
- On-site borrows pits should be used to minimise traffic on local roads.

5.2 **Latheron, Lybster and Clyth Community Council:** Have no objection to this proposal provided local contractors are allowed to tender for construction work.

5.3 **Berriedale and Dunbeath Community Council:** have taken a neutral position on this proposal.

5.4 **THC Forestry Officer (North Highland):** comments that the proposals will result in the permanent removal of approximately 164 ha of commercial forestry and a further 270ha will be felled and restocked partly in the site and partly on adjoining Forestry Commission land. The Forestry Officer is concerned that the cumulative effect of applications for wind farms in forested land will result in a substantial loss of commercial woodland particularly in Caithness and North Sutherland. A substantial amount of public money has been invested in planting and establishing these trees which are not far off marketable size. He would not support any proposals to fell the area to waste which will be an expensive operation generating no income from nearly 25 years of investment. Compensatory planting elsewhere is recommended. However the application pre-dates the introduction of the

Government's compensatory planting policy and compensatory planting is therefore not a requirement. A habitat management plan must provide a detailed specification for restoration proposals.

- 5.5 **THC Archaeology Unit**, considers that the proposals will have a major impact on the setting of Scheduled Ancient Monuments in an archaeologically highly sensitive area. While not objecting to the proposals a significant range of conditions are recommended to mitigate the significant major visual impact of the proposals on Nationally important monuments in the Warehouse Hill/Loch of Yarrows area and to ensure that the landscape impacted is 'preserved by record' and existing monuments are preserved in situ and protected during construction. In addition archaeological surveys and LiDAR laser surveys are required and enhancement and interpretation schemes should be drawn up and implemented.
- 5.6 **THC TECS Environmental Health**: No issues subject to attaching conditions.
- 5.7 **THC TECS Contaminated Land**: no issues regarding potential historic land contamination.
- 5.8 **THC TECS Roads and Community Works Manager Caithness**: No issues subject to attaching conditions.
- 5.9 **THC Landscape officer**: no comments
- 5.10 **Scottish Environment Protection Agency**: No issues subject to conditions requiring full environmental management plan and regarding micro-siting to avoid watercourses, timing to avoid extreme weather, water abstraction, pollution prevention, borrow pits and appointment of an environmental manager.
- 5.11 **Scottish Natural Heritage**
- Landscape and Visual Impacts In 2007 SNH objected to the 13 turbine proposal because of significant adverse impacts on key landscape characteristics of the area and significant adverse cumulative impact of the proposal in addition to the nearby application at Camster. However SNH have reviewed their position because of the reduction in turbine numbers proposed, a change in baseline conditions from the 2007 assessment with both Camster and Wathegar approved and Flex Hill and Achairn constructed and taking account of a change in SNH policy in terms of development management and national interests. It is now the opinion of SNH that the proposed scheme would result in significant landscape and visual impacts on the local area but that within the wider landscape it would not result in significantly greater adverse effects than already occur or are planned to occur from existing and consented windfarm proposals. This means that in relation to their remit and policies with regard to national interests they recommend that the landscape and visual impacts of the amended proposals no longer warrant an objection and the acceptability of these impacts should be judged by the Highland Council against their policies. SNH therefore remove their objection to the proposals in relation to landscape and visual grounds.
- 5.12 Natural Heritage In 2007 SNH objected to the proposals with regard to the impacts on the natural heritage at East Caithness Cliffs SPA and Caithness and Sutherland Peatlands SPA and Hill of Warehouse SSSI. Following reduction in turbine numbers and resubmission of a revised EIA, SHN are able to remove their objection regarding East Caithness Cliffs SPA. SNH continue to object to the proposal with respect to the Caithness and Sutherland Peatlands SPA but their

objection could be addressed through the application of conditions requiring a Habitat Management Plan secured through a S75 agreement.

5.13 **Scottish Water:** No issues

5.14 **Royal Society for the Protection of Birds:** RSPB objected to the proposals as first submitted due to the potential significant impact on several species associated with the Peatlands SPA especially hen harrier. They considered that further substantial information was required before any decision could be reached. Following receipt of additional information RSPB would be willing to remove their objection subject to certain conditions being attached to any permission. These are that: -

- a Habitat Management Plan (HMP) be agreed with the Council to focus on mitigating likely predicted impacts on protected bird species while restoring the peatland,
- An environmental Steering Group be formed to produce the HMP and monitor the development
- An ecological Clerk of Works be appointed for the construction period
- Tree felling to take place outwith the bird breeding period 1<sup>st</sup> February to end of July and construction works to take place outwith the main bird breeding season Mid April to end of July
- A programme of bird monitoring should be carried out in years 1,2,3,5,10,15 and 20 following construction and results submitted to the Steering Group.
- A programme of research into carbon flux implications of tree felling and habitat management should be agreed with the Steering Group.

5.15 **Historic Scotland:** Initially Historic Scotland objected to the proposed wind farm and considered that the proposed wind farm would have an impact of major significance on the scheduled monuments that lie close to the wind farm site. These are:-

- Warehouse, broch and outworks 100m N of, Ulbster (Index no. 664)
- Cairn Hanach, chambered cairn S side of Warehouse Hill (Index no. 433)
- Watenan, cairn & stone setting 400m W of Ulbster (Index no. 504)
- Hill O' Many Stanes, stone rows (Index No 90162)
- Cairns of Warehouse, cairns at N end of Warehouse Hill (Index no 436)

Following submission of additional material Historic Scotland revised their position and now consider that while the large number of proposed and consented wind farms in this area have the potential to hinder understanding of the upland context of these monuments they do not consider that the proposed wind farm in accumulation with the Camster and Bilbster developments raise issues of national importance.

5.16 **Transport Scotland – TRNMD:** The percentage increase in traffic on the trunk road network from the development is likely to cause only minimal impact therefore no issues are raised. No objection subject to conditions

5.17 **Scottish Government –Rural and Environment Directorate:** no comments to offer.

5.18 **Highlands and Islands Airports:** The development falls on the edge of the safeguarded area for Wick Airport. No objection provided red obstruction lighting is fitted on turbine(s).

- 5.19 **National Air Traffic Systems Safeguarding:** no objection to the proposal.
- 5.20 **Defence Estates (MOD):** No objections but 25 candela omni-directional aviation lighting will be required on the turbines.
- 5.21 **Health and Safety Executive:** No comments to make on the proposals.
- 5.22 **Office of Communication (Ofcom) & Joint Radio Company (JRC):** no objection

## 6.0 DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### Highland Structure Plan 2001

- 6.1 Policy G1 Conformity with Strategy
- Policy G2 Designed for Sustainability
- Policy G3 Impact Assessment
- Policy G4 Community Benefit and Commitment
- Policy G6 Conservation and Promotion of the Highland Heritage
- Policy BC1 Preservation and Archaeological Sites
- Policy BC2 Archaeology, Education and Tourism
- Policy BC3 Archaeological Heritage Areas
- Policy E1 Distributed Renewable Energy Developments
- Policy E2 Wind Energy Developments
- Policy N1 Nature Conservation
- Policy T6 Scenic Views
- Policy L4 Landscape Character

### Caithness Local Plan (September 2002)

- 6.2 General Policies PP1 – PP4 are set out on page 17 of the Caithness Local Plan Written Statement, in a stand-alone chapter. They apply as a policy consideration in respect of development generally and not just housing. They do not specify their application to particular types of development. The criteria for designating these policies are defined in the separate General Policies Annex to the Local Plan. An area is designated as a particular PP policy area because it contains one or more features from the relevant list in the Annex. Whilst particular features may be likely to be of particular significance as a consideration in respect of a particular proposed development type (such as housing), the starting point is that the general policies apply in respect of development generally. The site is subject to General Policy PP3 – Presumption against development where there are significant effects on heritage, amenity or public health.

### Highland Renewable Energy Strategy and Planning Guidelines (HRES)(May 2006)

- 6.3 HRES is currently being reviewed to take account of Scottish Planning Policy (SPP). Meanwhile it remains the approved Highland Council strategy on which wind energy proposals are assessed. Relevant policies include: -  
 Policy E7 - presumes against the development of a major onshore wind farm.(i.e more than 5MW capacity)  
 Policy N1 - local content of the works.  
 Policy S2 - 1km separation zone dwellings and wind turbines.



The Highland Renewable Energy Strategy sets out targets for export onshore wind energy that the Council hopes to achieve. These are 800MW by 2010, 1200MW by 2015, 1400MW by 2020, 2900 MW by 2050. The contribution of current large scale wind farm proposals in Caithness and Sutherland are very important if these targets are to be met.

#### **Highland On-shore Energy Draft Supplementary Guidance – November 2010**

- 6.4 This draft guidance, currently being progressed in accordance with Scottish Planning Policy aims to identify search areas for different scales of wind energy developments. It identifies the Caithness East Coast as a Type 3 area suitable for searching for locations for small to medium scale wind energy developments. The area to the immediate north of the application site is identified as a Type 1 area unsuitable as a search area for wind energy developments and seen as an area to be protected to prevent significant cumulative effects in Caithness.

#### **Scottish Government Planning Policy and Guidance**

- 6.5 The proposals require to be assessed against relevant parts of Scottish Planning Policy (SPP), National Planning Framework 2 and Planning Advice Notes (PAN). The National Planning Framework (NPF) presents the Scottish Government's strategy for Scotland's long term development. Scottish Planning Policy (February 2010) contains policies relevant to this proposed development Circulars also provide statements of the Scottish Government's policy. Statements of Scottish Government policy in the SPP, NPF and Circulars are material considerations which should be taken into account in development management decisions. The proposals also require to be assessed against the following Planning Advice Notes (PAN).
- PAN 42 Archaeology
  - PAN 45 Renewable Energy Technologies
  - PAN 56 Planning and Noise
  - PAN 58 Environmental Impact Assessment
  - PAN 60 Planning for Natural Heritage
  - PAN 73 Rural diversification

### **7.0 PLANNING APPRAISAL**

- 7.1 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.
- 7.2 The determining issues are:
- does the proposed development accords with the development plan?
  - if it does accord, are there compelling reasons for not approving the proposed development?
  - if it does not accord, are there any compelling material considerations for approving the proposed development?

#### **Assessment**

- 7.3 To address the determining issues, the Committee must consider: -
- a) Planning Policy / Guidance
  - b) Road and Access
  - c) Pollution Control

- d) Historic Environment / Scheduled Ancient Monuments / Archaeology
- e) Natural Heritage
- f) Design, Visual Impact and Amenity considerations
- g) Tourism
- h) Other Material Considerations including representations.

#### Development Plan and other Planning Policy / Guidance

- 7.4 The Council's Structure Plan (para 1.6) and the Caithness Local Plan recognises the area of this proposed development as being economically fragile, where development initiatives are founded upon rural development principles. When considering new development a balance has to be achieved allowing a proactive approach to the wise use of the natural environment, recognising the economic benefits of sustainable forms of development. Various safeguards are built into the policy including sustainability, environmental safeguards and conservation interests. Structure Plan policies G2 (Design for sustainability), G6 (Conservation and promotion of Highland Heritage), BC1 Preserving Archaeology), L4 (Landscape Character), and T6 (Scenic Views) are all relevant and need to be consideration in the context with other policies.
- 7.5 With regard to wind energy developments the Structure Plan is supportive of projects provided that impacts are not shown to be significantly detrimental (Policy E1 and E2). Assessment of proposals must have regard for Visual Impact; Noise; Electro Magnetic Interference; Roads Bridges and Traffic; Aircraft flightpaths / MOD operations and Cumulative Effects. In addition Policy BC 2 (Archaeology, Tourism and Education) is supportive of development opportunities that can increase the tourist potential of archaeological sites or increase public understanding and awareness through research projects.
- 7.6 The Caithness Local Plan recognises the interest in renewable energy projects in Caithness. Such projects have to recognise the area's other primary interests including agriculture and agricultural diversification, tourism, valued landscape, history, culture and archaeology. The site of this application lies in a PP 3 allocation which applies a policy against development where significant effects impact on heritage features, amenity or public health.
- 7.7 The Highland Renewable Energy Strategy (HRES) does not allocate this area as a preferred location for major onshore wind farm development. Indeed the proposal lies within an area where there is a "presumption against" major scale onshore wind farm development where a precautionary approach to development should be taken. The Strategy is not intended to be a site specific planning tool, but a strategic tool for the siting of renewable energy developments in the Highlands. At this level the strategy cannot be prescriptive but it does nevertheless provide a starting point for the assessment of a proposal. Identified constraints for this area within the HRES assessment included Archaeology, Annex 1 Species, Proximity to Housing and Landscape. However following the publication of Scottish Planning Policy 6 Renewable Energy (SPP 6) now incorporated into SPP, HRES is now under review.

- 7.8 Within Scottish Planning Policy the Scottish Government in responding to climate change and advancing sustainable development has emphasised its support and commitment to 80% renewable electricity output in Scotland by 2020. The aim of the policy is to assist the planning system in the process of encouraging, approving and implementing renewable energy proposals when preparing development plans and processing planning applications. Representations that argue against investment in this type of renewable energy technology can only be given limited weight given the very positive stance set by the Scottish Government.
- 7.9 SPP also highlights that support for renewable energy projects and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals. The planning system has a significant role to secure appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy. National policies highlight potential areas of conflict however it also advises that detrimental effects can often be mitigated and or effective planning conditions can be used to overcome potential objections to development. SPP advises that national or inter-national designations are to be given 'significant protection' from major wind farm developments.
- 7.10 SPP highlights the role of the planning system for the protection of both the site and setting of Scheduled Ancient Monuments (SAM's). This application does not present any works that will impact directly on a SAM but consideration needs to be given to the issue of direct impact on the setting of five SAM's. Securing the preservation of the monument 'within an appropriate setting' as required by national policy is a matter for the planning system taking account of the professional advice of Historic Scotland. SPP also recognises the value of archaeological resources to the regeneration of communities through enabling education, training and employment opportunities.
- 7.11 SPP states that the planning system should ensure that society's requirements are met in ways which do not erode environmental resources. Planning authorities are to have full regard to natural heritage considerations in determining individual applications. Authorities should always consider whether environmental concerns could be adequately addressed by modifying the development proposal or attaching appropriate planning conditions.
- 7.12 SPP also states that when drawing up spatial guidance for wind farms of more than 20MW and identifying areas with potential constraints on wind farm development, planning authorities should consider a separation distance of up to 2km between areas of search and the edge of cities, towns and villages. This is recommended to guide developments to the most appropriate sites and to reduce visual impact, but decisions on individual developments should take into account specific local circumstances and geography. Development plans should recognise that the existence of these constraints on wind farm development does not impose a blanket restriction on development, and should be clear on the extent of constraints and the factors that should be satisfactorily addressed to enable development to take place. Spatial guidance may also apply to schemes of less than 20MW capacity.
- 7.13 Applications which are consistent with the above noted policies and the criteria

which they set out would accord with the Council's Development Plan. In this regard, the Environmental Impact Assessment (EIA) and Supplementary has been prepared after a scoping exercise involving the principal consultees. It addresses all the main issues and this has been supplemented by additional information and clarification during the period since submission of the application. Subject to recommending appropriate conditions there are no objections to the proposals from statutory consultees. If the impacts of the development are judged as not being "seriously adverse" or "significantly detrimental," the development would comply with the Development Plan.

### Roads and Access

- 7.14 The site has good road access from the A99(T) where an existing field access will be improved to provide a new site access near Bruan Lodge Farm then on to the old railway track and new tracks up to the wind farm site. The local public roads from Wick to the site will require pre-construction surveys and any necessary improvements, widening and strengthening to accommodate the expected construction traffic and the abnormal loads vehicles used to transport turbine components. Turbine components would arrive at the site from Wick Harbour and follow the A99(T) route to the site. Construction traffic will avoid the use of local roads.
- 7.15 The Environmental Statement considers that during construction there could be about 40 people working on the site, whose traffic movements to the site can also be managed without adverse effect on local traffic movements. Roads authorities have raised no objections to the application subject to conditions and legal agreements securing road improvements and a wear and tear agreement and the appropriate Road Construction Consents (RCC). Community concerns regarding traffic hold-ups especially for emergency and other vehicles can also be addressed by conditions requiring effective traffic management and community liaison. The use of a quarry/borrow pits that can be accessed from the site without using the public roads will assist in reducing the number of vehicles delivering construction materials to the site.
- 7.16 Improved public access arrangements for walkers, cyclists and horse riders, have the potential to benefit not only recreation for local residents but visitors to the area. The development of an access plan for the locality should be conditioned within any approval, including requirements to undertake an appropriate scale of works within the wider area to secure improved countryside access.

### Pollution Control

- 7.17 Although SEPA has not objected to the application, it has drawn the developer's attention to the need to secure authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) with respect to several water crossings. In addition it has highlighted the need when micro siting the final turbine base locations to protect local watercourses through a 20m buffer. Further conditions have also been requested by SEPA in respect of water abstraction, waste water and over the management of waste disposal, particularly through the construction phase and when working in extremely wet weather.

- 7.18 In the Environmental Statement accompanying the application, the developer has committed to a number of mitigation measures addressing pollution prevention, vehicle washers, bunds, active drainage management and wildlife management. The submission of an Environmental Policy and Developers Construction and Environmental Management Plan (CEMP) required by condition attached to any consent including a statement on all of these elements will satisfy the requests made by statutory consultees. There are no outstanding technical objections to the application subject to appropriate conditions being attached.

#### Historic environment and archaeology

- 7.19 Following submission of additional visual material from the applicant Historic Scotland revised their position withdrawing their objection regarding the impact of the proposals on Scheduled ancient monuments. While the ES considered that the effects on the SAM's would be major, Historic Scotland consider that the effects of the amended scheme on four of the monuments will be moderate but the effect on Cairn of Warehouse will be major. While acknowledging that there will be impacts on the settings of the monuments Historic Scotland do not consider that this raises issues of national importance. Historic Scotland have also considered the potential cumulative impacts of the proposed windfarm and the consented Camster wind farm and Bilbster wnd farms on the Grey Cairns of Camster. While they consider that the large number of proposed wind farms in this area have the potential to hinder our understanding of the upland context of the scheduled monuments they do not consider that the proposed wind farm at Burn of Whilk in accumulation with other built and consented wind farms raises issues of national importance.

#### Natural Heritage

- 7.20 The Council are advised on natural heritage matters regarding this application by SNH. The status of the Caithness Cliffs and the Caithness and Sutherland Peatlands as a classified SPA under the EC Directive 79/409/EEC, the 'Birds Directive,' means that the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), (the 'Habitats Regulations,') apply. This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a 'Natura 2000' site is that it is likely to have a significant effect on that site, it must undertake an Appropriate Assessment of the implications for the conservation interests for which the area has been designated. The need for appropriate assessment extends to plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.
- 7.21 When undertaking an Appropriate Assessment The Council are usually advised by SNH on the adequacy or otherwise of a proposal as the Council has no specialised ornithological or ecological expertise. The Council is entitled to rely on the advice and guidance of the Government's advisors in this respect. SNH's opinion on the reduced scheme is that they would remove their objection subject to a condition requiring a Habitat Management Plan secured through a S75 agreement. The Council's appropriate assessment may therefore be based on the appraisal by SNH. Provided the mitigation measures indicated in the Environmental Statement are implemented then the proposals could be carried out without significant

adverse impact on European Protected Species.

### Design, Visual Impact and Amenity considerations

- 7.22 The layout of the wind farm is primarily informed by the direction of prevailing winds, local topography and physical and environmental constraints to take advantage of good wind speeds on an elevated location.
- 7.23 The wind farm lies more than 2km inland from the coast. Most properties in the coastal strip and at Roster are orientated to the south and east taking advantage of the sea views and southern aspect. Visual impacts will be most significant from the coastal tourist route and other local routes in the vicinity of the proposals.
- 7.24 The nearest residential properties are about 1.5km from a turbine although a site with planning permission in principle for a house is about 1km from the nearest turbines. The views from some properties will be impacted by the proposals particularly those to the south and west but the degree of impact depends on the aspect of the house and terrain features. Few, if any, properties are orientated to the inland moorland and forested areas.
- 7.25 The development would introduce a very significant, new and man-made feature into the landscape of Caithness. Turbines of 116m to tip on an elevation of 185m above sea level give a total height above sea level of 301m. The highest point in Caithness is Ben Dorrery at 244m. Warehouse Hill is 212m above sea level. As seen from Environmental Impact Assessment (Figure 6.5) the zone of visual influence (ZTV) of the turbine towers, the hubs and blade tips are predicted to be seen from a wide range of locations principally within a 20km radius. Clearly for houses within the nearby communities of East Clyth, Lybster, Roster and Thrumster the full extent of the wind farm will be evident. However many existing communities within a wider radius will have views of the proposed wind farm in full or in part due to distance or land form separation. The development is anticipated to be most visible intermittently from 10km south on the A99(T) tourist route extending to Wick and along the coast. Within 20km visibility is predicted on the A9(T) from just south of Dunbeath and north of Wick near Keiss.
- 7.26 The Burn of Whilk wind farm proposal would have significant cumulative landscape and visual impacts caused by the proposal in combination with the broader dispersed spread of other undetermined, consented and operational wind farms across northern Caithness. In particular significant cumulative effects would be experienced in combination with the constructed wind farms at Boufruich, Achairn, and Bilbster, the consented wind farms at Camster and Wathegar and the proposed wind farms at Dunbeath and Smerral.
- 7.27 There are no statutory landscape designations such as National Scenic Areas on the proposed wind farm site or its immediate surroundings. There are no local landscape designations on or in the area of the site. While valued locally, the Hill of Yarrows/Warehouse Hill ridge is not in itself of high scenic or landscape value in a Highland context. The landscape character type is mixed agriculture and moorland and the site is plantation forestry. The landscape character type of this agricultural landscape appears capable of accommodating the wind farm. However, it is the

predicted extensive visibility within the wider landscape of Caithness and the cumulative effects with other built and proposed wind farms that gives most concern to a large number of individuals making objections.

### Tourism

- 7.28 The proposed wind farm is located in an area visited by tourists passing en-route north or south on the A9(T) and visiting the archaeological sites and trails around Yarrows. The number of tourist attractions within Caithness is limited and Yarrows is an important visitor attraction. Falconry, bird watching fishing, walking and touring in this rural area of Scotland are the principal activities of visitors to the area. A number of local dwelling houses provide Bed and Breakfast accommodation and other commercial facilities in the area provide services to passing tourists. The main impact of the proposed development would therefore be related to its effects on the landscape and tourists who will view the countryside from the road network and from the Yarrows trail. The existing wind farms visible from the A9(T) (Boulfruch and Causeymire) already impact on the visitor experience and the addition of a wind farm at Burn of Whilk is anticipated to be cumulatively adverse and add to the existing impact that wind farms have on tourists experience on the tourist route and visitor sites. The impact of the wind farm on the existing aesthetic qualities of the Yarrows trail will be significant. However, the trail will also offer access to dramatic views of the wind farm viewed against the Caithness coast and distant mountains of Sutherland.
- 7.29 Over the last decade several studies have been carried out by industry and the Scottish Government into the effects of wind farm developments on tourism and public acceptability respectively. These have indicated both benign and neutral effects. The most recent study “The Economic Impacts of Wind Farms on Scottish Tourism” by Glasgow Caledonian University and Cogent Strategies International Ltd for Scottish Government March 2008 concluded as follows:-

*“In general this research has found that the negative impact of wind farms on tourism at national level is small and any reduction in employment in tourism will be less than the numbers currently directly employed in the wind power industry. However the impacts in some local areas are important enough to warrant specific consideration by planning authorities. These should include the following:*

- *The number of tourists travelling past on route to elsewhere,*
- *The views from accommodation in the area,*
- *The relative scale of tourism impact i.e. local and national*
- *The potential positives associated with the development*
- *The views of tourist bodies i.e. local tourist board or VisitScotland*

In many cases this consideration would be greatly assisted if the developers produced a ‘Tourist Impact Statement’ as part of the Environmental Impact Analysis. The core of the statement would be the tourist accommodation and the number of tourists on roads within the ZVI. However in tourist areas the developer might also be expected to generate proposals to make use of the positive aspects

of the development.'

7.30 At the national planning level the research in this report identifies that from a tourism viewpoint:

- Having a number of wind farms in sight at any point in time is undesirable
- The loss of value when moving from medium to large developments is not as great as the initial loss. It is the basic intrusion into the landscape that generates the loss.
- This suggests that to minimise the impact on tourism very large single developments are preferable to a number of smaller developments, particularly when they occur in the same general area.

7.31 Caithness and Sutherland was selected for detailed appraisal and the research conclusions were as follows:-

*“The research has shown that even using a worst case scenario the impact of current applications (on the tourism economy in Scotland) would be very small and for three of the four case study areas, would hardly be noticed. The fourth, Caithness and Sutherland, has an extremely fragile economy with its largest, indeed dominant, employer disappearing (Dounreay). Renewable Energy offers an alternative but whilst business tourism would probably expand in the short term it would negatively affect those tourists to Caithness looking for scenery and tranquillity. It might well be argued that one answer is to utilise the strongly positive attitudes of some tourists and market the area as **the** region for Renewable Energy and seek to ensure farms are accessible and have information boards and centres.”...*

*“There is very extensive development planned in Caithness and Sutherland in areas where there is little natural protection and which most tourists will see. We estimate only 15% of tourists to Caithness and Sutherland will not see a wind farm at some stage. However the number of tourists is small and consequently in absolute terms the loss of employment and income is small, certainly less than the full time jobs in the wind farm industry nationally. We believe it will not exceed 30 jobs in total, probably less, considerably fewer than might be expected from the emerging renewables industry.”*

7.32 Therefore the study found that at a certain (unspecified) cumulative level of turbines in Caithness the tourism economy will be adversely affected.

#### Construction Impact – traffic, noise, peat etc

7.33 Concerns have been raised over the impact of the development during the construction from noise impacts and disruption to local roads. This would particularly impact on houses near the proposed access route,- Bruan Lodge Farmhouse being the most affected. The assessment of the vehicular movements upon the trunk road and local road network has determined that there will be no significant difficulties with the construction of this project, provided some localised road improvements are undertaken. Effective traffic management of abnormal loads required as a condition of any consent can ensure that emergency services can continue to operate efficiently and effectively provided in any locality during periods of construction. The use of nearby borrow pits to obtain construction material for the access tracks and turbine bases is desirable to reduce the requirement to deliver fill material to the site from further a-field. Conditions can also be applied to restrict the operating hours of construction to ensure that the



impacts on individual houses and local communities are managed within acceptable levels.

- 7.34 Planning conditions can be applied requiring submission of a construction method statement when working near watercourses, working within peaty and or muddy environments, dust or waste creation, etc can minimise the environmental impact within acceptable levels. A peat stability risk assessment was carried out for the site and risks were assessed as very low to negligible as the site is mostly forestry land.

#### Operational noise, shadow flicker effect & safety

- 7.35 A number of representations have highlighted concern over the potential impact of the development on nearby residential properties. In particular the potential noise arising from the turbines as well as the issue of shadow flicker arising when the sun is low in the sky. The developer's noise assessment in the Environmental Statement predicts that noise levels at all residential properties will not exceed recommended guideline levels. Given the proposed separation of turbines from existing residential properties by more than 1.5Km it is unlikely that noise will be significant as to affect amenity. Conditions can be applied to any consent to mitigate post construction operational noise effects should issues arise. Mitigation could include shut down of turbines to achieve night time noise limits.
- 7.36 The ES has also advised that given the distances between the turbines and residential properties no shadow flicker effect will occur in a way that will cause nuisance or annoyance. However, a planning condition can be applied to require mitigation should adverse flicker effects be experienced after the turbines are operational.
- 7.37 With regard to the development disrupting electromagnetic waves / signals within the area, relevant consultees have assessed the application and raised no objections. The Council has a standard approach when addressing such concerns, which have been raised within representations. This requires the provision of a bond or use of a condition to secure improvements if the development has caused a negative effect on existing broadcast service provision.

#### Air safety/lighting etc

- 7.38 Highlands and Islands Airport and Defence Estates have no objection to the proposals but recommended that a condition be applied to any consent to require red navigation lighting on the turbines.

#### Other material considerations

- 7.39 There are no other material considerations.

## **8.0 CONCLUSION**

- 8.1 This application is for a 9 turbine wind farm development with the potential to generate 27 MW of electricity. Under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 this is a 'major scale development'. If granted planning permission it would make a significant contribution towards helping the Scottish Government meet its target of generating 80% of Scotland's

electricity consumption from renewables by 2020.

- 8.2 National energy policy as set out in SPP encourages renewable energy developments, with a range of differing technologies, where projects can be located without undue environmental or amenity impact. The many representations against this application have specifically highlighted a number of such concerns covering issues such as impacts on residential amenity, conflict with protected species, principally birds, adverse visual impact and cumulative impacts taken with other wind farms built or proposed on scenic and open landscape and general amenity. Objectors have also highlighted that the proposals would impact adversely on local tourism and local viewpoints of value to tourists.
- 8.3 The Council's Highland Renewable Energy Strategy, is not supportive of an onshore wind farm development of more than 5MW capacity within this locality. However, given the more recent national policy statement on renewable energy matters in SPP, which is supportive of such projects, the Council's own HRES policy can only be accorded limited weight because of its strategic approach. The assessment of the HRES policy has however highlighted key constraints all of which have come to the fore in the consideration of this application and with the concerns highlighted above, help with the assessment of this development proposal. The Highland On-shore Energy Draft Supplementary Guidance currently being progressed in accordance with Scottish Planning Policy aims to identify search areas for different scales of wind energy developments. It identifies the Caithness East Coast as a Type 3 area suitable for searching for locations for small to medium scale wind energy developments. The area to the immediate north of the application site is identified as a Type 1 area unsuitable as a search area for wind energy developments and seen as an area to be protected to prevent significant cumulative effects in Caithness.
- 8.4 National archaeological interests are a material consideration of significant weight for the Council to take into account. It is clear that the proposed application will have no direct impact on any Scheduled Ancient Monuments. Historic Scotland is of the view that it will have no significantly adverse effect on the setting of the nearby Scheduled Ancient Monuments and on an area of significant archaeological importance in a national context. The Council's Archaeology Unit do not object to the proposals but consider that conditions are required to mitigate the significant major visual impact of the proposals on Nationally important monuments in the Warehouse Hill/Loch of Yarrows area and to ensure that the landscape impacted is 'preserved by record' and existing monuments are preserved in situ and protected during construction. In addition archaeological surveys and LiDAR laser surveys are required and enhancement and interpretation schemes should be drawn up and implemented.
- 8.5 In the consideration of both landscape impact and visual impact the proposed development will have a major and significant impact on the local landscape if granted planning permission and developed. Turbine towers with blades to a tip height of 116m high on elevated terrain will be highly visible from many parts of the Caithness landscape. SNH initially objected to the proposals with regard to the cumulative impact of the proposal when considered with other built, consented and proposed wind farms in Caithness. However, because of changes in their internal

policies SNH has modified its stance to one of no objection and recommend that that the Council apply its own policies in determining the application.

- 8.6 In considering impacts on communities SPP suggests that a separation distance of 2km from communities and wind farms should be used when drawing up broad areas of search for major wind farms over 20MW capacity. The villages of East Clyth and Whaligoe lie within 2km from the nearest proposed turbines. This would suggest that much of this wind farm site would have to be excluded from a broad area of search if a spatial plan had been prepared in accordance with SPP. However, this 2km separation distance is recommended to guide developments to the most appropriate sites and to reduce visual impact, but decisions on individual developments should take into account specific local circumstances and geography.
- 8.7 In considering impacts on individual houses the Council's HRES recommends that a 1km separation from turbines and houses should be used as a guideline. The closest residential properties are the 2 houses at Balrynie at 1.5km from the nearest turbine. There is a house plot at Torrie Dhu with planning in principle at just over 1Km from the nearest turbine. The nearest houses and house plot could be affected by noise and shadow flicker but conditions and turbine shut down controls could mitigate these effects to acceptable levels. It is clear that several residential properties will be impacted by the wind farm as their outlook and views from gardens and windows will be altered.
- 8.8 The cumulative effects on residential and visual amenity of this proposal taken with the existing wind farms at Causeymire, Boulfruich, Flexhill and Achairn the consented applications at Wathegar, Baillie Hill and Stroupster and the pending applications at Hill of Lieurary, Spittal and Halsary must also be considered. Visual effects will be most significant around the dispersed communities of East Clyth, Roster and Whaligoe where wind turbines will be visible both to the north, north east and north west. The proposal will also extend visibility of turbines along the coast and inland. It is the cumulative landscape and sequential visual effects of this proposal taken with other wind energy developments (built, approved or applications pending) in Caithness that gives most concern and is the basis for public objection.
- 8.9 Many residents in the wider area beyond 2km from the site will be able to see the development from their properties, but most communities such as Dunbeath and Lybster will have limited sight of the development. Being on an elevated position the development will be highly visible in the wider landscape and significant inter-visibility with other wind energy developments is predicted. The expected impact of the development is considered to be most significant and adverse as viewed from many sections of the A9(T) and A99 tourist routes in the area. However, there are no designated landscapes of scenic value in this area and the site is not within a designated area of national or local scenic importance.
- 8.10 The benefits of the proposal must be weighed against potential drawbacks and then both considered in the round. The project carries considerable support in principle by virtue of the Government's policy and targets towards greater renewable energy production. This is a 'major scale' development with a

generating capacity of up to 27 Mega Watts and would make a significant contribution to meeting both National and the Highland Council's own renewable energy targets. A large area of commercial forestry will be removed and the habitat restored and improved for wildlife and managed thereafter. There will also be a significant number of construction jobs, albeit short term, and economic benefits to the local economy during the construction of the wind farm.

8.11 In the balancing of material considerations it is therefore considered that significant weight must be given to the benefits of the proposals and the support of statutory consultees such as to reach the conclusion that the development is consistent with the Development Plan.

## 9.0 RECOMMENDATION

It is therefore recommended that **planning permission be granted** subject to the following conditions:

1. The development shall be commenced within three years of the date of this consent.

**Reason:** Statutory requirement.

2. The permission granted shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ("First Export Date"). Written confirmation of the First Export Date shall be provided to the Planning Authority within 1 month of the First Export Date.

**Reason:** The application is for a temporary period of 25 years.

3. Not later than 12 months before the end of the consent period, a decommissioning and site restoration scheme shall be submitted for the written approval of the Planning Authority, such scheme to include the removal of above-ground elements of the development, management and timing of any works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The scheme shall be implemented as approved.

**Reason:** To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site, in the interests of safety, amenity and environmental protection.

4. If any wind turbine fails to supply electricity to the grid for a continuous period of 9 months then, unless otherwise agreed in writing with the Local Planning Authority, a scheme for the removal of that wind turbine and any surface ancillary works solely relating to that wind turbine shall be submitted in writing for the approval of the Planning Authority. The scheme shall then be implemented as approved.

**Reason:** To ensure that any redundant wind turbine is removed from site, in the interests of safety, amenity and environmental protection.

5 (i) The Development shall be constructed and operated in accordance with the application and the Environmental Statement and in accordance with the terms of the conditions

ii) The Development shall be undertaken in its entirety with no partial implementation.

**Reason:** In order to clarify the terms of this permission and to ensure restoration of the site; and to protect local residents and the water environment.

- 6 (i) No wind turbine may be sited or access track constructed more than 50 metres in any direction from the approved location without the prior written approval of the planning authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency.
- (ii) Any request for such approval shall include a revised site layout for the location of all turbines and access roads.
- (iii) Notwithstanding any approval under paragraph 6(a) above:-
- a) no turbines shall be located within 20 metres of a water body;
  - b) other than at watercourse crossings, there shall be no construction works within –
    - (i) 10 metres of a headwater stream less than two metres wide;
    - (ii) 20 metres of a stream or water body wider than two metres; and
    - (iii) 50 metres of any watercourse in areas of peat

**Reason:** In order to clarify the terms of this permission and to ensure restoration of the site; and to protect local residents and the water environment.

7. Development shall not commence until the planning authority have given approval in writing for the final specification of the wind turbines.

- i). The final approved specification is to include details of the make, model, design, power rating and warranted sound power levels; the colour and matt paint finish and the mechanism to avoid potential ice throw. For the avoidance of doubt turbine transformers shall be housed within the turbine towers unless otherwise agreed in writing with the planning authority.
- ii). The developer's noise assessment shall be updated as necessary to reflect the turbine specification approved, and shall be submitted to the planning authority prior to the commencement of development. In the event of predicted exceedance of ETSU-R-97 levels or as otherwise agreed, the developer shall submit mitigation measures to the planning authority for their prior written approval in advance of the commencement of development.

**Reason:** In order to clarify the terms of the permission and retain effective control over the development; to avoid nuisance to nearby residents arising from noise or blade glint; and to avoid the possibility of ice throw.

8. Development shall not commence until the planning authority have given approval in writing for the final specification of the means of access, fencing, design, materials and colours and external finishes and construction, of all ancillary elements to the development, including in particular details relating to the substation and control building. Notwithstanding indicative drawings and for the avoidance of doubt turbine transformers shall be housed within the turbine towers unless otherwise agreed in writing by the Planning Authority

**Reason:** In order to ensure a high standard of design in the interest of visual amenity.

9. Development shall not commence until a Construction Traffic Management Plan has been

submitted to and agreed in writing by the Planning Authority. The Construction Traffic Management Plan shall include proposals for construction vehicle routing, the location and design of accesses from the public highway onto the site, management of traffic at junctions to and crossings of the public highway and other public rights of way, the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal or replacement of highway infrastructure and street furniture, off-site road works and banksman details etc. The approved Construction Traffic Management Plan shall be implemented as approved in writing by the Planning Authority. For the avoidance of any doubt this will include details to advise the public including road users on the A882 and those living along the access route of the expected abnormal loads associated with the delivery of turbine parts.

**Reason:** In order to protect highway safety and the amenity of other users of the public highway and rights of way

10. Development shall not commence until an agreement dealing with liability for remedial work required as a result of any damage to the local road network directly attributable to the Wind Farm construction and providing for pre and post construction surveys of the said local road network has been submitted to and agreed in writing with the Planning Authority.

**Reason:** In order to protect highway safety and the amenity of other users of the public highway and rights of way

9. Development shall not commence until the planning authority have approved in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency an indicative scheme for the re-instatement of the Site.

- i) The re-instatement scheme is to make provision for the removal of all wind turbines and ground reinstatement.
- ii) The re-instatement scheme shall be reviewed, and amended as necessary, and the amended scheme shall be approved in writing by the planning authority, at least 12 months prior to actual de-commissioning and re-instatement works.

**Reason:** To ensure that the restoration of the site is achieved after decommissioning.

10. No work shall commence on the Site until the applicant has provided documentary evidence that a bond or other financial provision to cover all decommissioning and site restoration costs is in place and written confirmation has been given by the planning authority to the Company that the proposed bond or other financial provision is satisfactory.

- i) The applicant shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.
- ii) The bond or other financial provision will be subject to a five yearly review from the commencement of the development, to be conducted by a competent independent professional who has relevant experience within the wind energy sector [and provided to the applicant, operator, landowners, and the planning authority.]

**Reason:** To ensure that the restoration of the site is achieved after decommissioning.

11. Development shall not commence until a Construction and Environmental Management Plan is submitted to and in writing by the Local Planning Authority in consultation with SNH, SEPA and

Scottish Water. Construction of the development shall proceed in accordance with the approved Plan, unless otherwise agreed in writing by the Planning Authority. The Plan shall address the following matters (and shall be implemented as approved):

- Environmental Policy – Statement of responsibility for all environmental features, safeguards and mitigation.
- Details of construction works, the construction methods and surface treatment of all hard surfaces and tracks.
- Details of temporary site compounds for storage of materials and machinery (including areas designated for car parking).
- Siting and details of wheel washing facilities
- Details of the timing of works and methods of working for cable trenches and foundation works
- Details of the timing of works and construction of the substation/control buildings and anemometry mast
- Details of the bridges and culverts for all new water crossings.
- Peat Stability including implementation of mitigation requirements contained within Peat Stability Risk Assessment.
- Dust management
- Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to / from the site to prevent spillage or deposit of any materials on the highway.
- Pollution control arrangements, including protection of water courses and ground water and soils, bunding of fuel storage areas, and sewage disposal
- Disposal of surplus materials
- Post construction restoration/reinstatement of the temporary working areas and borrow pit
- Construction noise management plan (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise in the event of complaints)
- Appointment and scope of work for a Project Ecologist who shall have responsibility for monitoring compliance with the provisions of the approved Plan and who shall report all breaches of the approved Plan to the Planning Authority.

**Reason:** To protect highway safety, water assets, amenity and the environment

12. The hours of construction work during the development and any traffic movements to or from the site associated with the construction of the development shall be: -

- April – September - weekdays 7.00 – 19.00 hrs & Saturdays only – 7.00 – 14.00 hrs
- October – March - weekdays 7.30 – 17.00 hrs & Saturdays only – 7.30 – 14.00 hrs
- There shall be no Sunday workings without the prior written approval of the Planning Authority.
- There shall be no working on 25/26 Dec, 1/2 Jan or during the Saturday/Sunday of the Easter weekend.

**Reason:** For the protection of residential amenity

13. Development shall not commence until, a scheme for archaeological investigation and monitoring has been submitted to and approved in writing by the planning authority.

- i) The archaeological scheme is a scheme setting out how site clearance and excavation works are to be carried out. This shall include the proposed mitigation in Section 5.7.2 to 5.7.9 of the Burn of Whilk Environmental Statement and;-
  - Micro-siting of the access track to enable the preservation in situ of Sites 215 and 25
  - All known sites to be fenced off in advance of and during construction
  - Tree felling in the vicinity of Moss of Whilk (site 145) to be conducted in such a way as to ensure that trees are felled away from the scheduled area, so as to avoid accidental damage.
  - Following tree felling an archaeological survey will be conducted to identify any sites of archaeological interest not previously known or identified.
  - An archaeological watching brief will be conducted on all ground breaking works associated with the development.
- ii) All site clearance or excavation works shall be implemented in accordance with the approved archaeological scheme.

**Reason:** In order to protect any features of archaeological importance.

14. Prior to commencement of development but after tree felling a LiDAR laser scanning survey will be undertaken to ensure that the archaeological landscape this is to be impacted by the development is preserved by record. The area to be surveyed shall include the application area and the archaeological landscapes of the Loch of Yarrows and Warehouse Hill. The LiDAR survey shall be professionally interrogated and analysed with the core areas also being subject to ground-truthing. The results of the survey and findings will be made fit for public publication and dissemination and shall be lodged with the Highland Historic Environment Record.

**Reason:** To enhance the understanding of the cultural heritage of the area and to enable the identification and preservation of previously unknown archaeological remains.

15. Prior to the commencement of the development a Conservation Management Plan (CMP) detailing measures to offset the potentially adverse effects of the proposed development on the natural heritage, particularly on peatland habitat interests and on birds, and to include further details of the method of tree felling and mulching or removal shall be submitted to and require the approval in writing of the Planning Authority in consultation with Scottish Natural Heritage, Forestry Commission Scotland and the Royal Society for the Protection of Birds. This scheme (CMP), shall be implemented as approved throughout the operational life of the wind farm.

**Reason:** To protect and enhance local nature conservation interests.

16. Prior to the wind farm becoming operational, detailed proposals for ornithological monitoring, including arrangements for submitting the results of monitoring, shall be submitted to and require the approval in writing of the Planning Authority in consultation with Scottish Natural Heritage and



the Royal Society for the Protection of Birds. The proposals thereby approved shall be implemented thereafter to the satisfaction of the Planning Authority.

**Reason:** To protect and enhance local nature conservation interests.

17. Prior to the commencement of the development, details of the measures to be taken to protect breeding birds and specifically to discourage birds from breeding on those areas of the site to be worked on during the breeding season, shall be submitted by the Developer to the Planning Authority for their approval after consultation with SNH and RSPB. Thereafter the measures, as approved by the Planning Authority, shall be implemented. In order to avoid disturbance to nesting Annex 1 species during the construction period. There shall be no felling of any trees between 1st of February to the 31st of July of any year unless the felling has previously been started. A survey of the area to be felled shall be conducted, at the Developers cost, to specifically look for nest sites of birds listed in Annex 1 of the Directive on the Conservation of Wild Birds (79/409/EEC) and in Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). Should no such nest sites be discovered by the survey, the Developer may continue to fell the trees. Should any nest sites be discovered by the survey, the results will be submitted to the Planning Authority and Scottish Natural Heritage. Construction works shall avoid commencement during the main bird breeding period – mid April to 31 July.

**Reason:** To protect and enhance local nature conservation interests.

18. Construction activities shall not start until one hour after sunrise and shall end at least one hour before sunset to ensure that peak otter activity periods are avoided.

**Reason:** To protect and enhance local nature conservation interests.

19. Development shall not commence until a scheme of mitigation for shadow flicker has been submitted to and approved in writing by the planning authority.

- i) The scheme shall include mitigation measures to reduce the impact of shadow flicker on nearby houses and shall be based on a detailed assessment of the impact of each turbine on those houses.
- ii) The approved scheme shall be implemented prior to the commissioning of the wind farm.

**Reason:** To protect the occupiers of nearby houses from the effects of shadow flicker.

20. Development shall not commence until a TV and radio reception mitigation plan has been submitted to and approved in writing by the planning authority.

- i). The plan shall provide for a baseline TV reception survey to be carried out prior to commencement of turbine installation, the results of which shall be submitted to the planning authority.
- ii). Within 12 months of the commissioning of the development, any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building, shall be investigated by a qualified engineer and the results submitted to the planning authority.
- iii) Should any impairment to the TV signal be attributable to the wind farm, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

**Reason:** To ensure that any effect on TV or radio reception is rectified.

21. No development shall commence until an Access and Heritage Interpretation Plan shall be submitted to and agreed in writing with the Planning Authority. The Access and Heritage Interpretation Plan will detail which archaeological sites should have their access improved and which sites would benefit from interpretation, along with proposals for maintaining and encouraging public access to the archaeological resource as well as details of signage and promotion of a Heritage Trail. Utilising the proposed new access to the site a new visitor trail will be implemented and linked to the existing Yarrows Archaeological trail. The Access and Interpretation Plan shall include:-

- provision for production of educational packs based on the archaeological sites in the Yarrows/Warehouse area for dissemination in local schools
- Details of provisions for improving the visitor experience at the existing Yarrows Archaeological Trail, including waymarkers, footpath improvements, leaflets, interpretation and use of new media.
- Details of a community programme to engage with the archaeological resource including field surveys, ground truthing of LiDAR survey and excavation.

In consultation with the Highland Council Archaeology Unit and other relevant stakeholders implementation of the Plan is required as part of this condition.

**Reason:** To improve access and interpretation across this development site, whilst securing a measure of control and protection of valued local archaeology.

22. Two months prior to the commencement of development the applicant will provided both the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the Planning Authority and Highland and Islands Airport Authority Ltd, containing the following information:

- The date of commencement of the construction;
- The exact position of the turbine towers in latitude and longitude;
- A description of all structures over 300 feet high
- The maximum extension height of any construction equipment;
- The height above ground level of the tallest structure; and
- turbines shall be fitted with 25 candela omni-directional red lighting at the highest practicable point on the turbines.

**Reason:** In order to ensure aviation safety.

23. The Wind Farm Operator shall log wind speed and wind direction data continually and shall retain the data which has been obtained for a period of no less than the previous 12 months. The data shall include the average wind speed in metres per second for each 10 minute period. The measuring periods shall be set to commence on the hour or in 10 minute increments thereafter. The wind speed data shall be made available to the Planning Authority on request. The data shall be provided on a Microsoft Excel spreadsheet in electronic format. In the case where the wind speed is measured at a height other than 10 m, the data shall be supplemented by adjusted values which allow for wind shear, normalised to 10m height. Details of the wind shear calculation shall be provided. At Wind Speeds not exceeding 12m/s, as measured or calculated at a height of 10m

above ground level at the wind farm the Wind Turbine Noise Level at a distance of 1km from the edge of the nearest outer turbine shall not exceed:-

(a) during Night Hours, 38dB LA90,10min, or the Night Hours LA90, 10min Background Noise Level plus 5 dB(A), which ever is the greater.(b) during Quiet Waking Hours, 35 dB LA90,10min or the Quiet Waking Hours LA90, 10min Background Noise Level plus 5 dB(A), which ever is the greater

At the request of the Planning Authority, following a valid complaint to the Planning Authority relating to noise emissions from the Wind Turbines, the Wind Farm Operator shall measure, at its own expense, the level of noise emissions from the Wind Turbines. The measurement and calculation of noise levels shall be undertaken in accordance with “The Assessment & Rating of Noise from Wind Farms”, September 1996, ESTU report number ETSU-R-97 having regard to paragraphs 1-3and 5-11 inclusive, of The Schedule, pages 95 to 97; and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109. In comparing measured Wind Turbine Noise Levels with Background Noise Levels, regard shall be had to the prevailing Background Noise Levels as measured at specified locations.

“Wind Turbine Noise Level” means the rated noise level due to the combined effect of all the Wind Turbines at the Wind Farm, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU–R –97, pages 99 – 109.

“Background Noise Level” means the ambient noise level already present within the environment (in the absence of noise generated by the Development) as measured and correlated with Wind Speeds.

“Wind Speeds” means wind speeds measured or calculated at a height of 10 metres above ground level at the Met Mast locations on the wind farm site shown on Figure 4.1 Environmental Statement.

“Night hours” means 23:00 – 07:00 hours on all days.

“Quiet Waking Hours” means 18:00 – 23:00 hours on all days, plus 07:00 – 18:00 on Sundays and 13:00 – 18:00 hours on Saturdays.

**Reason:** In order to control noise in the interest of residential amenity.

For Information: -

1. **Please note:** Your attention is drawn to the conditions attached to this permission. 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 meet these conditions may invalidate your permission or result in formal enforcement action.
2. SEPA has advised that authorisation under CAR will be required for some proposed activities.
3. For the avoidance of any doubt any on-site or off-site borrow pits to supply materials to the wind farm will require to be subject of a further planning application and subject to screening for an Environmental Impact Assessment
4. Contact should be made with TR-NMD Bridges Branch (Tel No 0131 244 4363) as to the feasibility of abnormal load movements from the nearest suitable port. Abnormal load authorisation from Scotland Transerv may be required contact Trunk Roads Development Management 0141 272 7338 for further information
5. Maintenance issues, requiring HGV or Abnormal traffic movements to the site, may be necessary throughout the 25 year lifetime of the development. Such access issues need prior discussion with the Council’s TEC Services.

6. Road Openings Permit / Road Construction Consent: you may require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.
7. In line with the Council's Gaelic Language Plan and Policies, you are encouraged to consider the adoption of Gaelic signage in this development. For further guidance, you may wish to contact the Council's Gaelic Development Manager (01463 724287) or Comunn na Gàidhlig (01463 234138).
8. Scottish Water: You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.
9. No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this decision notice has been submitted to and acknowledged by the Planning Authority.
10. Upon completion of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority.

Signature:

Designation: Head of Planning & Building Standards

Author: Gordon Mooney, Principal Planner 01463 702249

Background Papers: Documents referred to in report and in case file.

Relevant Plans: The following figures in the Burn of Whilk Environmental Statement – 2006 only:-

Figure 4-3 Typical Turbine dated 04/12/06,

Figure 4-4, Site Entrance dated 04/12/06

Figure 4-5, Site Road Construction detail dated 05/12/06

Figure 4-6, Typical Turbine foundation dated 04/12/06

Figure 4-7, Typical crane hardstanding dated 04/12/06

Figure 4-8. Meteorological mast dated 04/12/06

Figure 4-9, Switch Room and compound detail dated 04/12/06

Figure 4-10, Outline bridge detail dated 07/12/06

Figure 4-12, Construction compound dated 12/12/06

The following figures in the Burn of Whilk Supplementary Report June 2010 only:-

Figure 1.1, Site Location dated 21/05/10

Figure 2.2, Felling plan dated 23/06/10

Figure 3.1, Site layout dated 23/06/10

Appendix – Letters of Representation (see attached list)