Directorate for Planning and Environmental Appeals

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Ms G Webster
Highland Council
Sent By E-mail

Our ref: PPA-270-2108

11 December 2014

Dear Ms Webster

PLANNING PERMISSION APPEAL: LAND 978 M SE OF LOCHEND HOLDING BARROCK CAITHNESS

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action.

I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

Jane Robertson

JANE ROBERTSON
Case Officer
Directorate for Planning and Environmental Appeals

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Directorate for Planning and Environmental Appeals

Appeal Decision Notice

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The Scottish Government

Decision by David Liddell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2108
- Site address: Land 978 metres southeast of 2 Lochend Holding, Barrock, Caithness
- Appeal by Wind Harvest Limited against the decision by The Highland Council
- Application for planning permission 13/02682/FUL dated 15 July 2013 refused by notice dated 31 March 2014
- The development proposed: Erection of 4 No. 2300kW wind turbines with a height to tip of 99.5 metres, height hub of 64 metres, rotor diameter of 71 metres and associated works
- Application drawings: Lo/SP/1 Site Plan, Lo/SP/2 Wind turbine layout – detail, Lo/TD/1 Construction and Turbine Details, Lo/EI/1 Substation building
- Date of site visit by Reporter: 26-28 August 2014

Date of appeal decision: 11 December 2014

Decision

I allow the appeal and grant planning permission subject to the 22 conditions listed at the end of the decision notice. Note the 3 advisory notes at the end of the notice.

I direct that unless the development hereby permitted has already begun, this permission will lapse after a period of 3 years beginning with the date of this permission. This direction replaces section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) for this permission, that section of the Act not applying to permissions granted for a limited period such as this one.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.

2. Having regard to the provisions of the development plan the main issues in this appeal are:

- Impacts on the Dunnet Head Special Landscape Area;
- Other landscape and visual impacts, including cumulative impacts;
- Impacts on residential amenity and on nearby communities;
- Impacts on natural heritage;
- Impacts on cultural heritage; and
- The benefits of the proposal.

3. The development plan in this case is the Highland Wide Local Development Plan (HWLDP). Some elements of the Caithness Local Plan remain extant but the main parties agree that none of these are relevant to the appeal.

4. HWLDP policy 67 Renewable Energy Developments sets out the council's expectations of renewable energy development, and the criteria against which such proposals will be assessed. Several other policies in HWLDP are relevant to the appeal proposal, notably policy 61 Landscape and policy 28 Sustainable Development, both of which the council refers to in its reasons for refusing this application.

5. Although not forming part of the development plan, the council adopted its Interim Supplementary Guidance: Onshore Wind Energy Supplementary Guidance (the ISG) in March 2012. This document identifies the appeal site as being within an area of search for wind farms, where appropriate proposals are likely to be supported subject to detailed consideration against HWLDP, in particular policies 57 (Natural, Built and Cultural Heritage) and 67. The ISG provides a fuller interpretation of the 11 criteria listed in policy 67. Settlement Development Areas, and a zone extending 2 kilometres beyond them, are excluded from the areas of search.

6. By virtue of the size of the turbines, the ISG characterises the appeal proposal as a 'large' development, which are encouraged to be located at a distance of at least 2 kilometres from settlement boundaries, although impacts on receptors outwith settlements are still to be assessed.

7. The application is supported by an Environmental Statement (ES), dated July 2013. Additional information, figures and visualisations, dated July 2014, were submitted in support of the appeal. Having had regard to all the environmental information submitted, I have reached my own conclusions on the environmental impacts of the proposal.

Impacts on Dunnet Head Special Landscape Area

8. The Dunnet Head and Duncansby Head Special Landscape Areas (SLAs) identified by The Highland Council lie, respectively, around 5.5 kilometres to the northwest and 12 kilometres to the east of the appeal site. The council is content that the visual impacts on Duncansby Head, where only parts of the blade tips would be visible, are negligible. Given the distance involved, and having visited Duncansby Head during my site inspection, I agree that any impacts there would be very minor.

9. Both the council and Scottish Natural Heritage (SNH) are of the view that the proposal, cumulatively with the Stroupster wind farm which was under construction at the time of my visit, would have significant adverse effects on the Dunnet Head SLA. Particular reference is made to the impact on the viewpoint on the summit south of the public car park at Dunnet Head. This viewpoint lies a little over 10 kilometres from the appeal site.

10. The consultation response on this planning application from SNH stated that there would be significant cumulative landscape and visual impacts, particularly on this SLA. SNH highlighted the following key characteristics of the SLA:

- spectacular panorama both seaward and inland to distant mountain peaks; and
- elevated views from the peninsula revealing a pattern of pasture and arable fields to the south; these form a distinctive transition between the exposed headland and the settled agricultural lowlands to the south.

11. SNH considered that these characteristics would be likely to be adversely affected by the appeal proposal which would, along with the proposed Lyth wind farm (at application stage at that time) exacerbate impacts arising from the consented Stroupster wind farm, thereby forming a cluster that occupies a notably larger proportion of the field of view to the southeast.

12. Both the council's report of handling and its appeal submission refer to SNH's view, and the second reason for refusal is because the visual effects of the development would have a significantly detrimental impact on the SLA, forming a prominent cluster of turbines with the Stroupster wind farm when viewed from the public viewpoint at Dunnet Head. This was judged to be significantly detrimental to the viewpoint and to the wider SLA.

13. The appellant's appeal submissions provide its detailed assessment of the likely impacts of the proposal on the SLA. This includes a report by Horner and Maclennan Landscape Architects dated June 2014 - *Landscape and Visual Response to the Highland Council Reasons for Refusal of Lochend Wind Farm*. This report makes an assessment of the effects of the proposal against each of the listed key landscape and visual characteristics of the SLA, and on its special qualities.

14. I asked SNH to provide an updated position on the landscape and visual impacts of the appeal proposal following the subsequent dismissal, on appeal, of the proposed Lyth wind farm. In response, SNH expressed broad agreement with the Horner and Maclennan report insofar as the proposal would, in isolation, impact upon the SLA although would be unlikely to significantly affect the underlying reason for the designation.

15. SNH acknowledged that the dismissal of the Lyth wind farm appeal means that the cumulative effect of wind farm development on the SLA would be reduced. However, it goes on to state that Lochend is in an area of Caithness where there are currently no wind farms apart from Stroupster and that the addition of Lochend wind farm closer to Dunnet Head, along with Stroupster, would have the potential for significant cumulative landscape and visual impacts on the SLA.

16. I recognise the potential for adverse cumulative impacts on the SLA from the appeal proposal, in particular with the Stroupster wind farm and also with the Rattar turbine, the closest of these to Dunnet Head. These would, in my view, predominantly be visual impacts rather than landscape impacts, the impacts on views from the public viewpoint being a significant consideration.

17. I note the appellant's view, expressed in the Horner and Maclennan Report and illustrated in drawing Lo/LVAP/1 and in the Dunnet Head – 360 Degree Panorama and Analysis, that the main focus of the public viewpoint is northwards to the Orkney Islands and extending eastwards along the coast to the island of Stroma. The secondary view is to the quadrant to the southwest - along the coast and towards the distant mountains. In

general terms, and having made several visits to Dunnet Head during my site inspection, I find this analysis to be convincing.

18. In respect of the 'spectacular panorama both seaward and inland to distant mountain peaks' the assessment in the Horner and Maclennan report is that the proposed turbines would not affect seaward views from the SLA and that, while they would be visible looking southeast, they would have no effect on views looking towards the distant mountains.

19. The seaward views westward and eastward along the north Caithness coast, and towards Stroma and the Orkney Islands, would not in my view be significantly affected by the proposed turbines, which would be sited a little over 10 kilometres to the southeast. The turbines would be more evident when looking southeast from the public viewpoint over the cliffs to the north of Brough, within the SLA. The impact of the turbines, several kilometres beyond, on the appreciation of the cliffs would in my view only be moderate. As stated in the Horner and Maclennan Report, the distant mountain peaks visible (in good weather) from the public viewpoint are the very distinctive mountains of Sutherland and, closer, the somewhat less dramatic and generally lower peaks in Caithness, all in a broad arc in the southwest quadrant of the view. The appeal proposal, to the southeast, would in my view have a very minor impact on the enjoyment of such views.

20. In respect of 'elevated views from the peninsula revealing a pattern of pasture and arable fields to the south' the Horner and Maclennan assessment states that the proposed turbines would be visible in the periphery of views to the south and would not impinge on the distinctiveness of the transition between the headland and the settled agricultural lowlands when looking in this direction. They would however be seen looking to the southeast and would add tall, man-made moving features to the scene. The effect on the key characteristic is, however, considered to be no more than slightly adverse.

21. The turbines, although they would be visible when looking south, would not be in the area of transition between the headland and the settled agricultural lowlands beyond. They would be sited within those agricultural lowlands, over 5 kilometres from the SLA and in a separate landscape character type. Although they would have a visual impact, I do not find that there would be a significant effect on this key characteristic of the SLA.

22. The appeal proposal would extend, westward from the Stroupster wind farm, the extent of wind turbine development visible in the area southeast from Dunnet Head. Wind turbine development would form a greater element of the landward views. However, in light of my findings above, this would not have a significant impact on the most important and impressive views which are to the Orkney Islands and Stroma, along the north Caithness coast, and across the southwest quadrant to the inland mountain peaks. Therefore, whilst acknowledging these cumulative impacts, I do not consider them to be significantly adverse.

23. I recognise the potential for further cumulative impacts from the Brabster proposal but as this is not consented, being in scoping at the time the Environmental Statement was prepared, I attach much lesser weight to the potential impacts of this proposal. I also note the other consented and operational schemes such as at Baillie Hill, Causeymire and the various schemes to the west of Wick which are all at significantly further distance from

Dunnet Head. There would be only very minor impacts in combination with these more distant wind farms.

24. I refer above to the decision earlier this year to dismiss an appeal against the council's refusal of planning permission for a wind farm at Lyth. I recognise that some of the key issues in that decision are very similar to the key issues in this one, including impacts on the SLA. Although Lochend would be 1 to 2 kilometres closer to Dunnet Head than Lyth, the much smaller number of turbines and narrower proportion of the view which it would take up in my view renders the cumulative impacts with Stroupster lesser than would have been the case with Lyth. I also give significant weight to the assessment in the Horner and Maclennan report on the relative importance of the different directions of views from Dunnet Head.

25. Overall, in respect of its impacts on the SLA, alone or in combination, I am satisfied that the proposal meets the requirements of policy 67 of HWLDP which states that particular regard is to be had, amongst other things, to the visual impacts of renewable energy development and to the effects on recognised visitor sites and other tourism and recreation interests.

26. I also consider that the proposal complies with policy 28 which lists impacts on landscape and scenery amongst those factors against which development proposals are to be assessed. So too with policy 57 which states that it must be demonstrated that development will not have an unacceptable impact on features of local/regional importance (including SLAs).

Other landscape impacts

27. The Environmental Statement which accompanies this proposal, along with additional material submitted in support of the appeal, provides a comprehensive basis on which to assess the landscape and visual impacts of the development. This includes maps showing the theoretical zone of visual influence of the wind farm, and wireframes and photomontages from a number of representative viewpoints around the appeal site.

28. The site lies within a landscape character type identified as Sweeping Moorland in SNH's Landscape Character Assessment (LCA) for Caithness and Sutherland. The Mixed Agriculture and Settlement landscape character type lies nearby to the west, within which most of the nearby, relatively dispersed, communities are located. An area of the Small Farms and Crofts landscape character area, encompassing the dispersed settlement of Barrock, lies to the northwest. Further east, the Sweeping Moorland merges into an area of Flat Peatland, with pockets of Coniferous Woodland Plantation.

29. The appeal site can, in my view, to a degree be considered to be in a transitional area between a number of landscape character types, and indeed the LCA confirms that these should not be considered to have tightly defined boundaries. It is close to the edge of the sweeping moorland, and the conifer plantation immediately to the east of the site somewhat weakens the apparent influence of that landscape character type. The more settled areas to the west between Barrock and Greenland also influence the local landscape character.

30. The LCA lists a number of key characteristics of sweeping moorland landscape. Amongst these are its relative flatness, its simplicity, its general lack of visual foci and the influence of the sky. Settlements tend to occur at the edges of the landscape character type, and coniferous plantations form a dominant characteristic within some areas. This landscape's wide open space and simple visual composition are said to be key considerations when looking at change, as these tend to result in any new elements becoming focal features. It is stated that it is important to design and locate new elements in direct relation to the landscape, so that they seem appropriate to a particular place and function.

31. The guidance in the LCA for wind energy development within sweeping moorland states that a wind farm will tend to appear most appropriate where it is located within the wide open areas of this landscape character type, so that the size of the turbines appears inferior to the scale of the surrounding space. It is considered that a wind farm will tend to appear most rational where it is arranged in a clearly ordered manner.

32. The mixed agriculture and settlement landscape character type is described in broad terms as being wide open, and dominated by a horizontal emphasis. It is exposed, has a complex visual composition and is mostly gently sloping. There tends to be no distinct division between townships or areas, one gradually blending into the next. Although falling within a different landscape character type (small farms and crofts), in my view Barrock demonstrates similar characteristics to the area of mixed agriculture and settlement surrounding it, in particular the dispersed pattern of settlement.

33. There is no reason to conclude, intrinsically, that the sweeping moorland landscape is unable to accommodate wind turbine development. It is inevitable that such development will have landscape and visual impacts, and these may be significant, especially at close quarters. The key considerations will be the degree of such impacts, and whether or not they are significantly adverse.

34. The composition of the appeal proposal, with a very slightly curving row of turbines, would broadly follow both the 40 metre contour line and the edge of the conifer plantations on the rising land to the east. The turbines would be fairly evenly spaced. The access tracks would follow existing field boundaries, then the line of the turbines. In this respect, I consider that the layout of the proposal relates well to its landscape setting, and provides the rational, ordered form advocated in the LCA.

35. I acknowledge that it is not within the wide open areas of this landscape character type, which the LCA considers would help accommodate the scale of wind turbine development. The large size of the turbines would be evident given the existence of the nearby conifers as a scale comparator. However, I do not consider that the development would be so large in extent as to significantly affect the overall character of either the sweeping moorland landscape in which it sits or the more settled landscape character types which are nearby.

36. With regard to its landscape impacts, in my view the proposal is consistent with HWLDP policies 67 and 28 which require that proposals reflect the scale and character of the landscape, and seek to minimise landscape impacts. Similarly, it is consistent with the

requirements in policy 61 which are that development reflects the landscape characteristics and special qualities identified in the relevant LCA.

Other visual impacts

37. The theoretical zone of visual influence, given the height of the turbines and the relative flatness of the landscape, would extend 360º around the site. It would cover much of the area of Caithness north of the B867. Theoretical visibility extends further afield to some of the south-facing slopes on Stroma and the Orkney Islands, and south and west to other parts of Caithness. Existing vegetation and buildings would reduce the actual visibility of the turbines, and of course impacts would reduce with distance.

38. Viewpoint 1 is from the minor road to Lochend and the appeal site, looking to the northeast at a distance of around 1.3 kilometres to the nearest turbine. This illustrates the regular composition of the proposal. This, and the fact that the turbines are all at the same height, would fit well with the horizontal emphasis of the landscape. However, the nearby buildings, hedgerows and telegraph poles provide scale comparators which reveal the large size of the turbines. The turbines would be very prominent in views when travelling north along this road, although the roadside hedge would provide a measure of screening.

39. Viewpoint 2 illustrates the likely visual impacts from Barrock and Inkstack, at a distance of around 2.4 kilometres to the nearest turbine. The view towards the appeal site has a simple horizontal composition of pasture, a conifer plantation and moorland beyond. The turbines would be partially obscured by topography and the conifer plantation. Despite that, they would be very prominent and the trees in the foreground would emphasise their size. They would not, in my view, be dominant.

40. From Lyth, as shown in viewpoint 5, the turbines would occupy a small portion of the view from a distance of around 5 kilometres. The wind farm would be viewed along its axis from Lyth and as a result the turbines would appear, to a degree, ‘stacked’ from this location, adding complexity to the image. However the proposal would not, in my view, have a significantly adverse impact, either visually or on the landscape setting of the settlement.

41. Slickly, the location for Viewpoint 3, lies around 2.6 kilometres from the nearest turbine site. From this location the turbines would be viewed across flat moorland, a wide open landscape which in my view is capable of accommodating them. The visual impacts would not be significantly adverse. The very small number of houses at Slickly and the lightly trafficked road between Lyth and Gills Bay means the number of visual receptors would be low.

42. Around Rattar, 4-5 kilometres to the north, the turbines would be seen in the context of a similarly flat landscape, although one with more foreground features than at Slickly. From this general direction the turbines would present a narrow although somewhat complex image. However, although a prominent feature, the wind farm would represent only a small proportion of southward views. Given this context, I consider the visual impacts from this area to be no more than moderate.

43. I have considered the visual impacts of the proposal from a range other locations, including all of those areas featured in the photomontages and wireframes submitted with the appeal. The information on viewpoints at East Mey, near Castletown and at West Dunnet is representative of the kinds of impacts which would be experienced. Although the turbines would be prominent from many locations, this is mitigated to varying degrees by distance and intervening vegetation, and by the compact, regular layout and relatively small number of turbines. From nowhere do I find these impacts significantly adverse.

44. In contrast to the Lyth wind farm, the Lochend proposal is for 4 turbines rather than 10, and would form a slightly curving row of turbines rather than a broader cluster. Whilst it would be closer to the communities at Barrock and Inkstack, it would take up a narrower field of the view. From the settlements further to the south, Lyth would have been generally closer than Lochend would be, and again taking up a broader proportion of the view.

45. I am therefore satisfied that the proposal complies with the requirements of policy 67 of HWLDP, which states that particular regard is to be had to the visual impacts of renewable energy development, and which developers should seek to minimise. The proposal is also, in my view, consistent with policy 28 which lists impacts on scenery amongst those against which development proposals will be assessed.

Other cumulative landscape and visual impacts

46. The council's first reason for refusal states that the proposal would result in a dominant visual feature when viewed alongside the consented Stroupster wind farm. The proximity of the two wind farms (around 5.5 kilometres at the closest point) and the relatively flat landscape of this part of Caithness mean that, given the height of the turbines involved, there would inevitably be extensive areas from which both wind farms would be visible.

47. The Cumulative ZTV with Stroupster and the Rattar turbine shows the theoretical extent of this, albeit existing buildings and vegetation would limit actual visibility to some degree. I have dealt above with the cumulative impacts on the Dunnet Head SLA.

48. I consider the greatest cumulative impacts would likely be experienced around Slickly, which would be situated between the two wind farms, and from sections of the minor road to the north of Slickly. Although not viewed together, and despite the extensive conifer plantations visible, this would have a significant impact on the experience and perception of the surrounding flat, moorland landscape from this area. However, I do not consider that the addition of the Lochend turbines would be so significant as to change the landscape character of this area. I note also that the area where this particular degree of impact would occur is relatively small, and generally with few receptors to experience the associated visual impacts.

49. From areas to the north and west of the appeal site the Stroupster turbines would be visible in the distance, beyond the Lochend turbines. From around Barrock and Inkstack the Stroupster turbines would theoretically be visible when looking between and to the side of the much closer Lochend turbines. However, the appellant states that the conifer plantation beyond Lochend would screen the Stroupster turbines from Viewpoint 2 at Barrock. I observed this effect during my site inspection, where I was unable to see any of

the Stroupster turbines then under construction. However, the Stroupster turbines were visible from other locations around Barrock, Inkstack, Hollandmake and Lochend. I am also aware that the plantation could be felled during the life of the wind farm.

50. The differing distances between the schemes would mean they would clearly be perceived from this area as two separate wind farms. This would, to a degree, alter perceptions of landscape character from such viewpoints, giving the impression of a moorland landscape to the east of which wind farms are a significant component. Future felling of the conifer plantation I refer to above would be likely to extend such an effect to a wider area. However, the flat moorland landscape is one which I have found can in principle accommodate wind farm development and these effects would be confined to a relatively limited area.

51. Elsewhere, the Lochend turbines would be seen together with those at Stroupster, although more widely spaced. Such an effect would be experienced from extensive areas to the south of the wind farms, albeit roadside vegetation would mitigate this to a degree. The most significant such location would in my view be the area around Lyth, around 5 kilometres from both sites. The stacking effect of the Lochend turbines when viewed from near Lyth would contrast with the appearance of the Stroupster wind farm. However, the resultant narrow profile of the Lochend turbines and the fairly wide separation between the two wind farms would moderate the visual and landscape impacts which would occur.

52. Further south, the increasing distance to the appeal site reduces the potential for cumulative impacts, as does, further west, the increasing distance to Stroupster. To the extent that they would occur south and west of the road along which Lyth lies, I do not consider that any cumulative impacts would be significantly adverse.

53. The Lochend and Stroupster schemes would also be viewed in combination from the north and east, for example from Tofts and from the area around East Mey. However, the wide separation between the two schemes, the distances from most receptors and the intervening topography and vegetation are such that the impacts would generally be minor to moderate.

54. I recognise the potential for further cumulative impacts from the Brabster proposal, evident from the cumulative wireframe drawings from locations such as Earl's Cairn and Lyth, but attach a much lesser weight to the potential impacts of this proposal given the stage it has reached.

55. In respect of the Lyth appeal decision, that wind farm would have been moderately closer to Stroupster and of 10 turbines rather than 4. I am satisfied that the cumulative impacts of Lochend would be significantly less.

56. I note the contents of the 14 May 2014 report to the council's Planning, Development and Infrastructure Committee on the Cumulative Landscape and Visual Assessment of Wind Energy in Caithness, and the appellant's comments on this. The report states that this study, being undertaken by Land Use Consultants, presents initial conclusions and recommendations. I also note that both the council officials and Land Use Consultants are of the view that this is a strategic study and not a substitute for project-specific assessment. I agree, and attach little weight to its conclusions, such as they are reported.

57. In this respect, I am satisfied that the proposal would be consistent with policy 67 of HWLDP, which is supportive of renewable energy development which would not have significantly detrimental cumulative landscape and visual impacts. It would also accord with policy 61, which states that development should reflect the landscape characteristics and special qualities identified in the relevant Landscape Character Assessment, including consideration of potential cumulative effects.

Impacts on residential amenity

58. The council's environmental health officer is content that noise immissions caused by the proposal would be within the limits recommended in ETSU-R-97, the Assessment and Rating of Noise from Wind Farms. This can be controlled by planning conditions, as can any risk to amenity from construction activities. No dwellings are within ten times the rotor diameter of the proposed turbines, the distance beyond which the Scottish Government's online advice on wind turbine development advises that impacts from shadow flicker may be likely to occur.

59. The nearest residential properties without a financial involvement in the development are two houses at 10 Lochend Holdings, around 900 metres south of the closest turbine. Figure 9 of the appeal document Figures and Visualisations provides a cumulative wireframe of the appeal proposal with the Stroupster wind farm from this location.

60. The Horner and Maclennan Report states that the principal views from both these properties is to the southwest, away from the appeal site, and that the proposal, although visually prominent, would not form a commanding or primary element of the view, and its presence would not be overwhelming. Both properties have windows facing towards the site, in particular the front door and several windows of the smaller cottage which face directly towards the appeal site.

61. In my view the Horner and Maclennan Report underplays the likely impacts on this cottage in particular. The turbines would be large and prominent, and would extend across a significant part of the outlook from the front elevation of this house, with the Orkney Islands visible beyond. However, although significant, I do not consider that such visual impacts would be so severe as to be overbearing.

62. Number 9 Lochend Holdings sits further to the south, at a distance of around 1.2 kilometres from the nearest turbine. This has a lean-to extension with a number of windows, mostly small, facing the site.

63. The property at Lochend referenced L1 in the Horner and Maclennan Report lies around 1.3 kilometres west of the nearest turbine. It would face the proposed row of turbines side-on. It is, however, set amongst a small area of relatively dense tree cover, and oriented away from the site.

64. The single-storey row of cottages at Lochend has some windows facing northeast to the minor road, at a distance of around 1.4 kilometres. Another house is located still further to the south-west, with trees and the row of cottages in the immediate area between it and the appeal site.

65. At Hollandmake, the closest house is a detached bungalow with a gable wall facing the site. A further house to the northwest has windows facing both southwest and southeast to the appeal site.

66. There are three houses which are financially-involved in the project and which generally sit closer to the appeal site than non-involved properties. Both the house at Syster and that to the west of it have gables facing the site, and would experience noise immissions slightly above those at 10 Lochend Holdings. The involved property at Lochend to the southwest would have clear views to the wind farm, although the lower parts of the turbine towers may be obscured by the topography. Given the context of their involvement in the proposal, I consider that the impacts on the amenity of these houses would be within acceptable limits.

67. I acknowledge the significant impacts on the cottage at 10 Lochend Holdings, and a lesser degree of impacts at the other properties I refer to in paragraphs 62 to 65 above. However, I am content that the proposal would satisfy the requirements of HWLDP policy 67 which supports development which is not significantly detrimental overall, including in respect of amenity at residential properties. I am also satisfied that the proposal pays sufficient regard to policy 28, which states that proposals are to be assessed on the extent to which they impact on individual and community residential amenity.

Impacts on natural heritage

Natura 2000 sites

68. I am required, before allowing a proposal which is likely to have an impact on a Natura 2000 site, to undertake an appropriate assessment of the implications for the conservation objectives for which the site has been designated.

69. Loch Heilen lies around 1.7 kilometres to the west of the appeal site. The loch is a component of the Caithness Lochs Special Protection Area (SPA), classified for its wintering populations of Greenland white-fronted geese, greylag geese and whooper swans. SNH is of the view that disturbance and displacement to feeding geese and swans as a result of the proposal is likely to have a significant effect on the qualifying interests of the SPA.

70. In respect of construction impacts, provided that no works take place in the period from 1 October to 31 March, then SNH is satisfied that significant effects on the SPA would be avoided. It objects to the proposal unless such a planning condition is imposed.

71. SNH is of the view that collision mortality is likely to have a significant effect on the qualifying interests of the SPA. However, based on the appraisal carried out, it is not considered that the proposal would adversely affect the integrity of the site. Considered both alone and in combination with other proposals affecting the SPA, SNH considers that the conservation objectives of the SPA would not be adversely affected. This is due to the relatively low level of predicted mortality from collisions.

72. In relation to the impacts from the construction of the wind farm and its access track, I have had regard to SNH's view that these would be in an important feeding area for the geese and swans. However, I further note SNH's advice that these birds are mainly present during the winter months and that construction works outside this period are unlikely to cause significant disturbance. I consider that SNH's proposed condition would avoid any significant effects on the SPA from construction activities.

73. I have had regard to SNH's view that the expected low mortality rates as a result of collisions with the turbines would not adversely affect the integrity of the SPA or its conservation objectives. I have also noted the activity surveys for whooper swans, greylag geese and pink-footed geese at Figures 26-28 and Figure 33 of the Environmental Statement. These do show a number of flights through the area where the turbines would be located, particularly by geese. They also indicate, however, that the main focus of activity is located to the west and northwest, away from the turbines. Figure 32, showing goose ground registrations and goose droppings, confirms this focus to the west of the turbines, although I do note that large flocks of pink-footed geese were observed at ground locations only a short distance to the west of the proposed turbine sites.

74. For whooper swans, SNH refers to recent population viability analysis which suggests that the predicted levels of collision mortality (0.2 birds per year) would not affect the population of the species as a viable component of the site, either alone or in combination with other developments.

75. For greylag geese, SNH concluded that the level of predicted mortality (0.5 birds per year) would not adversely affect the population, either alone or in combination with other proposals. SNH does note that the numbers of greylag geese feeding within 300 metres of the turbines could be disturbed and displaced from feeding in this area during construction and then operation of the wind farm. However due to the amount of other feeding areas locally and throughout Caithness, SNH concludes that the proposal would not affect the viability of the population either alone or in combination with other developments.

76. For Greenland white-fronted geese, SNH concluded that the conservation objectives for the SPA would not be adversely affected because of the relatively low level of predicted mortality (0.2 birds per year). This would not adversely affect the population, either alone or in combination with other proposals. SNH notes the potential for some displacement, but considers that this is unlikely to affect the population of the species as a viable component of the site.

77. SNH is also of the view that the proposal is likely to have a significant effect on hen harrier and golden plover, two of the qualifying interests of the Caithness and Sutherland Peatlands SPA, but that this would not adversely affect the integrity of the site. SNH's appraisal considered the impacts of the proposal from collision mortality, disturbance and displacement from feeding areas (and roosts) both alone and in combination with other proposals affecting the SPA. There is low predicted mortality (less than 0.1 birds per year) to hen harriers as their flights are mostly below the height which would be swept by the turbine blades. In this regard, I note the raptor activity survey at Figure 30 of the Environmental Statement shows that most of the observed hen harrier flights in the vicinity of the site were below 20 metres height.

78. Limited evidence of hen harrier displacement around turbines leads SNH to conclude that loss of feeding habitat is unlikely to be a cause for concern. A hen harrier roost is likely to be lost due to disturbance from the operation of the wind farm. However, as only sporadic use of this roost was recorded and, given the likelihood of alternative roosts in the area, SNH does not consider that the loss of the roost would affect the population of the species as a viable component of the SPA.

79. The low levels of predicted mortality of golden plover (0.25 birds per year) are such that it is not considered by SNH that this would affect the population, either alone or in combination with other proposals affecting the SPA. I note that the wader activity survey at Figure 31 of the Environmental Statement shows that most of the observed golden plover flights have been to the west and northwest of the site, away from the proposed turbine locations.

80. I also note the contents of the Ornithology chapter of the Environmental Statement, including the baseline conditions at section 4 of that chapter and the collision risk modelling at section 5. I note the assessment of potential effects at section 6, and that of cumulative impacts at section 7. I note also the Ornithological Baseline Report which is appended to that chapter. I have had regard to all of this material in considering the potential impacts of the proposal on Natura sites.

81. Paragraphs 69 to 80 above relate my assessment, as required by the Habitats Regulations, of the impact of the proposed development on the Caithness Lochs SPA and the Caithness and Sutherland Peatlands SPA. On the basis of the information before me, I conclude that the proposals would not adversely affect the integrity of these sites. It would therefore be consistent with the requirements in HWLDP policy 57 in respect of features of international importance.

Protected species

82. Bat use of the site is relatively limited, and none of the proposed turbines would fall within 50 metres of bat habitat features, in accordance with best practice advice. Breeding bird species were recorded on the site, which is also potentially suitable for water vole, although these were not recorded. SNH recommends that further pre-construction surveys should be undertaken, that the Ecological Clerk of Works for the development implements a watching brief for protected species, and that mitigation measures proposed in the Environmental Statement are implemented. This can all be controlled by planning conditions.

83. I am therefore satisfied that the licensing tests in respect of European and other protected species are likely to be met, as would the requirements of HWLDP policy 58 Protected Species, which has similar tests.

Other natural heritage considerations

84. The construction of the turbines and tracks would lead to the loss of areas of valued habitat, namely acid/neutral flush, wet dwarf heath shrub, neutral grassland, valley mire and wet modified bog. The Environmental Statement assesses the impacts of these as being not significant, and notes the ‘vast expanses of these habitat types’ within Caithness.

Neither SNH nor the council has commented on this aspect of the proposal. SNH does note the expected impact on pink-footed geese but considers that the displacement impacts and collision mortality (expected to be 4.8 birds per year) would not adversely affect the favourable conservation status of the species, either alone or in combination with other proposals.

85. I therefore conclude that the proposal satisfies the requirements of HWLDP policy 59 Other Important Species which aims to avoid a detrimental effect on these species. It also meets the requirements of policy 60 Other Important Habitats and Article 10 Features, which aims to avoid significant harm to the ecological function and integrity of these habitats and features. It is consistent with policy 28 which requires an assessment of the impacts of development on species. Finally, it satisfies the requirements of policy 67 which supports development which is not significantly detrimental overall, including in respect of species and habitats.

Cultural Heritage

86. The Castle of Mey, an A listed building, is located around 5 kilometres north of the appeal site. The grounds of the castle are included within the Inventory of Gardens and Designed Landscapes. The photomontages and wireframes from Viewpoint 22 demonstrate that, from ground level, the turbines would for the most part be obscured by trees and hedgerows within or close to the grounds of the castle. I acknowledge that these may be subject to future felling, but I have no evidence before me confirming when any such felling may be expected. I also acknowledge that the turbines may be more visible from the upper floors of the castle, although the trees would still provide a measure of screening. Given the above, and the distance to the appeal site, I do not consider that there would be a significant impact on the setting of the castle or its grounds.

87. The council's historic environment team agree with the assessment in the Environmental Statement that there would be a moderate impact on the setting of Earl's Cairn, a scheduled monument located around 1.5 kilometres to the west of the nearest turbine. The photomontages and wireframe drawings from Viewpoint 20 demonstrate that the turbines would appear large and prominent when viewed from the Cairn. The Stroupster turbines will be visible in the background and cumulative impacts would occur as a result. There are no key views to or from the monument which it has been suggested would be particularly affected. I am satisfied that the Lochend turbines would not, alone or in combination with Stroupster, significantly detract from the ability to understand the monument in the context of its landscape setting.

88. I am content that the proposals would not have any significant effect on these cultural assets, meeting the requirements of HWLDP policy 57 that development does not compromise features of national importance.

The benefits of the proposal

89. The proposed wind farm would have an installed capacity of 9.2MW. It is stated in the Environmental Statement that it is expected to generate, on average, 26.8 GigaWatt hours of electricity per year - the equivalent of the annual electricity needs of

3,600 households. This would, on average, offset the emission of 11,500 tonnes of carbon dioxide each year. Although the proposed wind farm is relatively small this would, in my view, still represent a significant benefit. For this reason, and due to the local economic benefits which would accrue, the proposal benefits from the support for renewable energy development in HWLDP policy 67.

Other matters

90. Scottish Planning Policy (SPP) states that the planning system should support transformational change to a low carbon economy, support the development of a diverse range of electricity generation from renewable energy technologies, and help to reduce greenhouse gas emissions. In respect of onshore wind energy development, the merits of an individual proposal should be carefully considered against the full range of potential environmental, community and cumulative impacts, including those listed in paragraph 169 of the SPP. Having assessed the proposal against a number of these impacts and found it to comply with the requirements of HWLDP, I conclude that the development draws strong support from this element of SPP.

91. SPP also states that there should be a presumption in favour of development that contributes to sustainable development, listing at paragraph 29 a number of principles to guide decisions. Included amongst these are supporting the delivery of infrastructure (including energy) and supporting climate change mitigation, both of which the appeal proposal would assist with. Having assessed the detailed impacts of the proposal, I find that it would not be in significant conflict with any of the other principles of sustainable development listed in SPP. I am satisfied that this proposal is for development which would contribute to sustainable development.

Conclusion

92. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission.

93. I have considered all other matters raised, none of which alter my conclusions.

94. The council and appellant had agreed a suite of planning conditions to be applied in the event the appeal was to be allowed. I have used these as the basis for the conditions I impose, subject to minor editing and the removal of a specific condition covering an agreement under the Roads (Scotland) Act, this already being covered in condition 8.

David Liddell
Reporter

Conditions

1. This planning permission shall expire and cease to have effect after a period of 30 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 25 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 4 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the planning authority within one month of the First Export Date.

(Reason: wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, reassessment to be made of the environmental impacts of the development and the success, or otherwise, of noise impact, species protection, habitat management and mitigation measures. The 30 year cessation date allows for a 5 year period to complete commissioning and site restoration work.)

2. No development shall commence until full details of the proposed wind turbines have been submitted to and approved in writing by the planning authority. These details shall include:

i. The make, model, design, power rating and sound power levels of the turbines to be used; and
ii. The external colour and/or finish of the turbines to be used (including towers, nacelles and blades) which should be non-reflective pale grey semi-matt.

Thereafter, development shall progress in accordance with these approved details unless otherwise agreed in writing by the planning authority and, with reference to part (ii) above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration until such time as the wind farm is decommissioned. All wind turbine blades shall rotate in the same direction.

(Reason: in the interests of visual amenity)

3. No development shall commence until full details of the location, layout, external appearance, dimensions and surface materials of all control and/or substation buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the development have been submitted to, and approved in writing by, the planning authority in consultation with SNH and SEPA. Thereafter, development shall progress in accordance with these approved details.

(Reason: to ensure that all ancillary elements of the development are acceptable in terms of visual, landscape, noise and environmental impact considerations.)

4. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by, the planning authority in consultation with SNH and SEPA. Thereafter:

i. No later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the Wind Farm Operator and a copy submitted to the planning authority for their written approval in consultation with SNH and SEPA; and
ii. No later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft plan, shall be submitted to, and approved in writing by, the planning authority in consultation with SNH and SEPA.

The DRP shall include the removal of all above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The detailed DRP shall be implemented as approved.

(Reason: to ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.)

5. No development shall commence until:

i. Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under condition 4 of this permission have been submitted to, and approved in writing by, the planning authority; and
ii. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the planning authority; and
iii. Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the bond or other financial provision is satisfactory has been issued by, the planning authority.

Thereafter, the Wind Farm Operator shall:

i. Ensure that the bond or other financial provision is maintained throughout the duration of this permission; and
ii. Pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the site restored.

Each review shall be:

a. conducted by a suitably qualified independent professional; and
b. published within three months of each five year period ending, with a copy submitted upon its publication to both the landowner(s) and the planning authority; and
c. approved in writing by the planning authority without amendment or, as the case may be, approved in writing by the planning authority following amendment to their reasonable satisfaction.

Where a review approved under part (c) above recommends that the amount of the bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, the Wind Farm Operator shall do so within one month of receiving that written approval, or within another timescale as may be agreed in writing by the planning authority, and in accordance with the recommendations contained therein.

(Reason: to ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.)

6. No development shall commence until a Construction Environmental Management Document (CEMD), in accordance with The Highland Council's Guidance Note on Construction Environmental Management Process for Large Scale Projects (August 2010) (as amended, revoked or re-enacted, with or without modification), has been submitted to, and approved in writing by, the planning authority in consultation with SEPA, SNH and TECS. The CEMD shall be submitted at least two months prior to the intended start date on site and shall include the following:

i. An updated Schedule of Mitigation (SM) drawing together all approved mitigation proposed in support of the application and other agreed mitigation (including that required by agencies and relevant planning conditions attached to this permission);
ii. Change control procedures to manage/action changes from the approved SM, CEMD and Construction Environmental Management Plans;
iii. Construction Environmental Management Plans (CEMPs) for the construction phase, covering:
    a. Habitat and Species Protection;
    b. Pollution Prevention and Control;
    c. Dust Management;
    d. Noise and Vibration Mitigation;
    e. Site Waste Management;
    f. Surface and Ground Water Management:
        i. Drainage and sediment management measures from all construction areas including access track improvements; and
        ii. Mechanisms to ensure that construction will not take place during periods of high flow or high rainfall.
    g. Water Course Management;
    h. Public and Private Water Supply Protection Measures;
    i. Emergency Response Plans; and
    j. Other environmental management as may be relevant to the development.
iv. Special Study Area plans for:
    a. Species habitat identified within the Environmental Statement and/or raised by consultees; and
    b. Any other specific issue identified within the Environmental Statement, Schedule of Mitigation and/or conditions attached to this permission;
v. Post-construction restoration and reinstatement of temporary working areas, compounds and borrow pits;

vi. Details for the appointment, at the developer's expense, of a suitably qualified Environmental Clerk of Works (ECoW), including roles and responsibilities and any specific accountabilities required by conditions attached to this permission;
vii. A statement of responsibility to 'stop the job/activity' if a breach or potential breach of mitigation or legislation occurs; and
viii. Methods for monitoring, auditing, reporting and the communication of environmental management on site and with client, planning authority and other relevant parties.

Thereafter, development shall be carried out in accordance with the approved Schedule of Mitigation, Construction Environmental Management Document and any Construction Environmental Management Plans approved thereunder.

(Reason: to ensure that the construction of the wind farm is carried out appropriately and does not have an adverse effect on the environment.)

7. No development shall commence until the developer has provided the Ministry of Defence (MoD), the Defence Geographic Centre (AIS Information Centre), National Air Traffic Services (NATS) and Highlands & Islands Airports Ltd (HIAL) (copied to the planning authority) with the following information in writing:

i. The dates that construction will commence on site and is expected to be complete;
ii. The maximum height of each wind turbine, mast and construction-related equipment (such as cranes);
iii. A description of all structures exceeding 90 metres in height;
iv. The height above ground level of the tallest structure within the site;
v. The latitude and longitude of every proposed wind turbine and mast;
vi. The number of rotor blades on each turbine; and
vii. The total number of turbines and the total generation capacity of the wind farm.

Thereafter, the wind farm shall not be commissioned until full details of any changes to information previously provided in relation to parts (ii) and (vii) above (including any micro-siting alterations, if allowed under the terms of this permission) have been submitted in writing to the MoD, Defence Geographic Centre, NATS and HIAL.

(Reason: to ensure that the MoD and NATS are aware of the details of the development, in the interests of aviation safety.)

8. No development shall commence until a Traffic Management Plan (TMP) has been submitted to, and approved by, the planning authority in consultation with the relevant Roads Authority(s). The TMP, which shall be implemented as approved, must include:

i. A description of all measures to be implemented by the developer in order to manage traffic during the construction phase (including routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised SQ traffic management consultant;
ii. The identification and delivery of all upgrades to the public road network to ensure that it is to a standard capable of accommodating construction-related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authority, including;

a. A route assessment report for abnormal loads, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures necessary;
b. An assessment of the capacity of existing bridges and other structures along the construction access route(s) to cater for all construction traffic, with upgrades and mitigation measures proposed as necessary; and
c. Should the assessment at part (a) result in the identification of pinch points, a videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks' notice of this trial run must be made to the local Roads Authority, who must be in attendance;

iii. Drainage and wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road; and
iv. A concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the public road network that can reasonably be attributed to construction-related traffic. This agreement will include pre-start and post-construction road condition surveys to be carried out by the developer, to the satisfaction of the Roads Authority(s).

(Reason: to protect road safety and the amenity of other users of the public road and rights of way.)

9. No development shall commence until a TV and radio reception mitigation plan has been submitted to, and approved in writing by, the planning authority. The plan shall provide for a baseline TV reception survey to be carried out prior to the commencement of turbine installation, the results of which shall be submitted to the planning authority. Within 12 months of the Final 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 appointed by the developer and the results shall be submitted to the planning authority. Should any impairment to the TV signal be attributable to the development, 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 local TV and radio services are sustained during the construction and operation of this development.)

10. No development shall commence until an Access Management Plan has been submitted to, and approved in writing by, the planning authority. This should include;

i. details of land on which public access will be restricted during the construction of the development and any ground where access rights may be restricted during the operation of the wind farm and;
ii. details of control infrastructure (gates etc.) to be installed and any permanent signage aimed at the visiting public.

(Reason: to maintain public access to the site during construction and operation of the wind farm)

11. No development shall commence until pre-construction surveys for legally protected species have been submitted to, and approved in writing by, the planning authority in

consultation with SNH. The surveys shall be carried out by a suitably experienced and licensed (if required) surveyor using recognised methods at the appropriate time of year for the species, in the 8 months prior to construction commencing. The surveys shall include, but may not be limited to, otter, water vole and breeding birds.

(Reason: to ensure that the construction of the wind farm is carried out appropriately and does not have an adverse effect on legally protected species.)

12. No development shall commence until a Habitat Management Plan has been submitted to, and approved in writing by, the planning authority in consultation with SNH. The proposals shall be implemented in accordance with the agreed Habitat Management Plan.

(Reason: to ensure that the construction of the wind farm is carried out appropriately and does not have an adverse effect on the environment.)

13. No development shall commence until a site specific pollution prevention plan is submitted for approval to the planning authority, in consultation with SEPA, at least two months prior to the proposed commencement of development. The plan shall contain the following:

i. a plan showing the location of the culvert and any field drains draining into it;
ii. details of proposed pollution prevention measures to prevent surface water run-off from the construction sites getting directly into the culvert; and
iii. details of any proposed de-culverting that would enable the watercourse to return to a more natural state.

The proposals shall be implemented in accordance with the agreed pollution prevention plan.

(Reason: to prevent pollution of the water environment)

14. No development shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for investigation, has been submitted to and agreed in writing by the planning authority. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

(Reason: in order to protect the historic interest of the site.)

15. The construction phase of the development hereby approved, including all construction work and vehicular access to and from the site, shall be suspended between 1st October and 31st March inclusive in any year.

(Reason: to avoid disturbance in the main wintering season when Caithness Lochs Special Protection Area birds are present.)

16. Unless otherwise agreed in writing by the planning authority, all of the wind turbine transformers shall be located within the tower of the wind turbine to which they relate.

Agreement for external transformers will only be given if the developer can demonstrate, to the satisfaction of the planning authority, that they would not adversely affect the setting, character, integrity or general amenity of the application site.

(Reason: to ensure that the wind turbine transformers do not adversely impact upon the setting, character, integrity or general amenity of the application site.)

17. The Wind Farm Operator shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the planning authority within one month of any request by them. In the event that any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, then the wind turbine in question shall be deemed to have ceased to be required. Under such circumstances, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with the approved detailed Decommissioning and Reinstatement Plan (DRP) (or, should the detailed DRP not have been approved at that stage, in accordance with other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified to and agreed in writing by the planning authority).

(Reason: to ensure that any redundant or non-functional wind turbines are removed from the site, in the interests of safety, amenity and environmental protection.)

18. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended), and unless there is a demonstrable health and safety or operational reason, none of the wind turbines, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement without express advertisement consent having been granted on application to the planning authority.

(Reason: to ensure that the wind farm is not used for advertising, in the interests of visual amenity.)

19. Where ground conditions specifically require it, wind turbines, areas of hardstanding and tracks may be micro-sited within the application site boundary. However, unless otherwise approved in writing by the planning authority in consultation with SEPA and SNH, micro-siting is subject to the following restrictions:

i. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on the original approved plans;
ii. No wind turbine, hardstanding or track shall be moved:
    a. more than 25 metres from the position shown on the original approved plans;
    b. so as to be located within 250 metres (for turbine foundations) or 150 metres (for hardstanding, tracks or trenches) of Groundwater-dependent Terrestrial Ecosystems;

c. to a position within 50 metres of any watercourse or, where it outlines a lesser distance, to a position within a watercourse buffer zone identified within the approved Environmental Statement and/or plans;
d. to a position within an area identified within the approved Environmental Statement and/or plans as having a gradient constraint, being deep peat (that is peat with a depth of 1.5 metres or greater) or having a peat landslide hazard risk of significant or greater;
e. so as to be located within 50 metres of any tree or woodland.

iii. No wind turbine, hardstanding or track shall be moved where a change to its position, location or route has been proscribed under a condition of this permission.

iv. No turbines shall be located within 50 metres of any open flowing watercourses, including ditches. All new tracks shall be located at least 50 metres from any flowing watercourse.

v. All micro-siting permissible under this condition without requiring the approval of the planning authority must be approved by the development's Environmental Clerk of Works (ECoW). A written record must be kept of any such ECoW approval and shall be maintained for a period extending to no less than four years following the First Export Date.

Within one month of the wind farm being commissioned, the developer must submit an updated site plan to the planning authority showing the final position of all wind turbines, areas of hardstanding, tracks and associated infrastructure within the site. The plan should also highlight areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority's approval, as applicable.

(Reason: to allow appropriate micro-siting within the site to enable the developer to respond to site-specific ground conditions, while enabling the planning authority to retain effective control over any changes to layout that may have ramifications for the environment and/or landscape and visual impacts.)

20. No wind turbine shall be erected until a scheme of aviation lighting (to be infrared unless technically impracticable) has been submitted to, and approved in writing by, the planning authority in consultation with the Ministry of Defence, CAA and Highlands & Islands Airports Ltd (HIAL). Thereafter, the approved scheme of aviation lighting shall be fully implemented on site, unless otherwise agreed in writing with the planning authority.

(Reason: in the interests of air safety)

21. All wires and cables between the wind turbines, control buildings, sub-stations and welfare buildings shall be located underground within the verge of the access tracks or within 3 metres of the access tracks, unless otherwise agreed in writing by the planning authority. Thereafter, and within three months of the completion of cable laying, the ground shall be reinstated to a condition comparable with that of the adjoining land, to the satisfaction of the planning authority.

(Reason: to ensure that all ancillary elements of the development are acceptable in terms of visual, landscape noise and environmental impact considerations.)

22. The rating level of noise immissions from the wind turbines of this development (including the application of any tonal penalty) when determined in accordance with the Guidance Notes attached to this condition shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the planning authority on its request, within 14 days of receipt in writing of such a request.

b) No electricity shall be exported until the wind farm operator has submitted to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

c) Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling regarding noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the planning authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the

independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.

f) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the planning authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB $L_{A90,10\ minute}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Syster	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Lochend 10 (1)	35.0	35.0	35.0	35.0	35.0	35.0	36.0	38.5	41.2	44.2	47.3	50.4
Lochend 10 (2)	35.0	35.0	35.0	35.0	35.0	35.0	36.0	38.5	41.2	44.2	47.3	50.4
Lochend 1 and 3	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Lochend	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Lochend 7	35.0	35.0	35.0	35.0	35.0	35.0	36.0	38.5	41.2	44.2	47.3	50.4
Lochend 9	35.0	35.0	35.0	35.0	35.0	35.0	36.0	38.5	41.2	44.2	47.3	50.4

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB $L_{A90,10\text{-minute}}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Syster	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Lochend 10 (1)	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.5	41.2	44.2	47.3	50.4
Lochend 10 (2)	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.5	41.2	44.2	47.3	50.4
Lochend 1 and 3	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Lochend	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Lochend 7	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.5	41.2	44.2	47.3	50.4
Lochend 9	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.5	41.2	44.2	47.3	50.4

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
Syster	327029	969084
Lochend 10 (1)	327495	967732
Lochend 10 (2)	327426	967739
Lochend 1 and 3	326821	968997
Lochend	326670	968150
Lochend 7	326562	968264
Lochend 9	327337	967323

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

(Reason: in the interests of the amenity of residents in the area.)

Guidance Notes for Condition 22

These notes are to be read with and form part of Condition 22. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) Values of the $L_{A90,10\ minute}$ noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the planning authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The $L_{A90,10\ minute}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the planning authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the planning authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of condition 22, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the planning authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the $L_{A90,10\ minute}$ noise measurements and corresponding values of the 10-minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of condition 22, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

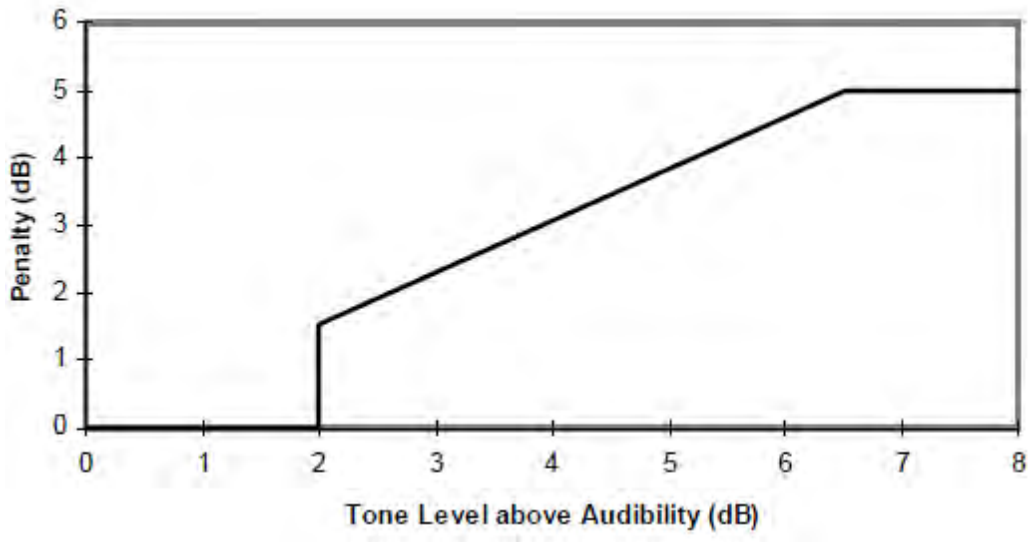
(b) For each 10 minute interval for which $L_{A90,10\ minute}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by in the written protocol provided for in paragraph (d) of condition 22.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to condition 22 or the noise limits for a complainant’s dwelling approved in accordance with paragraph (e) of condition 22, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e). Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range

requested by the planning authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of condition 22.

(f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log\left[10^{L_2/10} - 10^{L_3/10}\right]$$

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to condition 22 or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (e) of condition 22 then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to condition 22 or the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (e) of condition 22 then the development fails to comply with that condition.

In the above conditions:

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

"Wind Farm Operator" means the individual(s), organisation(s) or company(ies) responsible for the day-to-day operation of the wind farm, who may or may not also be the owner of the wind farm.

"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 on the site at a specified Ordnance Survey grid reference agreed in writing by the planning authority.

"Night hours" means 23:00 - 07:00 hours on all days.

"Noise-Sensitive Premises" means any building, structure or other development that, on the date of this planning permission, exists or is yet to exist but benefits from extant planning permission, the lawful use of which falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) or is as a flat or static residential caravan. Where such documents exist, this definition also includes any other premises defined as being noise-

sensitive within any Environment Statement or other assessment or survey submitted in support of the planning application. For the purposes of this definition, 'premises' includes any relevant curtilage.

Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).