

Energy and Climate Change Directorate
Energy Division

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Dear Ms Wilson

APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR CAIRN DUHIE WIND FARM, IN THE HIGHLAND PLANNING AUTHORITY AREA.

Application

I refer to the application made by RES UK & Ireland Limited (a company incorporated under Companies Acts with registered number 4913493 and having its registered office at Beaufort Court, Egg Farm Lane, Off Station Road, Kings Langley, Hertfordshire, WD4 8LR dated 4 November 2013 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") for the construction and operation of the Cairn Duhie Wind Farm, approximately 1.5km south-east of Ferness, off the A939 between Nairn and Grantown on Spey. The wind farm would comprise 20 wind turbines with a generating capacity in excess of 50MW. This letter contains the Scottish Ministers' decision to grant consent.

Following formal consultation on the application, additional information was submitted on 10 October 2014 which included information relating to carbon balance assessment, peat assessment, forestry replanting, information relating to an additional viewpoint and an assessment of capercaillie connectivity in relation to the Darnaway and Lethen Forest Special Protection Area (SPA). In January 2016 additional information was submitted which included an update to the cumulative landscape and visual impact assessment of the proposal, an assessment of impacts in relation to the Drynachan, Lochindorb and Dava Moor Scenic Landscape Area and information in relation to visual impacts on communities.

Planning Permission

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 Scottish Ministers may on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station direct that planning permission be deemed to be

granted in respect of that generating station and any ancillary development. This letter contains the Scottish Ministers' decision on such a direction.

Consultation

The application was advertised and consulted upon in accordance with the requirements of the Electricity Act, the Electricity (Applications for Consent) Regulations 1990 and the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations").

Under paragraph 2(1) of Schedule 8 of the Electricity Act, the relevant Planning Authority must be notified in respect of a section 36 consent application. Notifications were sent to The Highland Council as Planning Authority, and also Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA). A wide range of other relevant organisations were also notified and consulted.

In accordance with the 2000 Regulations, on 4 November 2013, the applicant submitted an Environmental Statement. The applicant complied with the statutory requirements and advertised the application and Environmental Statement in the local and national press giving the public and interested parties the opportunity to make representations.

A total of 2,516 public representations have been received and considered: 1,925 public representations in objection and 591 public representations in support of the proposal. The Public Local Inquiry (PLI) Report provides a summary of the points of the written representations at paragraphs 1.29 and 1.30. The arguments of objector groups Cairn Duhie Action Group and Save Our Dava are summarised at paragraphs 4.47 - 4.60 and 4.61 - 4.68 respectively of the PLI Report. 13 of the representations of objection were received after referral of the proposal for a PLI and these have been taken into account in this decision.

Public Local Inquiry (PLI)

The Highland Council objected to the application and did not withdraw its objection. In accordance with the terms of paragraph 2(2)(a) of Schedule 8 to the Electricity Act a Public Local Inquiry was held.

The pre-examination meeting was held on 27 October 2015. The inquiry sessions were held on 9 and 10 March 2016 and the Hearing session was held on 16 March 2016.

The Reporter's report was received by the Scottish Government Energy Consents Unit on 27 January 2017. The Reporter recommended that the application for section 36 consent for Cairn Duhie Wind Farm should be granted and that Ministers should direct that planning permission be deemed to be granted.

No claims for expenses was made by any party to the PLI.

Environmental Matters

The Scottish Ministers are satisfied that the Environmental Statement and additional information submitted has been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation laid down in those Regulations have been followed.

Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest.

Scottish Ministers are satisfied that the applicant has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects.

Scottish Ministers can confirm that an appropriate assessment has been undertaken in accordance with the Conservation of Habitats and Species Regulations 2010, following advice from SNH, to protect the qualifying interests of the Darnaway and Lethen Forest SPA, Moray and Nairn Coast SPA and Inner Moray Firth SPA from the possible effects of the development. All environmental information used to inform this assessment was drawn from the Environmental Statement and additional information, which has been advertised and made available to the public as required by the 2000 regulations.

The conclusions of Scottish Ministers' assessment is that the Cairn Duhie Wind Farm will not adversely affect the integrity of the Darnaway and Lethen Forest SPA, Moray and Nairn Coast SPA and the Inner Moray Firth SPA.

The Scottish Ministers' Considerations

Part 1(3) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 Regulations") requires that Scottish Ministers must not:

- a) Grant an Electricity Act consent for EIA development; or
- b) Direct that planning permission is deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of EIA development,

unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the Scottish Ministers must take the environmental information into account.

Part 1(4) of the 2017 Regulations outlines the obligations under the EIA process, including the preparation by the Company of an EIA Report or Environmental Statement (ES) - where submitted to Ministers before 16 May 2017; consideration by Ministers of the likely significant effects of the proposed development; and the consultation, publication and notification procedures required.

In accordance with paragraph 3 of Schedule 9 to the Electricity Act the Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Ministers have also had regard to the extent to which the Company has complied with its duty to do what it can to mitigate the effects of the Development.

Scottish Ministers are satisfied that the requirements of the 2017 Regulations and the Electricity Act 1989 have been met.

The Reporter concludes that the proposal is supported by national policies which promote the principle of onshore wind farms and that the location is appropriate. Residual environmental impacts would not be so great as to justify the refusal of the proposal.

The Reporter recommends that consent is granted under section 36 of the Electricity Act 1989 subject to conditions, and that deemed planning permission is granted under section 57 of the Town and Country Planning (Scotland) Act 1997 subject to conditions. Scottish Ministers have considered fully the Reporter's findings, reasoning and conclusion and adopt them for the purposes of their own decision.

An environmental impact assessment has been carried out and Scottish Ministers have taken the environmental information into account. The Scottish Ministers agree with and adopt the reasoning and conclusions of the reporter set out in Chapter 7 of the PLI Report with regard to the significant effects on the environment of the proposed development consisting of turbines of 110 metres height to blade tip and associated infrastructure, including access tracks and ancillary buildings.

Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion is still up to date.

In reaching their decision Ministers have also considered the Onshore Wind Energy Supplementary Guidance published by The Highland Council in November 2016.

The Scottish Ministers' Determination

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 in respect of the construction and operation of the generating station described more particularly in Annex 1.

Subject to the conditions set out in Part 2 of Annex 2, Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that **planning permission is deemed to be granted** in respect of the Development described in Annex 1.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the applicant must publish a description of the development, the terms of the decision and how a copy of the decision notice is available for inspection, on the application website; in the Edinburgh Gazette and in a newspaper circulating in the locality in which the Development is situated.

Copies of this letter and the consent have been sent to The Highland Council. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts:

<http://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules>

Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely



CATHERINE CACACE
Head of Operations – Energy Consents
A member of the staff of the Scottish Ministers

ANNEX 1**DESCRIPTION OF THE DEVELOPMENT**

The Development comprises a wind-powered electricity generating station known as Cairn Duhie Wind Farm, located approximately 1.5km south-east of Ferness, off the A939 between Nairn and Grantown on Spey within the administrative area of The Highland Council, all as specified in the Application and accompanying Environmental Statement submitted on 4 November 2013 and the additional information submitted on 10 October 2014 and January 2016. This is subject to the conditions in Annex 2.

The principal components of the wind farm and ancillary development compromise:

- 20 turbines with a maximum tip height of 110 metres;
- 20 turbine foundations and associated hardstandings;
- Approximately 10.3km of access tracks;
- 1 permanent, free-standing meteorological/wind monitoring mast;
- 1 10m communications mast;
- 6 temporary guyed meteorological masts;
- Road widening works for access of abnormal load vehicles;
- Creation of new site entrance from public road network;
- A control building and temporary construction compound;
- A temporary storage area;
- Drainage works;
- Woodland and tree management;
- Landscaping and ecological enhancement works;
- Associated ancillary works; and
- Engineering operations

ANNEX 2**PART 1****Conditions applying to the section 36 consent****Duration of the Consent**

1. (1) This consent shall expire after a period of 30 years from the date of Final Commissioning.
- (2) Written confirmation of the date of First Commissioning and Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: *To define the duration of the consent.*

Commencement of Development

2. The Development shall be commenced no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing.

Reason: *To ensure that the consent is implemented within a reasonable period.*

3. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

Reason: *To allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

Non-assignment of consent

4. (1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent with or without conditions.
- (2) The Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

Reason: *To safeguard the obligations of the consent if transferred to another company.*

Serious Incident Reporting

5. In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

Reason: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.

Radar Mitigation Scheme

6. (1) No development shall commence unless and until a radar mitigation scheme setting out measures to be taken to minimise any impairment by the Development upon the performance of aerodrome navigation aids at Inverness Airport has been submitted to, and approved in writing by, the Scottish Ministers in consultation with the operator of Inverness Airport. The radar mitigation scheme shall include (but will not be limited to):
- (a) details of the mitigation required to be completed prior to any wind turbine being erected.
 - (b) details setting out how a safety case shall be submitted to the Civil Aviation Authority (CAA).
- (2) No wind turbine shall be erected unless and until those measures required by the radar mitigation scheme under the foregoing condition 6(1)(a) have been carried out and approved in writing by the Scottish Ministers in consultation with the operator of Inverness Airport. The Development shall thereafter be operated fully in accordance with the approved radar mitigation scheme, unless otherwise agreed in writing by the Scottish Ministers in consultation with the operator of Inverness Airport.
- (3) The radar mitigation scheme must set out the appropriate measures to be implemented to mitigate the impact of the Development on the radar and shall be in place for the operational life of the development.
- These measures shall include (but will not be limited to):
- (a) the compatibility and interoperability with the Inverness radar;
 - (b) the proven effective range and coverage;
 - (c) the proven effectiveness of filtering out the turbines without loss of aircraft returns; and
 - (d) the reliability of the mitigation; the security arrangements in place to protect any installation or equipment associated with the radar mitigation scheme.

Reason: In the interests of aviation safety.

Annex 2

PART 2

Conditions applying to Deemed planning permission

Implementation in accordance with approved plans and requirements of this section 36 consent

7. Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the application (including the approved drawings listed at Appendix E to this decision), environmental statement (as supplemented or by additional information – ES Addendum – submitted 10 October 2014 and additional information submitted January 2016).

Reason: To ensure that the Development is carried out in accordance with the approved details.

Aviation Safety

8. (1) Unless and until no less than one month after the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS have been provided with the following information, copied to Scottish Ministers and Highland and Islands Airports Limited (HIAL) and evidence has been provided to the Planning Authority that this has been done:
- (a) the date of the expected commencement of each stage of construction;
 - (b) the height above ground level of the tallest structure forming part of the Development;
 - (c) a description of all structures over 300 feet high;
 - (d) the maximum extension height of any construction equipment; and
 - (e) the position of the wind turbines and masts in latitude and longitude
- (2) No less than one month prior to Final Commissioning, a revised statement highlighting any changes to the exact position of the wind turbine towers in latitude and longitude from (b) above shall be submitted to the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre), copied to Scottish Ministers, the Planning Authority and Highland and Islands Airports Limited (HIAL).

Reason: In the interests of aviation safety.

Aviation Lighting Scheme

9. (1) No wind turbines shall be erected unless and until a scheme for aviation lighting for the Development has been submitted to, and approved in writing by

the Planning Authority in consultation with the Ministry of Defence. The scheme shall include details of infra-red aviation lighting which is to be applied.

- (2) No lighting other than that described in the scheme shall be applied, other than that required for health and safety purposes, unless otherwise agreed in advance and in writing by the Planning Authority.
- (3) The Development shall be operated in accordance with the approved scheme.

Reason: *in the interests of aviation safety.*

Design and operation of wind turbines

10. (1) No development shall commence unless and until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, size, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to, and approved in writing by, the Planning Authority.
- (2) The wind turbines shall be consistent with the candidate wind turbine or range assessed in the environmental statement, and the tip height shall not exceed 110 metres above ground level.
- (3) The wind turbines shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.
- (4) All wind turbine blades shall rotate in the same direction.
- (5) All wind turbine transformers shall be located within the tower of the wind turbine to which they relate.

Reason: *To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.*

Signage

11. No wind turbine, anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plan shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

Reason: *In the interests of the visual amenity of the area.*

Design of sub-station and ancillary development

- 12.(1) No development shall commence unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

- (2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: *To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.*

Electrical Cabling

13. All electrical cabling between the wind turbines and the switchgear control building shall be installed and kept underground.

Reason: *In the interests of visual amenity.*

Micro-siting

14. (1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on Figure 4.1 of ES Addendum submitted 10 October 2014. However, wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting up to 50 metres within the site. Micro-siting is subject to the following restrictions:
- (a) no wind turbine, building, mast, track or hardstanding shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on Figure 4.1 of ES Addendum submitted October 2014;
 - (b) no wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on Figure 4.1 of ES Addendum submitted 10 October 2014 unless and until a move not exceeding 100m is approved in writing by the Planning Authority in consultation with SEPA and SNH
 - (c) no access track shall be moved more than 50m from the position shown on ES Addendum submitted 10 October 2014 unless and until a move not exceeding 100m is approved in writing by the Planning Authority in consultation with SEPA and SNH;
 - (d) No micro-siting shall encroach further into any buffer areas identified in respect of watercourses, nature conservation, or historic environment; identified in Chapters 8-11 inclusive of Volume 2 of the Environmental Statement (2013);
 - (e) With the exception of watercourse crossings and related tracks, no element of the Development shall be micro-sited to a location within 50 metres of a watercourse (or closer to a watercourse if approved within such distance);
 - (f) no micro-siting shall take place within areas of peat of greater depth than the original location;
 - (g) no micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
 - (h) all micro-siting permissible under this condition shall be approved in advance in writing by the Ecological Clerk of Works ("ECoW")

- (2) No later than one month after the date of First Commissioning an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW [ACoW] or Planning Authority's approval, as applicable.

Reason: *to control environmental impacts while taking account of local ground conditions.*

Unexploded Ordinance

- 15.(1) No development shall commence unless and until a scheme to identify and manage the risk of any unexploded ordinance on site is submitted to, and approved in writing by the Planning Authority.
- (2) The approved scheme shall be implemented.

Reason: *To ensure any risk of unexploded ordinance is appropriately mitigated, prior to and during the construction phase of the development.*

Private Water Supplies

16. No development shall commence unless and until a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this section 36 consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

Reason: *To maintain a secure and adequate water supply to all properties with private water supplies which may be affected by the development.*

Access Management Plan

17. No development must commence unless and until an Access Management Plan to ensure public access is retained in the vicinity of the Cairn Duhie Wind Farm during construction, and thereafter suitable public access is provided during the operational phase of the wind farm, has been submitted to, and agreed in writing by, the Planning Authority.

Reason: *In the interests of recreational amenity.*

Community Liaison Group

18. No development shall commence unless and until a Community Liaison Plan has been approved in writing by the Planning Authority after consultation with the relevant local community councils. The plan shall include the arrangements for establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the Company. The terms and conditions of these arrangements

must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures and keep under review the timing of the delivery of turbine components. The terms and conditions shall detail the continuation of the Community Liaison Group until the wind farm has been completed and is fully operational. The approved Community Liaison Plan shall be implemented in full.

Reason: *To assist with the provision of mitigation measures to minimise potential hazards to road users, including pedestrians, travelling on the road networks.*

Construction Hours

19. (1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07:00 to 19:00 on Monday to Friday inclusive and 07:00 to 16:00 on Saturdays, with no construction work taking place on a Sunday or on a Bank Holiday or Public Holiday. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment unless otherwise approved in advance in writing by the Planning Authority with the exception of emergency works which shall be notified in writing within 24 hours of their occurrence.
- (2) Heavy Goods Vehicle (HGV) movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07:00 to 19:00 Monday to Friday inclusive, and 07:00 to 16:00 on Saturdays, with no HGV movements to or from the site taking place on a Sunday or on a Bank Holiday or Public Holiday.

Reason: *In the interests of local amenity*

Traffic Management Plan

20. (1) No development shall commence unless and until a Construction Traffic Management Plan (CTMP) prepared by a recognised suitably qualified traffic management consultant, has been submitted to, and approved in writing by, the Planning Authority in consultation with the relevant roads authorities and Transport Scotland.

The CTMP, shall include:

- (a) the routing of all traffic associated with the Development on the local road network;
- (b) measures to ensure that the specified routes are adhered to, including monitoring procedures;
- (c) details of all signage and lining arrangements to be put in place;
- (d) provisions for emergency vehicle access;
- (e) identification of a nominated person to whom any road safety issues can be referred; and
- (f) a plan for access by vehicles carrying abnormal loads, the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site.

- (g) A route assessment report for abnormal indivisible loads traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary together with the subsequent delivery of the works;
- (h) The arrangements for the carrying out of a videoed trial run conducted with the local roads authority in attendance to confirm the ability of the local road network to cater for turbine delivery, including details of how three weeks' notice of this trial run will be made to the local roads authority;
- (i) A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- (j) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with Police Scotland and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted;
- (k) A detailed protocol for the delivery of abnormal indivisible loads/vehicles prepared in consultation and agreement of East Nairnshire, Grantown on Spey and Vicinity and Edinkillie Community Councils and the Planning Authority. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media and to emergency services.
- (l) A detailed delivery programme for abnormal load movements, which shall be made available to The Highland Council and community representatives;
- (m) A description of all measures to be implemented by the Company in order to manage traffic during the construction phase; the decommissioning and restoration phase; and major repairs during the operational phase, which involve in excess of 10 HGV arrivals in one day; or abnormal indivisible load deliveries (including routing strategies), with any additional or temporary signage and traffic control;
- (n) The identification and delivery of all upgrades to the public road network, including those at Nairn and Househill, to ensure that it is to a standard capable of accommodating non abnormal indivisible load construction-related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of The Highland Council and Transport Scotland;
- (o) Drainage and wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road;
- (p) A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during the construction period;
- (q) Details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage

measures, improved geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays;

- (r) Details of traffic management, which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of The Highland Council, as roads authority;
 - (s) A concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the Company is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post-construction road condition surveys shall be carried out by the Company, to the satisfaction of the roads authorities. Appropriate reinstatement works shall be carried out, as required by The Highland Council, at the end of the turbine delivery and erection period; and
 - (t) Measures to ensure that construction traffic adheres to agreed routes;
- (2) The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

Reason: *In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.*

Additional Signing and Temporary Traffic Control Measures

21. (1) During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed unnecessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised quality assured traffic management consultant to be approved in writing by The Highland Council in consultation with Transport Scotland before delivery commences.
- (2) Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements.
- (3) All such movements on The Highland Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events.

Reason: *To ensure that the transportation will not have any detrimental effect on the road and structures along the route.*

Abnormal Indivisible Loads Deliveries

22. No deliveries by abnormal indivisible loads shall take place until an assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the Planning Authority and full engineering details and drawings of any works required to such structures to

accommodate the passage of abnormal indivisible loads have been submitted to and approved by the Planning Authority. Thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

Reason: *To ensure that the transportation will not have any detrimental effect on the road and structures along the route.*

Programme of Archaeological Works

- 23.(1) No development shall commence unless and until a programme of archaeological works to be carried out during construction of the Development has been submitted to, and approved in writing by, the Planning Authority.
- (2) The programme of archaeological works shall include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be protected or preserved.
- (3) The approved programme of archaeological works shall be implemented in full.

Reason: *To ensure the protection or recording of archaeological features on the site.*

Construction and Environmental Management Plan

- 24.(1) No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all onsite construction works, post-construction reinstatement, drainage and mitigation together with the details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. A summary of the mitigation measures required by this condition shall be provided to the Planning Authority, SNH and SEPA, together with details of the process of controlling implementation of all the mitigation measures.
- (2) The CEMP shall include (but shall not be limited to):
 - (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
 - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) site specific details for management and operation of any concrete batching plant (including disposal of high alkaline content waste water and substances);
 - (d) a dust management plan;
 - (e) details of measures to be taken to prevent loose or deleterious material being deposited on the local public road network including wheel

cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;

- (f) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (g) details of soil storage and management;
 - (h) a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
 - (i) a drainage management plan to accord with current SuDs best practice guidelines, demonstrating how all surface and waste water arising during and after development will be monitored, managed and prevented from polluting any watercourses or sources;
 - (j) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - (k) details of sewage disposal and treatment;
 - (l) details of temporary site illumination;
 - (m) details of the construction of the access into the site and the creation and maintenance of associated visibility splays;
 - (n) details of the method of construction of the crane pads;
 - (o) details of the method of construction of the turbine foundations;
 - (p) a scheme to identify and manage the risk of any unexploded ordinance on site;
 - (q) details of the method of working cable trenches;
 - (r) details of the method of construction and erection of the wind turbines and meteorological masts;
 - (s) details of watercourse crossings; and
 - (t) details of post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.
- (3) The approved CEMP shall be implemented in full unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.

Ecology

- 25.(1) No development must commence unless and until a Bird, Mammal and Fish Protection Plan (the Plan) has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH. The Plan shall address:
- (a) Otters;
 - (b) Badgers;
 - (c) Wildcat;
 - (d) Pine Marten;
 - (e) Water Vole;
 - (f) Bats;
 - (g) Fish within and downstream of the development area, including the River Findhorn; and
 - (h) Breeding Birds
- (2) The Plan shall contain the outcome of pre-construction surveys for these species and proposed mitigation measures to be employed.
 - (3) The Plan shall provide details of water quality monitoring and mitigation measures in accordance with current best practice to protect the fish population.
 - (4) The approved Plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to the mitigation measures to better protect these species.
 - (5) Where a review indicates that amendments are required an updated and amended Plan (the "Amended Plan") shall be submitted for the written approval of the Planning Authority in consultation with SNH.
 - (6) The approved Plan and any subsequent approved Amended Plan shall be implemented in full.
 - (7) A summary of the mitigation measures required by this condition shall be provided to the Planning Authority, together with details of the process of controlling implementation of all the mitigation measures.

Reason: *To ensure that appropriate surveys are carried out to understand potential impacts on birds, mammals and fish and to ensure that suitable protection and mitigation measures are put in place.*

Planning Monitoring Officer

- 26.(1) No development shall commence unless and until the terms of appointment by the Company of an independent and suitably qualified environmental consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
- (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;

- (b) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
 - (c) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: *To enable the development to be suitably monitored to ensure compliance with the planning permission and the conditions attached to it.*

Ecological Clerk of Works

- 27.(1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works (“ECoW”) by the Company have been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA. The terms of appointment shall:
- (a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement, ES Addendum submitted 10 October 2014, the Construction and Environmental Management Plan approved under condition 24, the Outline Habitat Management Plan at Technical Appendix 8.7 of the Environmental Statement and the Bird, Mammal and Fish Protection Plan approved in terms of condition 25;
 - (b) require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
 - (c) Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
 - (d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works;
- (3) No later than six months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for approval in consultation with SNH and SEPA.
- (4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the decommissioning, restoration and aftercare phases.

Television Reception

28. (1) No development shall commence unless and until a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of the first wind turbine. The results of the baseline television reception survey shall be submitted to the Planning Authority.
- (2) The approved Television Reception Mitigation Plan shall be implemented in full.
- (3) Any claim by any person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any wind turbine to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer and the results of the investigation shall be submitted to the Planning Authority.
- (4) Should any impairment to the television signal be attributable to the Development, the impairment shall be remedied so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: To ensure local television services are sustained during the construction and operation of the Development.

Financial Guarantee

29. (1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 32 is submitted to the Planning Authority. The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 32.
- (2) No development shall commence unless and until the value of the financial guarantee has been agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs referred to in condition 32 has been submitted to, and approved in writing by the Planning Authority.
- (3) No development shall commence unless and until documentary evidence that the bond or other financial provision approved by virtue of paragraph (1) is in place, has been submitted to the Planning Authority, and the Planning Authority has confirmed in writing that it is satisfactory
- (4) Thereafter, the Company shall:

- (a) ensure that a bond or other suitable financial provision is maintained throughout the duration of this permission;
 - (b) The value of the financial guarantee shall be reviewed by agreement or by a suitably qualified independent professional no less than every five years after the Commencement of Development and every five years until such times as the wind farm is decommissioned and the site restored and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.
 - (c) each review must be:
 - (i) conducted by a suitably qualified independent professional;
 - (ii) provided within three months of each five year period ending, with a copy submitted upon publication to the landowner(s) and the Planning Authority; and
 - (iii) 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.
- (5) Where a review approved by virtue of paragraph (2)(c) 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, that must be done within one month of receiving the approved review, or another timescale as may be agreed in writing by the planning authority, and in accordance with the recommendations contained therein.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

Replanting of Forestry

- 30.(1) No development shall commence unless and until a woodland planting scheme to compensate for the removal of 9.07 hectares of existing woodland ("the Replanting Scheme") as described in Section 5 of the ES Addendum submitted on 10 October 2014 has been submitted for the written approval of the Planning Authority in consultation with Forestry Commission Scotland Conservator. The plan shall indicate the retention and management of the woodland areas highlighted yellow in the Company's drawing No. 02914D2505-06.
- (2) The Replanting Scheme shall comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:
- (a) details of the location of the area to be planted;
 - (b) details of owners and occupiers of the land to be planted;
 - (c) the nature, design and specification of the proposed woodland to be planted;

- (d) details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
 - (e) the phasing and associated timescales for implementing the Replanting Scheme;
 - (f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
 - (g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.
- (3) Unless and until otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless and until all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales it contains have been obtained.
- (4) In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained an amended Replanting Scheme shall be submitted to the Planning Authority for approval in consultation with Forestry Commission Scotland Conservator. Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless and until all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales it contains have been obtained.

Reason: *To secure replanting to mitigate against effects of deforestation arising from the Development.*

Redundant Turbines

- 31.(1) Unless otherwise agreed in writing by the Planning Authority, if one or more wind turbine fails to generate electricity for a continuous period of twelve months a scheme setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored shall be submitted for the written approval of the Planning Authority no later than one month after the date of expiry of the twelve month period.
- (2) The approved scheme shall be implemented within six months of the date of its approval, to the satisfaction of the Planning Authority.

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

Site Decommissioning, Restoration and Aftercare

- 32.(1) The Development shall be decommissioned and cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning. The total period for decommissioning and restoration of the site in accordance with this condition shall not exceed three years from the date of Final Commissioning without the prior written approval of the Scottish Ministers in consultation with the Planning Authority.

- (2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site and final site restoration. It shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.
- (3) No later than 2 years prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare strategy shall be submitted for the written approval of the Planning Authority in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provision which shall include:
- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- i) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns and any construction compound boundary fencing;
 - ii) a dust management plan;
 - iii) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities and measures to clean the site entrances and the adjacent local road network;
 - iv) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - v) soil storage and management;
 - vi) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains and location of settlement lagoons for silt laden water;
 - vii) sewage disposal and treatment;
 - viii) temporary site illumination;
 - ix) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
 - x) details of watercourse crossings; and
 - xi) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the finalised decommissioning plan.
- (4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until otherwise

agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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

Noise

- 33.(1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:
- (a) The Company 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 Company shall provide this information in the format set out in Guidance Note 1(e) to the Planning Authority within 14 days of receipt in writing of a request to do so.
 - (b) There shall be no first commissioning of the Development until the Company has received written approval from the Planning Authority of 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)
 - (i) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority in terms of b. above to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the submitted Noise Measurement & Mitigation Scheme. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates 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.
 - (ii) Within 14 days of receipt of a written request from the Planning Authority, the Company shall provide the Planning Authority with the information relevant to the complaint logged in accordance

with paragraph (i) of this condition. The independent consultant's assessment must be undertaken in accordance with the submitted Noise Measurement & Mitigation Scheme and must relate to the range of conditions which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the Planning Authority and such other conditions as the independent consultant considers necessary to fully assess the noise at the complainant's property.

- (d) The assessment of the rating level of noise immissions in terms of c. above 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(s) 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 there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location.
- (f) Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company 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 property for compliance checking purposes. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of limits. 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 property. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the submitted Noise Measurement and Mitigation Scheme shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.

- (g) No development shall commence unless and until a Noise Measurement and Mitigation Scheme has been submitted to the Planning Authority. The scheme shall include:
- (i) A framework for the measurement and calculation of the rating level of noise immissions from the wind farm (including the identification of any tonal component) to be undertaken in the event of a complaint in accordance with ETSU-R-97 and its associated Good Practice Guide and Supplementary Guidance Notes to be agreed in writing by the Planning Authority.
 - (ii) Details of potential mitigation measures to be implemented within one week of identifying that the agreed noise limits are exceeded which will ensure that those limits are complied with.
- (h) The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the Planning Authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the Planning Authority on the request of the Planning Authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with the submitted Noise Measurement and Mitigation Scheme and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (i) Where a further assessment of the rating level of noise immissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment to the Planning Authority pursuant to paragraph (d) above unless the time limit has been extended in writing by the Planning Authority.
- (j) Within one week of the Planning Authority receiving an assessment which identifies that the wind farm noise levels are exceeding any of the limits in Tables 1&2 attached to this condition, the Company shall implement relevant mitigation measures identified in the submitted Noise Measurement and Mitigation Scheme which will ensure that those limits are complied with. Thereafter, these measures will remain in place.

Reason: to protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

SCHEDULE OF NOISE GUIDANCE NOTES

These notes form part of condition 25 (A) – 31 (H). They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm.

Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farm” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

- **NOTE 1**

- a) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant’s property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a 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 shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local 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 3.5m away from the building facade or any reflecting surface except the ground at a location agreed with the Local Planning Authority.
- c) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.
- d) The Company shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods on the wind farm site to enable compliance with the conditions to be evaluated. The mean wind speed 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 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

- **NOTE 2**

- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise.
- b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the

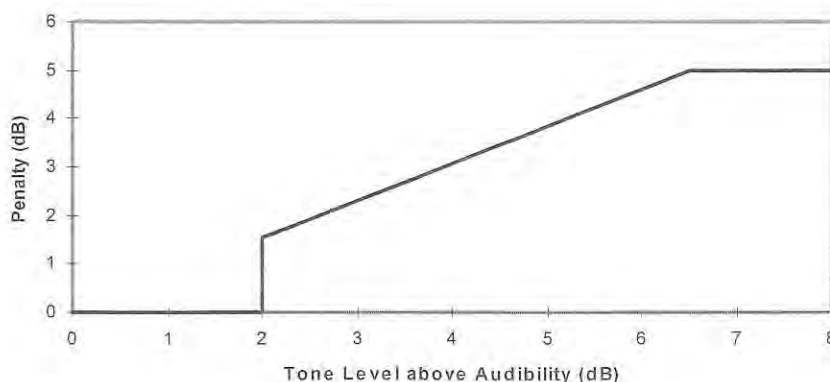
occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.

- c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local Planning Authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured $L_{A90,10min}$ noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

• **NOTE 3**

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used.

- a) For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean 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 standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta L_{tm}), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.
- c) The arithmetic average margin above audibility shall be calculated for each wind speed bin where data is available, each bin being 1 metre per second wide and centred on integer wind speeds. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- d) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



- NOTE 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind farm switched off in order to determine the background noise, L_3 , at the assessed wind speed. The wind farm noise at this wind speed, L_1 , is then calculated as follows, where L_2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

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

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

Table 1 – Night Time Noise Conditions (Between 23:00 and 07:00 hours)

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H1	Aitnoch Farmhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H2	Little Aitnoch	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H3	Kerrow Farmhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H4	Braemoray Lodge	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H5	The White House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H6	1 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H7	3 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H8	2 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H9	Glenferness Mains	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H10	Achanabechan Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H11	Culfearn	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H12	Tombain	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H13	Factors Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H14	Tomnarroch	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H15	Tomdow	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H16	Tomdow Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H17	Leonach Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H18	6 Glenferness	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H19	Birch Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H20	Sturrock	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H21	Smiddy House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H22	Rose Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H23	The Old Post Office House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H24	Bungalow	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H25	New Inn	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H26	Glebe Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H27	Roundwood House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H28	Muckle Lyne	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H29	Little Lyne	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H30	Head Foresters House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H32	1 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H33	2 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H34	3 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H35	4 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H36	5-6 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H37	The Mount	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H38	Score Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H39	Airdrie Mill	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H40	Logie Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H41	Logie Farm Riding Centre	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H42	Airdrie Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H46	Property A	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H47	The Lodge	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H48	The Old Schoolhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H50	Wester Tillieglens	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H51	Wester Glenfernie	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H52	Refouble	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H53	Milltown	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H54	Ballindore	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H55	Kennels	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0

Table 2 – Day Time Noise Limits for Conditions

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H1	Aitnoch Farmhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H2	Little Aitnoch	35.0	35.0	35.0	35.0	35.0	35.2	38.0	39.0	39.0	39.0	39.0	39.0
H3	Kerrow Farmhouse	36.5	36.5	36.7	37.5	38.7	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H4	Braemoray Lodge	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H5	The White House	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H6	1 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H7	3 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H8	2 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H9	Glenferness Mains	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H10	Achanabechan Farm	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H11	Culfearn	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H12	Tombain	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H13	Factors Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H14	Tomnarroch	35.0	35.0	35.0	35.0	36.5	38.9	39.0	39.0	39.0	39.0	39.0	39.0
H15	Tomdow	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H16	Tomdow Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H17	Leonach Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H18	6 Glenferness	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H19	Birch Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H20	Sturrock	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H21	Smiddy House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H22	Rose Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H23	The Old Post Office House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H24	Bungalow	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H25	New Inn	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H26	Glebe Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H27	Roundwood House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H28	Muckle Lyne	35.0	35.0	35.0	35.0	35.0	36.3	38.1	39.0	39.0	39.0	39.0	39.0
H29	Little Lyne	35.0	35.0	35.0	35.0	35.0	36.3	38.1	39.0	39.0	39.0	39.0	39.0
H30	Head Foresters House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H32	1 Forestry	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
	Houses												
H33	2 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H34	3 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H35	4 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H36	5-6 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H37	The Mount	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H38	Score Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H39	Airdrie Mill	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H40	Logie Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H41	Logie Farm Riding Centre	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H42	Airdrie Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H46	Property A	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H47	The Lodge	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H48	The Old Schoolhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H50	Wester Tillieglens	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H51	Wester Glenfernie	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H52	Refouble	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H53	Milltown	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H54	Ballindore	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H55	Kennels	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

Note to Tables 1 & 2: The wind speed standardised to 10 metres height within the site refers to wind speed at 10 metres height derived in accordance with the method given in the attached Guidance Notes.

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

Table 3 – Coordinates of Properties Listed in Tables 1 & 2

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H1	Aitnoch Farmhouse	298159	839664
H2	Little Aitnoch	296891	840817
H3	Kerrow Farmhouse	299625	841891

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H4	Braemoray Lodge	299789	842834
H5	The White House	300059	843252
H6	1 Drumore Cottages	295442	843576
H7	3 Drumore Cottages	295443	843615
H8	2 Drumore Cottages	295448	843632
H9	Glenferness Mains	294960	843656
H10	Achanabechan Farm	295788	843732
H11	Culfearn	300008	843810
H12	Tombain	300613	844376
H13	Factors Cottage	295764	844470
H14	Tomnarroch	296158	844552
H15	Tomdow	300493	844646
H16	Tomdow Cottage	300526	844681
H17	Leonach Cottage	296232	844817
H18	6 Glenferness	296240	844835
H19	Birch Cottage	296250	844855
H20	Sturrock	296261	844881
H21	Smiddy House	296260	844907
H22	Rose Cottage	296272	844916
H23	The Old Post Office House	296281	844939
H24	Bungalow	296312	844990
H25	New Inn	296376	845076
H26	Glebe Cottage	295583	845277
H27	Roundwood House	295583	845277
H28	Muckle Lyne	297924	845289
H29	Little Lyne	297390	845305
H30	Head Foresters House	296355	845369
H32	1 Forestry Houses	296449	845627
H33	2 Forestry Houses	296459	845638
H34	3 Forestry Houses	296468	845648
H35	4 Forestry Houses	296474	845657
H36	5-6 Forestry Houses	296488	845662
H37	The Mount	297902	845725

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H38	Score Farm	297275	845877
H39	Airdrie Mill	297564	845882
H40	Logie Farm	296931	846534
H41	Logie Farm Riding Centre	296947	846555
H42	Airdrie Farm	297990	846929
H46	Property A	295665	843879
H47	The Lodge	295166	843037
H48	The Old Schoolhouse	296296	844955
H50	Wester Tilliglens	300433	846102
H51	Wester Glenernie	300860	845679
H52	Refouble	295199	839996
H53	Milltown	294502	841260
H54	Ballindore	294642	841998
H55	Kennels	294145	842516

Note to Tables 1 & 2: The wind speed standardised to 10 metres height within the site refers to wind speed at 10 metres height derived in accordance with the method given in the attached Guidance Notes.

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

Definitions:

“The Application” means the application submitted by the Company on 4 November 2013;

“Bank Holiday” means:

- New Year’s Day, if it is not a Sunday or, if it is a Sunday, 3rd January;
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January;
- Good Friday;
- The first Monday in May;
- The first Monday in August;
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day;
- Christmas Day, if it is not a Sunday or if it is a Sunday, 27th December; and
- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.

“Commencement of Development” means the date on which Development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997;

“the Company” means RES UK and Ireland Limited incorporated under the Companies Acts (Company number 04913493) and having its registered office at Beaufort Court Egg Farm Lane, Off Station Road, Kings Langley, Hertfordshire, WD4 8LR or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.

“The Development” means the development described in Annex 1;

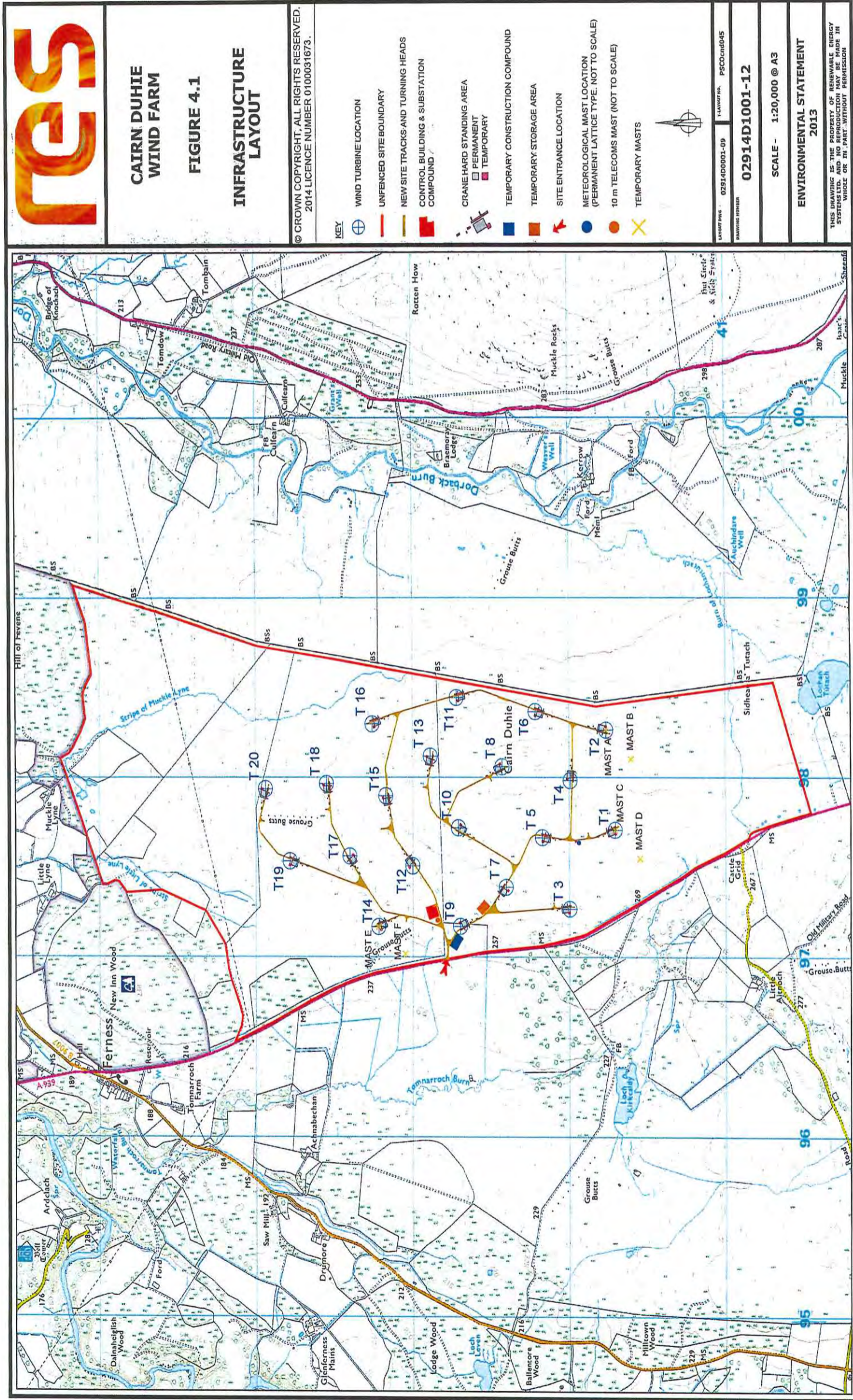
“dwelling” means a building within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent and deemed planning permission;

“Final Commissioning” means the earlier of (a) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the development erected in accordance with this consent; or (b) the date 18 months after the date of First Commissioning, unless a longer period is agreed in writing in advance by the Planning Authority;

“First Commissioning” means the date on which electricity is first exported to the grid on a commercial basis from any of the wind turbines forming part of the development; and

“Public Holiday” means Easter Monday and the third Monday in September.

“radar mitigation scheme” means a scheme designed to mitigate the impact of the wind farm upon the operation of the primary surveillance radar at Inverness Airport and the air traffic control operations of the airport which are reliant upon that radar.



This is the map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of a WIND powered electricity generating station at NEAR FERNESSE as confirmed by the Scottish Ministers.

Planning and Environmental Appeals Division

Report to the Scottish Ministers



SECTION 36 OF THE ELECTRICITY ACT 1989 AND SECTION 57 OF TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by Dannie Onn, a reporter appointed by the Scottish Ministers

- Case reference: WIN-270-5
- Site Address: Land at Cairn Duhie, about 1.5 kilometres south-east of Ferness, off the A939 between Nairn and Grantown on Spey
- Application by RES Ltd
- Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
- The development proposed: construction and operation of Cairn Duhie Wind Farm
- Dates of inquiry and hearing sessions: 9, 10 and 16 March 2016

Date of this report and recommendation: 27 January 2017



INVESTOR IN PEOPLE



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Planning and Environmental Appeals Division

Summary of Report of Inquiry into application under section 36 of the Electricity Act 1989 and deemed application for planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended)



The construction and operation of Cairn Duhie Wind Farm on land at Cairn Duhie, about 1.5 kilometres south-east of Ferness, off the A939 between Nairn and Grantown on Spey

• Case reference	WIN-270-5
• Case type	Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
• Reporter	Dannie Onn
• Applicant	RES Ltd
• Planning authority	The Highland Council
• Other parties to the inquiry	Cairn Duhie Action Group incorporating: <ul style="list-style-type: none"> -Dava residents Association -East Nairnshire Community Council -Grantown on Spey and Vicinity Community Council -Carrbridge Community Council -Dulnain Bridge Community Council -Stop Highland Windfarms Campaign
• Date of application	Save our Dava 4 November 2013
• Date case received by DPEA	4 August 2015
• Method of consideration and date	Inquiry session 9 and 10 March 2016 Hearing sessions 16 March 2016
• Date of report	27 January 2017
• Reporter's recommendation	That consent and deemed planning permission be granted

The Site

The appeal site is an area of rough moorland grazing of about 666 hectares. It is gently sloping land around a low conical hill called Cairn Duhie. The site sits in an area of upland landscape immediately north of the Drynachan, Lochindorb and Dava Moor SLA. This special landscape area is characterised as high rolling moorland valuable for being easily accessible. It has a sense of spaciousness, wide views and sparse human presence, and retains a strong sense of tranquillity as well as some wildness qualities. To the north of the site is an area characterised by wooded valleys. The site lies between the A939 and A940 tourist routes between Moray and the Cairngorms National Park. The area is sparsely populated but the proposed wind farm would be within 1.5 kilometres of Ferness and

several isolated dwellings. There are existing and consented wind farms to the east and west of Cairn Duhie.

Description of the Proposals

The application is for 20 turbines of 110 metres height to blade tip and associated infrastructure, including access tracks and ancillary buildings. The application seeks consent for a maximum of 60MW of generating capacity.

Consultations and Representations

The Highland Council objects to the proposed wind farm on the basis of significant adverse landscape and visual impacts on the Special Landscape Area (SLA), travellers and tourists and a degree of adverse visual impact on the local community. The Cairngorms National Park Authority objects because of the impacts on the setting of the National Park, particularly the growing encirclement of it on its northern and western boundaries. Moray Council objects because of the impacts on the scenic western approaches to Moray and the landmark hills on this side of Moray. The Grantown on Spey and Vicinity Community Council objects on the basis of amenity for tourists and the consequent effect on the tourist industry; the impacts on the SLA; road safety; and the impacts on local residents. Scottish Natural Heritage (SNH) raises concerns in relation to the impacts on the SLA, but says that these are not of national concern. Visit Scotland notes the potential negative impact on tourism. Scotways is concerned by the impact on the Dava Way. The John Muir Trust objects on the basis of the cumulative impact of turbines to the north of the National Park. Historic Scotland (as was) is concerned by the impacts at Lochindorb Castle and Ardclach Bell Tower, but says that these are not issues of national importance. Other consultees raised no objections, subject to suitable conditions to mitigate the effects of the development.

Over 1900 objections were received and 591 letters of support. Many were similar in nature. Local groups were formed to crystallise the objections and to take part in the inquiry. Their cases are summarised below. In addition to landscape and visual concerns, objections from interested parties include the impacts on local residents, on the environment, on traffic and on the local economy.

The Applicant's Case

The application site carries no local or national designations to protect it. It is outside but alongside a SLA. The applicant finds a medium landscape sensitivity for the site because it is outside of the SLA and alongside roads. There would be significant landscape effects up to 3.5 kilometres from the site, including into the SLA. However, it would occupy only a small part of the broad panoramas and wide uncluttered views characteristic of the SLA. The tranquillity and isolation of the area around the site is already reduced by the presence of overhead power lines and the main roads. The site is already at the transition to a different landscape character. The visually permeable wind farm would not emphasise the change. Heading south towards the Cairngorms, the views of and across the SLA would not be affected. The intrinsic values and reasons for designation of the SLA would not be compromised. This part of the Dava Moor is less remote, empty, wild and tranquil than other parts. Lochindorb itself would not be affected.

Neither the integrity of designation of the National Park nor its special qualities would be significantly affected.

Residential amenity would not be so compromised at any property that it would become an unattractive place to live. Impacts are limited and few properties would have clear sight of the turbines in their principal views.

The compact design accords with the advice of SNH and, cumulatively, the proposed would fit with the general pattern of wind farms in the area, apart from being close to the road. Cumulative impacts are not significant, partly because there would be few places where turbines would be seen for the first time.

The setting of cultural heritage assets, principally those at Lochindorb and Ardclach, would not be harmed.

The proposal would make a significant contribution to renewable energy targets and would provide significant economic benefits. The appellant proposes to provide benefits to the local community.

All other issues, including traffic matters, private water supplies, and unexploded ordinance would be mitigated by planning conditions such that they would not be reasons for refusing the scheme.

The Highland Council's Case

The proposed turbines would not respect the local distinctiveness of the landscape, impacting adversely on the appreciation of the sense of place. They would not respect the historic pattern of development and landscape in the locality. They would have a significant and detrimental impact on the SLA by affecting its setting and the views across and beyond it. The SLA is a destination as well as being crossed by tourist routes. This high tableland traversed and appreciated from public roads is relatively rare in the Highlands. Its qualities are emphasised by an almost complete absence of built structures. This part of the SLA is more sensitive to development because of the roads across it. The presence of the roads would allow scaling and remove ambiguity in perception.

The proposed wind farm would sit centre stage in the landscape, dwarfing Cairn Duhie itself and appear alien on the skyline. The turbines would interrupt the visual connection with the higher mountain ranges. Mostly seen without a backdrop, these would not fit the pattern of wind farm development in the area. The development would detract from the distinctive skyline to the north.

The landscape and visual impacts are reinforced by the impact on the few local dwellings nearby and the local communities.

Cairn Duhie Action Group's case

The proposed development would not fit the pattern of wind farm development north of the Cairngorms and would not form part of a recognised cluster. The turbines would be centre stage in views along the tourist route and the Dava Way. There would be a greater number of significant adverse effects than the ES predicts. The skyline site is more conspicuous because of the bare and open moorland. The Moray landscape capacity study shows that this upland landscape has no further capacity for wind farm development. The site cannot accommodate the wind farm. It would be superimposed on the topography and be difficult to avoid.

The SLA is designated so that its special characteristics can be conserved or preserved. The proposal would have a pervasive and significant effect on the open uplands and the SLA. The impacts will be experienced by travellers across the area and by local residents. The significant adverse effects would be at the key point of the SLA, where it is best appreciated by these sensitive receptors.

The impacts on landscape, residences, tourism and recreation are significant and adverse. The relevant local and national policies are designed to prevent this type of imposition where the landscape has been designated as special.

Private water supplies could be affected.

Save our Dava's case

The road access to the heartland of the SLA is unique. These tourist routes and the Dava Way walking route along the former railway line enhance the appreciation of the scenic value of the landscape. Dava Moor is a gateway, a communication corridor between the Spey Valley and the Moray Firth lowlands. The main roads are gateways to the Cairngorms National Park. The introduction of the Cairn Duhie turbines would spoil this landscape for the many users of these routes and for those visiting Lochindorb.

The use of the road across the Findhorn valley for construction would lead to unacceptable heavy traffic and potential damage to the listed Logie Bridge.

There is evidence that the application site was used for military exercises during the second world war. There is a real danger of unexploded ordinance on the site, which makes it unsafe for development.

Reporter's Conclusions

Landscape and visual impacts

The area around the application site and where most of the significant impacts are predicted is open upland consisting of rolling moorlands. Much of that is within the SLA, although the site is not.

There would be significant landscape effects at the site itself. The immediate setting of the SLA would be affected, and at a well-visited part of it. However, large areas would be untouched or would see the turbines in the context of other wind farm development within and around the SLA. Many of the landscape qualities would remain evident even with the wind farm. Those parts of the SLA singled out for particular mention, Lochindorb and the Findhorn valley, would not be significantly affected. I therefore conclude that the proposed turbines would not have a significant and detrimental impact on the SLA as a whole or its setting.

The site is relatively well-contained by topography. There would be major significant visual effects in and around the proposed wind farm. Significant effects are also likely up to 12 kilometres away. There would be a dramatic change and the new wind farm would be a dominant feature in some views. It would also become a feature of the landscape for those living nearby and would impact on their daily lives.

Tourist routes would be affected. For those driving across the moors, I find that the proposed wind farm would not be unacceptable. There would be a greater impact on parts of the Dava Way, but in general the area is sparsely visited and the main areas of interest would not be unduly affected.

The Knock of Braemoray and nearby hills would continue to provide screening of existing wind farms on the western approach to Moray. They would retain their own character, albeit in a changed context.

Cumulatively, the proposed wind farm would be seen in a landscape with wind farms. Those to the east and west would be seen in many views of Cairn Duhie and sequentially with it when travelling about the SLA and the surrounding landscape. The character of the landscape would remain largely as it is and the proposed would fit with the general pattern of wind farms in the landscape apart from being closer to the road network. The turbines would encroach into the existing gap between wind farms, but, at the scale where the wind farm would be experienced most, others would be out of view. The distance from the National Park and the remaining gaps between turbines mean that the proposed wind farm would not lead to an impression of encirclement.

In residential terms, the visual impacts on Kerrow and Braemory Lodge would be of greatest impact. Others would be affected, but the total number is low; none would be so affected that the property would become an unattractive place to live; and the separation distances comply with local guidance.

Cultural heritage

No cultural heritage is likely to be directly altered by the proposed development. I note that the delivery route is over the listed Logie Bridge, but am reassured that conditions would lead to its protection by the relevant authorities when deliveries are planned.

The listed Ardclach Bell Tower is at some distance from the site. It would have views towards the turbines over the trees, but its setting is more locally defined and would not be further compromised.

Lochindorb Castle is isolated from the site by topography. Although it would be seen in some views of the Cairn Duhie development, I do not consider that the significant elements of its setting would be so affected that the setting would not be preserved.

Other matters

Benefits of the proposed wind farm include its contribution toward government renewable energy targets and the economic benefits of jobs and other expenditure, particularly during construction.

Community benefits are proposed by the developer, but these are of little weight in the planning considerations.

Private water supplies are unlikely to be affected and the proposed mitigation, secured by conditions, would deal with any incident likely to occur.

Residential amenity, other than visual impacts, is unlikely to be significantly affected by the proposals. Noise impacts would be controlled in accordance with Scottish Planning Policy (SPP).

Tourism is unlikely to be significantly affected by the proposed wind farm. No rights of way would be compromised.

Unexploded ordinance may exist on the site. However, from the available evidence, the likelihood is low. Although the potential for harm could be high, the risk would be very low. Site investigation and site practice would reduce the risk to an acceptable level.

Policy assessment

The proposed development is supported by national policy in that it would contribute towards renewable energy targets set out in NPF 3 and provide economic benefits. The

site is not constrained by any designations within its boundaries. Its proximity to Ferness is mitigated by intervening topography and deep peat would be avoided by the siting of the turbines and ancillary buildings. Therefore, in accordance with SPP, the open uplands landscape is suitable in principle for larger type turbine developments. The proposed wind farm would help reduce carbon emissions in support of the outcomes set by SPP.

The likely impacts of the proposal have been assessed. There would be no harm to the integrity of any Special Protection Area. I have had regard to the environmental impacts as assessed. Subject to the mitigation proposed, which can be secured by conditions, I have found that the proposed development would protect the environment, including fisheries, as far as is possible. At the same time, the proposal would be sustainable development benefitting from the presumption in favour of planning permission. The sustainable use of the land would, in my assessment outweigh the residual impacts on the environment, contributing to the natural, resilient place envisaged in SPP.

The siting and design of the wind farm would accord with the guidance of SNH and thereby meet the requirements of SPP.

Sites of architectural, historic or archaeological interest would be protected and the setting of listed buildings would be preserved in accordance with the listed building Act.

Domestic properties would still have acceptable living conditions. No impact would be so adverse as to make any dwelling an unattractive place to live.

Taking my findings together, the proposed development would accord with the criteria set out in policy 67 of the LDP. My recommendation seeks to strike the right balance between the benefits of the development and its adverse impacts.

Recommendation:

That the Scottish Ministers grant consent and deemed planning permission subject to conditions.

Scottish Government
Division for Planning and Environmental Appeals
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

File reference: WIN-270-5

The Scottish Ministers
Edinburgh

Ministers

In accordance with my minute of appointment dated 7 September 2015, I conducted a public inquiry in connection with an application by RES Ltd to construct and operate the Cairn Duhie Wind Farm at Cairn Duhie, about 1.5 kilometres south-east of Ferness, off the A939 between Nairn and Grantown on Spey. The Highland Council as Planning Authority has lodged an objection to the proposal which has not been withdrawn.

I held a pre-examination meeting on 27 October 2015 to consider the arrangements and procedures for the inquiry. It was agreed that landscape and visual impact, including the impacts on tourism and those living in the area, would be addressed at an inquiry session. In addition it was agreed that there would be hearing sessions on policy matters and on planning conditions and legal obligations that might be needed should consent and deemed planning permission be granted.

Further written submissions on private water supplies were required by my procedure notice of 6 January 2016. This, together with transport and private water supply issues raised by interested parties then became the subjects of an additional hearing session.

The inquiry session was held on 9 and 10 March 2016, and the hearing sessions took place on 16 March 2016. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 12 April 2016.

I conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 27 October 2015, 8 March 2016 and 8 June 2016. Accompanied site inspections took place on 15 March 2016.

My report takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the Environmental Assessment, Addendum and other environmental information submitted by the parties, and the written representations made in connection with the proposal.

Since my inquiry, the Highland Council has formally adopted its Onshore Wind Energy Supplementary Guidance. Although there has been a slight change to the guidance on designated wild land, that was not a matter on which any objection was raised and the main parties have agreed that wild land is too distant to require detailed consideration. I have not therefore sought further information in relation to the guidance.

Abbreviations

AGLV	Area of Great Landscape Value
CD	Core Document
ECDU	(Scottish Government) Energy Consents and Deployment Unit
EIA	Environmental Impact Assessment
ES	Environmental Statement
ETSU	The Assessment & Rating of Noise from Wind Farms (ETSU-R-97)
LCA	Landscape Character Assessment
LCS	Landscape Capacity Study
LCT	Landscape Character Type
LDP	Local Development Plan
LVIA	Landscape and Visual Impact Assessment
MW	Megawatts
NPF	National Planning Framework
RSPB	Royal Society for the Protection of Birds
SEPA	Scottish Environment Protection Agency
SLA	Special Landscape Area
SPA	Special Protection Area
SNH	Scottish Natural Heritage
SPG	Supplementary Planning Guidance
SPP	Scottish Planning Policy
VP	Viewpoint
ZTV	Zone of Theoretical Visibility

CHAPTER 1. Background

The application

1.1 The application was submitted to the Scottish Government in November 2013 under Section 36 of the Electricity Act 1989 for the construction and operation of a wind power generating station with a maximum capacity of 60 MW. The applicants, RES Ltd, propose to construct and operate a wind farm of 20 turbines of 110 metres height to blade tip and associated infrastructure including formation of access, tracks, hardstandings, control building and substation compound, meteorological and communication masts, all underground cabling and ancillary temporary works. The application site is land around Cairn Duhie, approximately 1.5 kilometres to the south-east of Ferness and north of Grantown on Spey in Highland Region. This proposal is referred to as the Cairn Duhie wind farm. Consent and deemed planning permission are sought for a period of 25 years.

1.2 Road access for construction would be from the A939. Temporary road widening is proposed for construction traffic: in Nairn at the junction of the A939 and the A96; and at the Logie Bridge over the river Findhorn north of Ferness. The construction period is estimated at 28 months.

1.3 The Highland Council objected to the proposed scheme in June 2015, essentially due to the likely adverse landscape and visual impacts of the proposal on the Drynachan, Lochindorb and Dava Moor Special Landscape Area (the SLA); users of the A939, A940 and other routes; and on the visual amenity of local communities.

Site and surroundings

1.4 The application site is about 666 hectares, mostly of moorland. The site is managed for rough grazing, and is dominated by a mixture of degraded bog and heath habitats with localised wooded areas and scattered trees. The appeal site includes Cairn Duhie, a low conical hill rising to 312 metres above sea level.

1.5 The surrounding landscape is part of a large expanse of high, rounded hills called the Monadhliaths in the Landscapes of Scotland (published by SNH) which are described as mostly heather moorland and unimproved grassland with an exposed and open character which can feel relatively remote. The presence of wind farms is also noted. The site and land nearby within highland is within an uplands landscape character type. The area to the east of the site beyond the A940 is characterised as open uplands in the landscape assessment for Moray and Nairn.

1.6 The appeal site is covered by no culture, nature or landscape designations at either a European, national or local level. It borders the SLA on its south-west boundary. It is about 7.8 kilometres from the edge of the Cairngorms National Park.

1.7 The site lies alongside the A939 and close by the A940 to the east. Across the A940 is a distinctive hill known as Knock of Braemory, which rises to 456 metres above sea level. This hill separates the site from the Dava Way (a disused railway now serving as a public path).

1.8 The closest residential properties to the appeal site are at least 1.2 kilometres from the nearest proposed turbine, which is at least 10 rotor diameters away. There would be 9 existing residential properties within 2 kilometres of the nearest turbine.

1.9 The consented Tom-nan-Clach wind farm would be to the west of the application site, within the SLA. The completed Moy wind farm is partly within the SLA, also to the west. To the east are the completed Berry Burn, Pauls Hill and Hill of Glaschyle wind farms. A

cumulative wind farm map can be found in the ES additional information.¹ At Tom-nan-Clach, an application has been made to install fewer, but taller turbines. That application has not yet been determined.

The SLA

1.10 The landscape of the SLA is summarised in the Assessment of Highland Special Landscape Areas. This is a landscape of high rolling moorland, which has a consistency of character derived from gentle gradients, limited relief and management of much of the area as grouse moor. Although not as extensive as moorlands further north, it is valuable for being located mid-way between a number of settlements and for being easily accessible via several roads which pass through. High tableland of this extent, which can be traversed by and appreciated from public roads is relatively rare in Highland Region. Key characteristics include the homogeneity of the area, its sense of spaciousness, wide views and sparse human presence. Elements of human intervention are evident within this landscape, most obviously in the form of tracks, fences and muirburn patterns. However, it retains a strong sense of tranquillity as well as some wildness qualities which are emphasised by an almost complete absence of built structures.

1.11 The appeal site lies to the north of the Cairngorms National Park, beyond Dava Moor and in a transitional landscape between the moorlands and wooded valleys to the north. The site is not a significant element in the setting of the National Park.

The council's response

The council resolved to lodge an objection to the application with Scottish Ministers. Three reasons were given, all relating to the landscape and visual impacts. The gist of these was that there would be significant adverse impact on the SLA; detrimental impact on travellers and tourists; and a degree of adverse visual impact on the community surrounding the development.

Consultations

1.12 The Cairngorms National Park Authority objects to the proposal because the landscape and visual impacts and cumulative landscape and visual impacts of the proposed development would adversely affect the landscape setting of the National Park, in particular the important northern gateway to the National Park. It would have adverse effects from within the National Park and would materially add to the growing encirclement of it, particularly on the northern and western boundaries. This would adversely affect the integrity of the National Park and the qualities for which it has been designated. There would also be an adverse effect on the cultural heritage of the National Park.

1.13 The Moray Council objects to the proposed wind farm, in particular due to the significant adverse landscape and visual impacts on the A939 and A940 roads, which are a key scenic and western approach to Moray, and on the landmark hill, Knock of Braemory. The proposed development would not integrate sensitively with the Moray landscape. Moray Council's supplementary guidance includes the need to maintain the distinctive western threshold to Moray experienced from the A940 and to protect the landmark hills and their setting.

1.14 The Grantown on Spey & Vicinity Community Council opposes the development on the grounds of amenity for tourists (and the consequent effect on the local economy, the impacts on the SLA, road safety, and visual impacts on local residents. They are also

¹ figure 1 of appendix 3 to [CD 01.12](#)

sceptical about climate change and the benefit of UK renewable energy, but these are not matters relevant to my inquiry.

1.15 The site lies within 4 kilometres of and has connectivity with the Darnaway and Lethen Forest SPA designated for breeding Capercaillie. SNH considers that the collision risk for Capercaillie is low and there would be very low risk to the integrity of the nearby SPAs. RSPB makes no objection subject to careful consideration of the siting of turbines to avoid close proximity to trees and hill summits. This is to protect Capercaillie from collision risk.

1.16 SNH also advise that there would be significant adverse impacts on the landscape of the Dava Moor area, but the integrity of the Cairngorms National Park would not be significantly affected. They consider that the open space and extensive views currently appreciated from much of the SLA and Dava Moor to the south of the proposal, and which are already affected by existing wind farm development, would be adversely impacted by the proposal. It would add to adverse cumulative impacts with other wind farms. However, they say that these impacts are not of national interest. I report their concerns in more detail in Chapter 4.

1.17 Visit Scotland notes that tourism is crucial to Scotland's economic and cultural well-being and that scenery and the natural environment are the two most important factors for visitors. They say that there is considerable opposition to this application within the local tourism industry because the site impacts the access to important eastern gateways to the Highlands and a route into Nairnshire and Moray. The development would detract from the relatively unspoilt and wild land of the Dava Moor. For these reasons Visit Scotland would have concerns over the potential negative impact on tourism. They strongly suggest that an independent tourism impact assessment should be carried out

1.18 Scotways is concerned by the impact on the Dava Way and potentially on other routes.

1.19 The John Muir Trust objects to the proposed wind farm because it would join up an arc of wind farms approximately 10 kilometres to the north of the Cairngorms National Park. There would be an impact in combination with and sequentially with other wind farms in this area. That could affect the wild land in the Cairngorms.

1.20 Historic Scotland notes an adverse impact would occur at Lochindorb Castle and Ardclach Bell Tower. However, it does not consider that the significance raises issue of national importance.

1.21 SEPA raises concerns in relation to potential impacts on peat, but has no objection in relation to this or flood risk, subject to planning conditions being imposed. It advises that an Environment Management Plan should be prepared for construction and for future decommissioning and restoration.

1.22 No objections are raised by statutory consultees in relation to communications links or aircraft safety and operation, but this is subject to specific conditions being attached to any consent.

1.23 Marine Scotland Science - Freshwater Laboratory notes that the developer appears to be aware of the potential impacts on the salmon and sea-trout fishery of the River Findhorn and its tributaries. In addition to the mitigation included in the ES, it recommends further monitoring to identify any changes in the water environment and to trigger any necessary mitigation measures.

1.24 Scottish Water raises no objection subject to appropriate precautions being required by condition.

1.25 CH2MHILL has carried out a peat landslide and hazard risk assessment for the Scottish Government. It concludes that the ES provides a sufficiently robust assessment of the risks. It recommends a number of further actions which may be dealt with by planning conditions. The Scottish Wildlife trust seeks to avoid turbines being located on deep peat.

1.26 On behalf of Transport Scotland, JMP Consultants Limited is satisfied that the proposed development will not cause any detrimental impact to the trunk road network, but requests conditions to secure their approval of the movement of abnormal loads and any accommodation works or signage.

1.27 No objection is raised by the British Horse Society Scotland subject to detailed consideration of access in general terms.

1.28 Subject to compensatory planting and a forest plan, the Forestry Commission Scotland does not object to what is proposed.

Written Representations

1.29 The council received 1,207 objections to the proposed wind farm. ECDU received 591 letters of support and 1,906 objections. Many of the representations are on standard letters or forms, although I note that many of the objections have been supplemented by additional words and imagery. Those objecting to the proposed development do so on the following grounds:

- unacceptable landscape impacts, including in combination with other wind farms;
- unacceptable cumulative visual impact;
- noise;
- shadow flicker;
- light pollution;
- water pollution;
- traffic impacts
- harm to protected historical and cultural features
- harm to wildlife and habitats;
- impact on peat;
- loss of tourism income and jobs.

1.30 Those supporting the proposed wind farm cite the following reasons:

- economic benefit to the region including creation of jobs;
- little impact due to the remote location;
- the location is suitable for a wind farm; and
- contribution to Scotland's climate change targets.

CHAPTER 2. Policy and guidance

2.1 The application seeks consent for the construction of a generating station under Section 36 of the Electricity Act. Section 36(8) engages Schedule 8, which details the processing of the application. Section 38 of the act applies Schedule 9 and under ‘Preservation of amenity and fisheries: Scotland’, paragraph 3 of that schedule requires those formulating proposals to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. It also requires reasonable mitigation of any effect which the proposals would have on those interests. The schedule then requires that the Scottish Ministers have regard to those matters when considering proposals under section 36 and the extent to which the applicant has done what can reasonably be done to mitigate the effects. In addition the schedule requires the applicant and Scottish Ministers to avoid, so far as possible, causing injury to fisheries or the stock of fish in any waters.

2.2 The Act does not say that these are the only matters to be taken into account. Scottish Ministers should take into account other matters which would be material to their decision. These will include national and local policy as well as the full scope of the environmental information submitted with the appeal.

2.3 The key policy documents are: NPF 3; SPP; the Scottish Government’s renewable energy policies; the Highland-wide LDP²; and the Highland Supplementary Guidance on Wind Energy Development.³ The following sections identify the key policies and paragraphs in each of these documents. I also set out the relevant local and national guidance in relation to wind farm developments.

NPF 3

2.4 The purpose of the NPF is to set out where development should take place across Scotland to support the various economic, infrastructural, social and environmental objectives of the Scottish Government. NPF 3, at 3.1, provides that planning will play a key role in delivering on the commitments set out in Low Carbon Scotland: the Scottish Government’s report on proposals and policies. At 3.4, NPF 3 recognises that Scotland has a significant wind resource, both onshore and offshore, and that electricity generation from wind continues to rise.

2.5 By 2020, the Scottish Government intends to reduce total final energy demand by 12% and wants at least 30% of overall energy demand from renewables– this includes generating the equivalent of at least 100% of gross electricity consumption from renewables, with an interim target of 50% by 2015.

2.6 At 3.12, NPF 3 provides that both terrestrial and marine planning have a key role to play in reaching these ambitious targets by facilitating development, linking generation with consumers and guiding new infrastructure to appropriate locations. Paragraph 3.23 includes that onshore wind will continue to make a significant contribution to diversification of energy supplies. It is clear from NPF 3 that onshore wind is an important part of the energy mix supporting a low carbon Scotland.

SPP

² [CD3.1](#)

³ [CD3.5](#)

2.7 SPP sets out national policies which reflect the Scottish Ministers' priorities for operation of the planning system. As such it is a consideration of significant weight in determination of this application. SPP sets four planning outcomes. Of particular relevance here are outcomes 2 and 3. Outcome 2 is a low carbon place – reducing carbon emissions and adapting to climate change. Outcome 3 is a natural, resilient place – helping to protect and enhance our natural and cultural assets, and facilitate their sustainable use. These outcomes will require support for diversification of the energy sector and, at the same time, protection and sustainable use of Scotland's environmental assets.

2.8 Sustainability is one of the principal policies of SPP, which introduces a presumption in favour of development that contributes to sustainable development. Paragraph 28 expects a balance between the costs and benefits of a proposal over the long term. It says that the aim is to achieve the right development in the right place; it is not to allow development at any cost. As set out in the guiding principles at paragraph 29, this requires support for energy infrastructure and climate change mitigation and adaptation as well as protection, enhancement and promotion of cultural and natural heritage.

2.9 The SPP section called 'A Low Carbon Place' reinforces the support for renewable energy. It expects due regard to be given to relevant environmental, community and cumulative impacts. Development plans are expected to set out a spatial framework for onshore wind farms. Paragraph 161 and Table 1 of SPP provide guidance for development plans in setting that spatial framework. In this case, the site is within 2 kilometres of Ferness. The nearest turbines would be about 1.5 kilometres from Ferness and much of the proposed wind farm would be within 2 kilometres. That makes it an area of significant protection, where wind farms may be appropriate in some circumstances and where further consideration will be required to demonstrate that any significant visual effects on the community can be substantially overcome by siting, design or other mitigation. SPP expects the extent of the area to be determined on landform and other features which restrict the views out from the settlement. The SPP guidance expects detailed consideration against identified policy criteria. Paragraph 164 expects these criteria to include protection of individual properties and those settlements not identified within the development plan.

2.10 Paragraph 169 of SPP sets out development management considerations which may apply. Most relevant in this case are: net economic impact; the scale of contribution to generation targets; cumulative impacts; impacts on communities; landscape and visual impacts; public access; impacts on the historic environment; and the need for conditions relating to the decommissioning of developments. These reflect some of the sustainability principles set out at paragraph 29 of SPP.

2.11 Paragraph 194 of SPP expects the planning system to facilitate positive change while maintaining and enhancing distinctive landscape character. It also expects protection of the water environment, soils and the natural environment. Paragraph 202 expects the siting and design of development to take account of local landscape character.

National Energy Policy

2.12 National Planning Framework 3 (NPF 3) and Scottish Planning Policy (SPP) include targets for electricity generation from renewable sources. It is clear that the Scottish Government supports renewable energy developments to help reduce greenhouse gas emissions and to combat climate change. SPP provides that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets.

2.13 The Scottish Government is committed to at least the equivalent of 100% of Scotland's electricity consumption to come from renewable sources by 2020. This is not a cap.

2.14 Further relevant guidance from the Scottish Government includes online guidance relating to onshore wind turbines, last updated in May 2014, and 'Onshore Wind – some questions answered', published in December 2014.

The development plan

2.15 As an application under the Electricity Act, the duty under section 25 of the Town and Country Planning (Scotland) Act 1997 (to determine the application in accordance with the provisions of the development plan unless material indications indicate otherwise) does not apply. Nevertheless, the development plan remains a relevant and important consideration. Where consistent with national policy, it should be given considerable weight in determination of the application.

2.16 The statutory development plan is now the Highland-wide LDP adopted in 2012 and the Inner Moray Firth LDP of July 2015. The relevance of the Moray plan is that it confirms the current boundaries of the enlarged Drynachan, Lochindorb and Dava Moors SLA. The Nairnshire Local Plan of 2000 is effectively superseded but remains relevant because an Order is needed to supersede the Order that continued the plan in force. The main parties agree that there are no site specific policies in the Nairnshire and Moray plans relevant to the proposals.

2.17 As set out in the statement of agreed matters between the applicant and the council, the relevant policies of the Highland-wide LDP are:

Policy 28: Sustainable Design

Policy 29: Design, Quality and Placemaking

Policy 55: Peat and Soils

Policy 57: Natural Built and Cultural Heritage

Policy 58: Protected Species

Policy 59: Other Important Species

Policy 60: Other Important Habitats and Article 10 Features

Policy 61: Landscape

Policy 67: Renewable Energy.

2.18 Of these policies, those most relevant to determination of this application are policy 61, which sets out the matters to take into account, and policy 67, which includes a comprehensive set of criteria for the assessment of proposals and allows for the balancing of the benefits of the development against the adverse impacts.

Supplementary planning guidance

2.19 The Highland Council has produced Onshore Wind Energy – Draft Supplementary Guidance in September 2015 (adopted late in 2016) and agrees that the interim supplementary guidance of 2012 is no longer relevant. The 2015 draft includes that the review of the LDP will include for areas of significant protection in accordance with national policy. The Highland-wide LDP refers to the Highland Renewable Energy Strategy of 2006. The key parts of the strategy are superseded by the draft supplementary guidance.

Other guidance

2.20 SNH has published guidance on spatial planning for wind farms; the siting and design of wind farms in the landscape; on visual representation of wind farms; and on assessing the cumulative impact of onshore wind energy developments. SNH guidance has been used in the design process for the proposed wind farm.

2.21 Moray Council policy is not applicable to land within Highland Council area. Nevertheless, the Moray and Nairn landscape Character Assessment of 1998 helps to identify the character of the area surrounding the application site. The Moray Onshore Wind Energy supplementary guidance of 2013 highlights the need to maintain the distinctive western threshold to Moray experienced from the A940 and the need to protect the landmark hills and their setting. The Moray Wind Energy Landscape Capacity Study of 2012 acknowledges the importance of the higher hills to the west of the Moray Open Upland LCT in shielding views of the Paul's Hill wind farm from the A940 and Lochindorb area and in limiting cumulative impacts. It recognises the importance of the Knock of Braemoray and concludes that there is no scope to open up new areas of development and severely limited opportunity for additional wind farm development in the area.

2.22 Other relevant guidance includes the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments.

CHAPTER 3. Protection of the environment

Environmental Impact Assessment

3.1 The Electricity Act requires that consent shall not be given unless the applicant has submitted specified information as is reasonably required and as he can reasonably be required to compile. The Scottish Ministers cannot grant consent unless they are satisfied that this has been done and they have taken the information into consideration.

3.2 The Electricity (Environmental Impact Assessment) Regulations provide further requirements. The information required includes an estimate of the residues and emissions, a description of property likely to be affected and a description of the likely effects. Information reasonably required in this case includes a description of the development, mitigation proposed, alternatives considered and the data required to identify the effects of the proposal. There should also be a non-technical summary.

3.3 An Environmental Statement (ES) under those EIA regulations was submitted with the application in November 2013, together with a non-technical summary. The ES was supplemented by additional information in an addendum of October 2014. This amendment included for repositioning two turbine towers to shallower areas of peat. Additional environmental information was submitted in January 2016, during the course of my examination of the application. This contains an update to the cumulative landscape and visual impact assessment, an assessment of effects in relation to the extension of the SLA and more detail information on visual effects on communities.

3.4 In my opinion, the environmental information submitted demonstrates that the duties under Schedule 9 to the Electricity Act have been carried out. Sufficient environmental information has been submitted and the relevant requirements of the regulations have been complied with. The applicants have had regard to the relevant environmental matters and within the scope of the proposals have done what they reasonably could to mitigate any impacts.

Appropriate Assessment

3.5 The proposed wind farm lies between Darnaway and Lethen Forest, Anagach Woods, Craignore Wood and Abernethy Forest SPAs. The Conservation (Natural Habitats &c.) Regulations 1994 (as amended) apply. It is the view of SNH that the proposal is likely to have a significant effect on a qualifying interest of the SPAs, the breeding Capercaillie. The Scottish Ministers must therefore carry out an appropriate assessment in view of the site's conservation objectives for that qualifying interest.

3.6 SNH have received information from the applicant and says that it is sufficient to make the appropriate assessment. Their conclusion is that the collision risk would not be significant to the integrity of any SPA. SNH agree with the applicant's report that Capercaillie could fly across the wind farm site when dispersing from the SPAs and that there is a potential for birds to be killed by colliding with wind farm infrastructure. However, they advise that the likelihood of such flights, given the population status of the adjacent SPAs is very low and the number of fatalities resulting from those flights is likely to be even lower. SNH concludes that any additional mortality would not have an adverse impact on the integrity of the associated SPAs.

3.7 The development could proceed with appropriate mitigation secured by planning conditions. I provide considered reasoning on those conditions in Chapter 7 of this report.

Subject to those conditions, I have been given no reasons or evidence to suggest a conclusion that differs from that of SNH.

3.8 It is a matter for the Scottish Ministers whether or not they wish to seek additional information before making their appropriate assessment.

CHAPTER 4. Landscape and visual impact

Introduction

4.1 This chapter deals with the landscape and visual impacts of the proposed development, including cumulative impacts with other developments and the landscape and visual impacts on residential properties.

4.2 The evidence for this issue is largely set out in the ES of 2013, its addendum of 2014, the Residential Amenity Report of 2015 and the additional information on landscape and visual matters prepared in 2016.⁴ Landscape and visual impact assessment was undertaken as part of the broader assessment of environmental effects in the EIA, and is reported in the ES at Chapter 7 of volume 2.⁵ The ES sets out the methodology used and the findings of the assessment. These were supported by visualisations to represent the impacts found and these can be found in ES volume 3.⁶ Technical appendices including additional wireline views are in ES volume 4.⁷ The additional information was provided to reflect changes to the baseline since the application was made, the visual impacts on communities and potential effects on the Drynachan, Lochindorb and Dava Moor SLA. This was updated for the inquiry with new figures.⁸

4.3 The methodology was based on the Guidelines for Landscape and Visual Assessment published by the Landscape Institute and the Institute of Environmental management, as well as SNH publications on the visual representation of wind farms; on siting and design of wind farms in the landscape; and on assessing the cumulative impact of onshore wind energy developments. The ES also reflects the guidance of the Highland Council publication: Visual Standards for Wind Energy Developments (updated in March 2015).

4.4 The applicant and council agree that, generally, the methodologies used in the assessment of landscape and visual effects in the ES and additional information follow good practice and are appropriate.

4.5 The applicant has agreed the study area and representative viewpoint selection used in the LVIA with the Highland Council, SNH, the Moray Council and Cairngorms National Park Authority. The viewpoints included within the ES are representative of the types and locations from which there may be views towards the proposed wind farm and are appropriate for the scale and siting of the proposed development. The computer generated ZTV, wireline and photomontage images within the environmental information are accepted as being accurate and appropriate for the visual impact assessment including cumulative impacts.

4.6 I note that some viewpoints do not show the worst impacts at residential properties and for those using the roads and paths network. Nevertheless, they are representative viewpoints. The high quality of visual representation and the readily identifiable site in this case have allowed me to assess the impacts at other viewpoints nearby and to appreciate the overall visual impacts.

4.7 The applicant and the Highland Council agree that the potentially significant landscape and visual effects are within approximately 15 kilometres of the proposed development.

⁴ The ES and its addendum consist of a number of documents submitted with the application

⁵ [CD1.3](#)

⁶ CD1.4

⁷ CD1.5

⁸ [Document RES5](#)

4.8 The ZTVs represent maximum visibility as they do not take account of the screening effect of vegetation and buildings, nor small scale landforms. The actual visibility may well be less than shown.

4.9 The landscape character within 15 kilometres of the appeal site is described in the Moray and Nairn Landscape Assessment of 1998;⁹ the Cairngorms Landscape Assessment;¹⁰ the Moray Wind Energy landscape Capacity Study;¹¹ the Cairngorms National Park Landscape Character Assessment;¹² and the Assessment of Highland Special Landscape Areas.¹³ Other information relating to landscape capacity and sensitivity is included within the council's Onshore Wind Energy – Draft Supplementary Guidance of September 2015¹⁴.

4.10 The main parties to the inquiry agreed that the most relevant visual receptors for assessment purposes are

- the settlements of Ferness, Edinkillie and Dava
- roads, including the A96 along the coast, the A939 from Nairn to Tomintoul, the A940 from Forres to Dava, the B9007 from Logie to Carrbridge
- minor roads at Lochindorb, between Aitnoch and Dulsie, along Findhorn Valley, over Darnaway Forest from Coulmony to Letham and along general Wade's road from Dunearn to Cawdor
- other routes including the railway from Elgin to Inverness, the Dava way and national cycle route 1
- specific viewpoints 1 at Little Aitnoch, 3a on the A940 above Kerrow, 3b atop Knock of Braemory, 4 west of Aitnoch, 5 on the B9007 near Mount, 6 (Ardclach Bell Tower), 7 at Dava Junction, 8 at the old military road and the B9007, 10 at the A939 and Dava Way, 11 Carn na Garbhar above Lochindorb and 13 at Carn Allt Laoigh.

4.11 The parties also agree that the Cairngorms National Park; the Cairngorms Mountains National Scenic Area; The Drynachan, Lochindorb and Dava Moors SLA; and the River Findhorn AGLV require consideration but that the nearest designated wild land is too distant to require detailed consideration.

4.12 The parties further agree that the main cumulative effects would be those where the proposed would be seen in combination with other wind developments within about 15 kilometres and that the receptors within 10 kilometres are likely to experience the most significant effects.

4.13 The main parties have agreed that no property would be so visually affected that it would become widely regarded as an unattractive place to live. At none of the properties would the proposed development appear overwhelming or oppressive. The Highland Council considers that some properties would experience significant detrimental impact which would make them less pleasant places to live.

The main points for the applicant

Landscape Context

⁹ [CD5.11](#)

¹⁰ [CD5.13](#)

¹¹ [CD5.15](#)

¹² [CD5.16](#)

¹³ [CD5.20](#)

¹⁴ [CD3.5](#)

4.14 The application site is within the Uplands LCT within Highland. In Moray this landscape type is termed the Open Uplands LCT (LCT10). Both the Uplands and LCT10 were originally defined in the Moray and Nairn LCA 1998.

4.15 Within Highland there is no published study of the relative sensitivities of the Uplands to any typology of wind energy development. The Highland Council has published draft Onshore Wind Energy Supplementary Guidance, but there is as yet no underpinning landscape study for the area of Cairn Duhie and therefore no advice on the appropriateness of this area for wind energy development.

4.16 Moray Council has published a landscape capacity study (LCS), but this does not and could not cover the site. While there is advice on development in LCT10 on page 57 of the Main Report, which refers to the extension of this landscape character type into Highland, the advice given only applies to views east from the A940 and to the Lochindorb area and not (so far as could jurisdictionally be relevant) to the area of Cairn Duhie. Thus the LCS, while a material consideration which advises on the sensitivity of LCT10 to a development of the scale of Cairn Duhie in Moray, is of limited assistance in this case. Nevertheless, the LCS (a study of relative sensitivity and not capacity) does attribute a medium-high landscape sensitivity in relation to large scale wind energy development within LCT10 (and therefore only in Moray).

4.17 The table on page 12 of the Main Report of the LCS does acknowledge some limited opportunities for wind energy development of the scale of Cairn Duhie, and this area is of medium sensitivity to the development proposed. This judgement was reached in the ES in a LVIA context which is finer grained and more helpful than the strategic conclusions in the LCS.

4.18 Cairn Duhie is outside, but abuts, the northern boundary of the SLA. The SLA is a large area which extends 40 kilometres from east to west and up to 20 kilometres from north to south and is described as 24,500 hectares. The Highland Council assessment document for the SLA describes its key landscape and visual characteristics and its special qualities. It seems clear that no great attention is paid in the assessment to north-south roads through the area. Reference appears to be made to them more in terms of practical accessibility rather than because they add to the landscape character of the place. As we know from ES Table 7.2 the sensitivity of landscape is lower by virtue of the presence of roads within it, not higher.

4.19 The key characteristics and special qualities should be addressed in the context of the SLA as a whole, and upon those particularly special areas to which they make reference (Lochindorb and Findhorn River Valley at Streens). The only mention of routes through the area appear in the context of the whole in the eighth key characteristic and the sixth special quality. The factors relevant to sensitivity to change (any change and not just wind energy development) also omit any reference to the experience of driving through the SLA. The assessment document was published in June 2011. One might think that, had it been perceived that the "A939 experience" or those from the A940 or the B9007 were of consummate importance, such characteristics would have been recorded in the key characteristics, special qualities or sensitivities to change.

4.20 Policy 57 of the LDP advises that for features of local/regional importance it should be shown that developments will not have an unacceptable impact on the natural environment, amenity and heritage resource. This means looking at the key characteristics, special qualities and sensitivities of the area as a whole. It would be incorrect to isolate one SLA experience and conclude from that in terms of the SLA as a whole.

Landscape Susceptibility and Sensitivity

4.21 The applicant concludes a medium landscape sensitivity for the area of the site.¹⁵ The value of the SLA is high.¹⁶ However, those areas within 3.5 kilometres but outside the SLA, and the application site itself, are of medium value, not being designated.¹⁷

Landscape Character Effects

4.22 There would be significant landscape character effects out to 3.5 kilometres from the nearest turbine

4.23 Landscape susceptibility is one of the ingredients in the evaluation of significance.¹⁸ The north-south roads influence the perceptual qualities of the landscape and assist in reducing landscape susceptibility/sensitivity but may perhaps increase visual sensitivity.

4.24 The ZTV, coupled with the experience of a site visit, shows that visibility beyond 3.5 kilometres is limited as follows: (a) to the south visibility of the proposed development will be limited by the Hill of Aitnoch and Craig Tiribeg, except along the A939; (b) to the east visibility is limited by the Knock of Braemoray and Carn Biorach at a distance of about 3 kilometres; (c) to the north the scope of actual visibility is cut off at 3 kilometres or less by forest and woodland along the Findhorn River; and (d) to the west effects are limited by more forest and woodland along the Findhorn River. Further to the west there is more potential visibility, but also extensive forestry.¹⁹

4.25 Significant landscape character impacts on the proposed development will extend to about 3.5 kilometres and therefore across the SLA at a point where it is very narrow. These effects are agreed by each of the expert witnesses (and by the other witnesses) to be adverse. However, in terms of LCT10 and the Uplands within Highland the impacts will be localised.

The SLA

4.26 the SLA is not a landscape character area. It is an area designated for the variety of reasons recorded in THC's assessment of June 2011 (CD5.20). Therefore, in looking at the impacts on the SLA, it is appropriate to focus on the key characteristics, special qualities and defined sensitivities of the area.

4.27 The proposed development would only occupy a small part of the broad panoramas and wide uncluttered views identified as characteristics of the SLA. It would be seen in the context of other wind farms where broad views are available. Near to the site, the tranquillity and isolation of the SLA is much reduced by the two roads and overhead power lines. Travelling north across the SLA on the main roads, the turbines would be seen intermittently and on the horizon. Many close views would be filtered by vegetation. Heading south, the turbines would not be in views across the SLA. The visual edge to the SLA is already marked by the transition to lower ground and forestry and by the power lines. This would not be emphasised by the proposed wind farm, which would be visually permeable, allowing views through and beyond.

4.28 A major effect is predicted for road users on the closer parts of the A939 Highland tourist route. However, this is tempered by the growth of roadside trees. That would alter the focus of the travellers heading south on the road, whilst the distant views of the Moray Firth act as a key focus for those travelling northwards.

¹⁵ Applicant's inquiry report ([Document RES2](#)) at paragraph 2.13

¹⁶ (ES Volume 2 page 7-14 paragraph 7.115)

¹⁷ (ES Volume 2 page 7-13 paragraph 7.106)

¹⁸ Table 2 on page 7-5 of the ES

¹⁹ See Figure 7.3(b) in the ES.

4.29 Moderate effects are predicted for the A940 between Dava and Dunphail. This is more exposed and higher up than the A939. Views for those heading north in cars would be available for about 5 minutes at the likely road speed

4.30 The proposed development would not affect the special qualities of the SLA to the extent that its intrinsic values or the reasons for designation would be compromised, or such that would require the boundary of the area to be amended. The Dava Moor near the site is less remote, empty, wild and tranquil than other parts of the SLA. Lochindorb itself would not be affected.

4.31 There would be very little theoretical visibility of the proposed wind farm from the National Park because its northern boundary is a watershed at about 7.8 kilometres from the application site. Neither the integrity of the National Park designation nor its special qualities would be significantly affected. On approach to the National Park, the turbines would have been passed about 11 kilometres back. On leaving the Park to the north, travellers would not expect the same quality of landscape.

Visual Effects

4.32 No party has claimed that the proposed development would have an impact on the visual component of residential amenity. Following the approach of many inquiry decisions no property would become widely regarded as an unattractive place to live. Two properties (Little Aitnoch and Kerrow) would be more affected than most, with a high magnitude of change in the view. At Little Aitnoch, views would be from the side of the property and its garden. However, with vegetation filtering the view, the proposed development would not appear overwhelming or oppressive. Primary views from the property would not be affected. At Kerrow, views would be from the primary outlook at the rear of the property, its gardens and access track. Hubs of 17 turbines and blades of 20 would be visible on the slopes of Cairn Duhie, the nearest at 1.3 kilometres. At that distance the wind farm would not be oppressive or overwhelming because views are available in other directions. Woodland along the Dorback Burn would filter views. It would be remarkable if no residential property received significant visual effects as a result of a wind farm development in a rural area, and Cairn Duhie is no exception. However, while the magnitude of change to the visual amenity of the relevant properties would be high, the properties would remain attractive places to live. The impacts on the visual amenity of these properties would be acceptable.

4.33 Views of Cairn Duhie from properties in Ferness would be incredibly limited because of existing forestry (to be maintained through a planning condition) and because of screening by landform. This is amply demonstrated by the wireline image produced by the Applicant for VP2.

4.34 In cumulative terms, the separation of Cairn Duhie from other wind farms in the uplands will avoid any change in the character type. There is nothing which distinguishes this proposed development from any other commercial wind farm which has received permission in terms of the extent and intensity of visual effects. The only significant cumulative effect is predicted for the top of the Knock of Braemory where wind farms would be seen in various directions, but this hill has no path to it and few will climb it.

4.35 At a strategic scale, the proposed wind farm reflects the pattern of wind farms along the higher land to the north-west of the Spey. More locally, Cairn Duhie would be closer to the roads than others, but being relatively compact that will be quickly passed.

The main points for the council

4.36 The council objected to the application mainly on the grounds of the landscape and visual impacts of the proposed turbines. The proposed turbines would not respect the local distinctiveness of the landscape, impacting adversely on the appreciation of a sense of place; would not respect the historic pattern of development and landscape in the locality; and would have a significant detrimental impact on the SLA by affecting its setting, views across and views out of the SLA.

4.37 The main routes across the Dava are north-south, but it is not a transition area. People go there to experience its great value as a place in its own right. The Assessment of Highland Special Landscape Areas²⁰ includes that high tableland of this extent, which can be traversed and appreciated from public roads, is relatively rare in Highland region. This part of the LCT is therefore more susceptible to change than the LCT as a whole. The assessment also says that key characteristics are a sense of spaciousness, wide views and sparse human presence, and that it retains a strong sense of tranquillity as well as some wildness qualities, which are emphasised by an almost complete absence of built structures.

4.38 To those crossing the Dava Moor, whether on foot, by cycle or by car, would find that the wind farm sits centre stage. From the road its 110 metre vertical elements would dwarf Cairn Duhie and introduce an alien element onto the skyline. They would be in the focus of many views, in contrast to the almost complete absence of built structures now and would take away the open and simple character.

4.39 The wind farm would stand at and cast a shadow over a northern gateway to Dava Moor and its scale would be readily judged from the roads adjacent to it. It would also be central in views on the gateway to the SLA from the south and the approach to Lochindorb, in contrast to the peripheral experience of existing and consented wind farms. The ES does not pick up these localised impacts on the gateways to the SLA and transitions between the LCTs to the north and south.

4.40 Wind farms are not incompatible with SLAs in principle. The important issue is the impact of this particular proposal on the particular part of the SLA and how that impacts on the SLA as a whole.

4.41 The council's objection is not limited to impacts from roads and the Dava Way, but those effectively distinguish this from just any objection to a wind farm in or adjacent to a SLA and justify why it is so objectionable. It is not because of its design, but is due to the siting of so many large moving structures in this location. The key characteristic of visual connectivity with higher mountain ranges relies upon an uninterrupted visual connection. The proposed turbines would disrupt the visual connection to the north. The impacts on the SLA and its setting are protected by policy 57 of the Highland-wide LDP.

4.42 Consideration of the ES ZTVs reveals the extent which all hubs will be visible from the A939 driving north, with no other wind farms in view for much of the route. Tom nan Clach would be visible from the B road and elsewhere, but would have limited impact on the A939. Figures 7.1e and 7.2 show how the impact is in large part concentrated on the A939 and A940 corridors. Figure 7.10b gives the impacts with Glaschyle and Tom nan Clach. From these routes, Cairn Duhie would be the closest wind farm and centre stage in full view. Put together with the fact that the turbines would rarely be seen against a backdrop, the proposed wind farm would not follow the trend of existing development. It would not be seen as part of the pattern of wind farm development locally and would therefore conflict with SNH siting and design guidance at paragraph 4.4.

²⁰ [CD5.20](#) – page 134

4.43 The council's objection is reinforced by the impact on the few local dwellings where the impact is high and on the residents living in the area.

4.44 The council's objection is on both visual and landscape grounds. The European Landscape Convention definition includes that landscape is an area perceived by people. There is a visual component to landscape impacts. It is agreed, in effect, that there would be significant effects up to 3.5 kilometres into the SLA. That would be a high proportion of this narrow part of the SLA. The localised impacts here would also affect a high proportion of the receptors. This part of the SLA is more sensitive, even though there is more activity because of the roads. Those roads are an integral part of the SLA character and a particularly important part because it has the highest proportion of receptors.

4.45 The impact on the SLA should be assessed in context and by reference to the Highland assessment document, including the characteristics outlined on page 135 as informed by the overview on page 134. These show that the accessibility by the various roads crossing the area add to its value. Tranquillity may be affected by those roads, but they are important to the SLA and the immediate presence of the turbines would allow scaling and eliminate ambiguity in perception, quite apart from the impact on the roads themselves. These scale impacts would not occur with the wind farms at Glaschyle and Tom nan Clach. Although the site is not in the SLA the SLA landscape is of primary concern and is adjacent to it. The ES underestimates the effects. The large scale of change with the higher susceptibility should lead to a high, significant, adverse impact within 3.5 kilometres of the appeal site.

4.46 The published SNH guidance on siting and designing wind farms in the landscape includes that the design of a wind farm from key viewpoints and routes should ensure it does not detract from the character of a distinctive skyline. The proposal is inconsistent with the skyline to the north and detracts from it.

The main points for the CDAG

4.47 The Cairn Duhie Action Group is an ad hoc group of local community councils and voluntary organisations.²¹ The group's conclusions on landscape and visual impacts differ from the applicant and the findings of the ES.

4.48 The proposal would not fit the local pattern of development, with Paul's Hill, Berry Burn and Hill of Glaschyle to the east, and with Tom nan Clach and Moy to the west. It would be separate from these and not form a coherent group or cluster.

4.49 Agreeing with the ES, the proposal has a pervasive and significant effect on the open uplands and on the SLA. As a designation, the SLA must have some content and meaning. The designation is directed towards conservation and preservation of the existing, not as setting a bar for development proposals of any kind.

4.50 The key significant landscape and visual effects are experienced by residents and motorists travelling in both directions, who are all ascribed high sensitivity, with extensive visibility being introduced to the A939 south of Dava for the first time, and cumulatively on the A940 especially at VPs 3a, 7 and 9. The effects on the SLA will be at the key point where those passing through will best appreciate the qualities of the special landscape. The site is, in effect, a stage, visible for miles around. The turbines would be centre stage for those on the major tourist routes in and out of the National park and the Dava Way, spoiling the feeling of remoteness.

²¹ For a full list see the header to the summary report included above

4.51 VP's 1, 3, 4, 5,7 and 9, together with residential properties, would be adversely affected. Mitigation for Ferness depends on retention of trees which are already at cropping height, and further tree planting, a notoriously slow process.

4.52 Little Lyne; Kerrow Farmhouse; Braemoray Lodge; The White House; Culfearn; Little Aitnoch; Aitnoch Farm and Achnabechan Farm are all situated within 2 km of the proposal, which guarantees that they will suffer significant visual impact, and is contrary to policy, both adopted and emerging.

4.53 Visibility of turbines is introduced to users of the Dava Way for the first time, with consequent significant sequential visual effects, in addition to those experienced at VPs 3b, 8, 11 and 13, and cumulatively at VPs 4 and 10. Cumulatively, wind farms would become impossible to avoid. Together with the potential upgrade of the Keith to Denny overhead power line, the proposal would create an almost industrial landscape on the edge of the National Park.

4.54 In all, the landscape and visual evidence suggests a greater number of significant adverse effects than does the ES, leading to a safe conclusion of a lack of compliance with THC's Supplementary Guidance.

4.55 Compliance with policy depends in principle on SPP (June 2014) and Policy 67 of the Highland-wide LDP. Of course, the objectors recognise the place of renewables in the Scottish Government's current policy regime. Looking at the criteria at paragraph 169 of SPP, the following conclusions can safely be drawn:

- the cumulative landscape and visual impacts are significant and adverse and fall upon both landscape character and the receiving landscape itself, as well as on visual receptors. These impacts in particular operate to limit local capacity for further development;
- the skyline site chosen for this proposed development could hardly be more conspicuous even in this celebrated moorland landscape, as bare and open as is possible;
- the visual impacts on communities and individual dwellings are sufficiently significant to badly affect living and travelling conditions;
- the potential effects on impacts on residences, tourism and recreation are significant and adverse – they simply cannot be explained away as trivial or of no consequence;
- public access, including impact on long distance walking and cycling routes and scenic routes identified in the NPF are affected, some for the first time, by wind turbine development.

4.56 Policy 67 of the local plan sets out factors to be weighed in the balance. Of relevance here is the visual impact and impact on the landscape character of the surrounding area, where the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact, subject to any other considerations. Also relevant is the amenity of users of any Core Paths or other established public access for walking, cycling or horse riding; and tourism and recreation interests.

4.57 CDAG agrees with the Moray landscape capacity study, where it includes that there is no capacity within the Open Upland LCT because of cumulative impact, the effect on the Knock of Braemory and the strategic importance of the A940.

4.58 There would be significant visual effects up to about 5 kilometres. CDAG does not agree that the wind farm will be seen as a well-designed cluster of turbines on a simple

skyline, avoiding conflicts with complex topography or visual foci, and in scale with the landscape. It is the wrong site for this development. It is a prominent 'gentle ridge' where the development would have significant visual impact. It would be neither remote nor compact. There would be long distant views. It would have a long term impact on a highly sensitive and historically important landscape area, and on regularly occurring domestic interests, with a well-informed population. They have been here before and are well aware of what a wind farm development can do to a countryside setting and to their homes.

4.59 The impacts on houses and farms within 5 kilometres would be very significant and unavoidable for those who live and work there. Impacts will be severely detrimental which means, in effect the introduction of clear landscape and visual harm. Whatever the small boost for targets, the harm would be there for a generation.

4.60 In conclusion, the chosen site simply cannot accommodate the proposed wind farm. It would be superimposed on the topography and would grate and irritate from every viewpoint, lacking any subtlety or finesse, and almost demanding that those who live near enough or travel in the ordinary course see it in every view. The widely observed bare and gentle yet important topography of Cairn Duhie would be overridden by these substantial proposals, which will be 'front and centre' in the view on northbound journeys, very close to the road at points, and highly visible and obvious from every quarter. We should not deny the mystical and open quality of Dava Moor, unique in its ready accessibility and striking, featureless, yet character-filled magnificence. CDAG submits that extant policy, even where it is strongly supportive of renewables is designed to prevent this type of imposition, particularly where the landscape itself has attracted a sufficient recognition of its scenic and visual importance to achieve the SLA designation. CDAG cannot see how, even reading the policies in the most generous way, this proposal passes any of the tests.

The main points for Save our Dava

4.61 A unique feature of the Dava, Lochindorb and Drynachan SLA is the ready accessibility to its heartland by the public roads that cross it. These are recognised as official tourist routes. Dava Moor also used to support a rail link that now forms an increasingly popular leisure route, the Dava Way. The appreciation of the scenic value of these areas is enhanced by the presence of these routes in the landscape, not detracted by them.

4.62 If any location can indeed be termed as a 'gateway' then Dava, long serving as a communications corridor between the Spey Valley and the Moray Firth lowlands, provides the classic example. Wind farm development in this landscape would be inappropriate. The A939 and the A940, both form gateway routes to and from the Cairngorms National Park across an open moorland SLA.

4.63 To utilise solely the A939 and its tortuous uphill route that also crosses the picturesque River Findhorn valley to convey all construction traffic to service the development further accentuates the significance of the road to the outcome of this planning application. Save our Dava says that the developers have grossly underestimated this aspect of their application.

4.64 Traffic moves fast along the A939 and it can be intimidating for those who stop beside it. However, as a tourist route one does not have to stop to appreciate the intrinsic values of the SLA - the 'big skies' are there, the 'emptiness' is there, the derelict crofts scattered across the moors are there. Also, there are many lay-byes suitable for drawing-off the carriageway, made available after the old road line was realigned in the past. At least six exist between the Cairngorms National Park boundary and Dava junction. If no vehicles

happen to be met whilst travelling across the SLA, which can be common outwith the tourist season, or in winter, the sense of isolation and wildness is very tangible. The roads and their use do not reduce the qualities of the area.

4.65 To fully appreciate the tranquillity and solitude of an area with qualities of wildness, one has to access it on foot - a major asset of the Dava Moors SLA is that people with mobility limitations can appreciate its core areas such as Lochindorb, and by vehicular transport utilising these roads, can gain easy access to a landscape environment otherwise inaccessible to them.²²

4.66 SoD are disappointed that the viewpoint selected for the Residential Visual Assessment at Dava was chosen at a dip in the A939 some distance to the north of the settlement where the development proposal is all but totally screened by intervening topography. ES Fig. 7.1e. however, illustrates that 17-20 turbines are theoretically visible from this location. Tree growth cannot be relied to provide screening as it may be felled during the lifetime of the permission or be lost if muirburn runs out of control. It is the view of Save Our Dava that many of the households lying to the west of the development around Ferness could be more vulnerable to negative visual impact through woodland felling or loss than is claimed in the ES.

4.67 Save our Dava considers that the ES does not provide sufficient visual representation of the impacts of the proposed wind farm on the wider landscape and the Cairngorms national Park.

4.68 The wind farm site borders the A939 for over a mile at close quarters when heading north on the road towards Ferness. It is at the precise point on the A939 tourist route between Aberdeen and Inverness where the first wind turbine closest to the road is encountered, that the panoramic vista unfolds in forward vision showing the Moray Firth and the mountainous hinterland beyond to the west. For a traveller having just crossed its moors. This subliminally places the Dava Moors SLA in a broader geographical context from the landscape perspective. This view also encompasses in forward vision two other SLAs on the opposite side of the Firth, at North Sutors and Black Isle, and at Ben Wyvis. The vista from this point on the tourist route would be largely eclipsed by a major wind farm development appearing here. Save Our Dava produced their own imagery to illustrate their concerns.

Written submissions

4.69 **SNH** provide consideration of the landscape impacts in their consultation responses. In essence, their case is that the proposal would relate to the simple, large scale pattern of the managed upland landscape in which wind farms are already a recognisable feature. The landscape has medium sensitivity to wind farm development. In the current context, the proposal would not result in significant effect on the landscape character, although in some views the turbines would be associated with less developed landscapes.

4.70 The turbines would reinforce a visual edge to the north of the SLA, which is currently more subtly defined. There would be significant visual impacts from most of the selected viewpoints within 10 kilometres and particularly views from the A939, A940, Aitnoch to Dulsie road, Dava Way and other recreational routes. The proposed turbines would encroach unsympathetically, disrupting the wide and uncluttered horizontal views and affecting the sense of isolation and diminishing the extensive panoramas.

²² SoD Document E illustrations

4.71 Wind farms are already a recognisable feature of the landscape. However, most are set well away from the roads. Cairn Duhie would not be. In cumulative terms, Cairn Duhie would add to the visibility of wind farms, mostly from road corridors. It would also add to the band of such development from the Monadhliaths, across Dava Moor and into the Strathdearn Hills. SNH considers that the wider area has reached its capacity because of the desirability of keeping some areas of the Dava Moor area free from significant impacts.

4.72 There would be a limited increased visibility of wind farms from the Cairngorms National Park, mostly from locations immediately inside the Park boundaries and from some more distant high points. The context would be a landscape which already contains large wind farms.

4.73 The **Moray Council** objects on the grounds of the significant adverse landscape and visual effects upon the A940/A939 route, a key scenic and western approach to Moray, and upon the landmark hill, Knock of Braemory that would arise from the location, number and height of turbines on Cairn Duhie. The Moray Council considers that the siting would be inappropriate. The proposal would be contrary to the aims of its own policies and guidance in terms of landscape and visual impacts. Key considerations in the Moray Onshore Wind Energy guidance are maintaining the distinctive western threshold to Moray experienced from the A940 and protecting the landmark hills and their setting. The land within Moray but bordering Highland is not identified as an area of search for wind turbine development in the Moray guidance. The Moray Landscape Capacity Study identifies that the hills on the western boundary of the Moray Open Uplands LCT are important in shielding views of Paul's Hill wind farm from the A940 and the Lochindorb area and in limiting cumulative views with Berry Burn wind farm. The Moray Landscape Capacity Study offers no scope for additional wind farms in this part of Moray. The proposed would be seen to overwhelm Cairn Duhie. It would detract from the distinct form and character of the Knock of Braemory because the scale of the turbines would mean that they would intrude into views of the hill, diminishing its landmark status. Cumulatively, the effect would be to draw wind farm development closer to the landmark hill and introduce views of turbines from it in a new direction.

4.74 The **Cairngorms National Park Authority** objects to the proposal because the landscape and visual impacts and cumulative landscape and visual impacts of the proposed development would adversely affect the landscape setting of the National Park, in particular the important northern gateway to the National Park. It would have adverse effects from within the National Park and would materially add to the growing encirclement of it, particularly on the northern and western boundaries. This would adversely affect the integrity of the National Park and the qualities for which it has been designated. There would also be an adverse effect on the cultural heritage of the National Park

4.75 A large number of **written representations** were received where landscape and visual concerns were raised. The matters raised have been covered particularly well by Save our Dava and by others in their evidence to the inquiry session.

Reporter's reasoning

Landscape impacts

4.76 The landscape character of the appeal site and surrounding area has not yet been assessed in detail by the Highland Council. Nevertheless, it is part of an area of open uplands which extends into Moray to the north-east, where the landscape has been assessed by Moray Council.

4.77 The Moray Wind Energy Landscape Capacity Study does not cover the area across the border in Highland. Nevertheless it is of some relevance in that land covered by the assessment would be affected by the proposed wind farm and the similarities assist in establishing the sensitivity of the landscape as a whole. The landscape character is similar on both sides of the administrative border. The Moray study includes that the scale and general simplicity of the landform reduces sensitivity to larger turbines, but that the presence of operational and consented wind farms and the limited extent of the landscape restrict opportunities for additional development. It adds that the pronounced hill of Knock of Braemory constrains scope for development due to its prominence but also because it contains and separates wind farms. Key cumulative landscape and visual issues include potential cumulative effects on views and the experience of using the Dava Way trail and the effects of multiple developments in the Highland area from the A940 and Lochindorb area. The ES identifies the landscape character in the study area around Cairn Duhie as being of medium sensitivity to wind farm development and this is accepted by SNH.

4.78 The Moray and Nairn landscape assessment of 1998 includes that wind farm development could be visually accommodated in the more accessible and obviously human influenced parts of this landscape provided that openness was not cluttered by a profusion of wind turbines and that development avoids being on hill tops and adjacent to roads.

4.79 The open uplands is a large scale landscape. Where not constrained by designations, it is suitable in principle for larger type turbines in accordance with the search criteria of SPP. Once the separation from Ferness is assessed in detail, the appeal site is not in an area requiring significant protection in terms of SPP. The proposed wind farm should be acceptable subject to detailed consideration. Indeed it seems to me that the expansive and sparsely settled landscape is eminently suitable, in principle, for wind energy development.

4.80 There would be significant landscape effects at Cairn Duhie. The hill itself would be dramatically changed into a wind farm site, with turbines, ancillary buildings and tracks. The adjacent A939 road would be dominated by the scale of the turbines. Major significant effects are predicted by the ES at representative viewpoints nearby. Moderate but significant impacts are predicted up to 3.5 kilometres from the site.

4.81 Further afield, the impacts would be considerably less due to distance and screening. The open uplands already contains some wind farm developments. The appeal site is at the margin of this LCT. With these points in mind, I consider that the addition of Cairn Duhie would not have a significant and detrimental impact on the LCT as a whole.

4.82 The ES finds that the proposed development would have no more than a minor, not significant impact on other LCTs within the study area for the development. This is not disputed by the parties to the inquiry and I have seen no evidence to lead to a contrary view.

4.83 The Drynachan, Lochindorb and Dava Moors SLA is valued for its homogeneity, spaciousness, wide views, sparse human presence and sense of tranquillity. As the appeal site is outside of the SLA, the impact on it would relate largely to its setting. Its own landscape integrity would be untouched. Most of its valued characteristics, accessibility, homogeneity, wide views and sparse human presence would remain. Even its tranquillity would be largely maintained, post construction, because a wind farm is generally quiet except close by, has a recognisable and steady rhythm of turning blades and is free from agitation or other dramatic disturbance. Nor do I accept that the introduction of a scale reference by man-made structures would diminish the qualities of the SLA, where the existing structures of Lochindorb castle and the road network already dictate the scale.

4.84 The site is beyond the edge of the SLA. From the SLA, the backdrop to views of the turbines would be the change from open expanse to wooded land and a power line on steel lattice structures. Although the turbines would reinforce this as an edge, that would not change the SLA. This consideration is strengthened by the conclusion of the report relating to the extension of the SLA that the Cairn Duhie site should not be part of it. It is of a different character and would be understood as such.

4.85 I acknowledge, however, that the wildness qualities and the absence of built structures would be affected. Turbines would be visible from a much greater part of the SLA than at present. There would be an impact on the setting of the SLA affecting its character to some degree. The turbines would be a dramatic change to the setting, but few views into the SLA from outside would include the proposed development, because those approaching would mostly emerge from lower ground and wooded valleys. I accept that its presence would be difficult to ignore in views across the SLA from the south, but the qualities of the SLA would still be readily apparent, particularly so in the specific areas of Lochindorb and the Findhorn valley at Streens. Despite the extensive area covered by the SLA, the land is not designated as wild land and receives no specific protection in that regard.

4.86 The Moray wind energy LCS deals with the landscape character of Moray and the impacts of wind energy development within Moray. From the Moray perspective, the higher hills on its south west boundary are important in shielding views of existing wind farms from the A940 and the Lochindorb area and limiting cumulative impacts in views from the Dava Way trail. It cautions against wind farms on those hills.²³ Cairn Duhie is lower than that area of hills and sheltered from views of Berry Burn and Paul's Hill. It would not compromise the ability of the hills to contain the setting of wind farms within Moray.

4.87 The setting of the distinctive Knock of Braemory would be subject to a high degree of change, but the function of the hill in terms of the Moray landscape, as a screen to developments further west, would not be affected to any significant degree. The hill would also remain as a distinctive, uncluttered and visually interesting landmark, albeit within a new context.

Cumulative landscape impacts

4.88 The ES assesses the additional effect of introducing the proposed turbines. The ZTV maps²⁴ show extensive zones of theoretical visibility of existing wind farms across the area. The proposed turbines would add visibility mostly along the Dorback Burn and Anabord valley along the A939 and some areas on the north of the Findhorn river. The theoretical impact in these areas would be lessened by the woodland at the margin of the upland area.

4.89 The proposed wind farm would be seen in the context of several others. Some will be seen in the same views and others sequentially for those travelling to and through the area. In the context of a landscape with wind farms, the addition of the Cairn Duhie proposals would add to the impression of a landscape with wind farms. It would not, in my view, lead to a change to a wind farm landscape. This characteristic of the landscape would remain largely as it is. The national policy position is that this landscape type is generally suited to wind farm development on this scale. The proposals would fit with the general pattern of wind farms in this landscape character type. For these reasons I consider that the landscape as a whole would not be significantly harmed by the addition of the cairn Duhie wind farm.

Visual impacts

²³ See page 57 of the main study report (not the appendix) - [CD5.15](#)

²⁴ ES volume 3 (CD1.4) [figure 07.01](#) and following figures

4.90 Most of the impact on landscape character relies on its visual impact. The visual impacts of the development are also part of my assessment in the paragraphs above. The turbines would be a simple cohesive composition relating to the land form. They would also relate in general appearance, scale and layout to the existing and consented turbines in this upland area. In my view, they would be consistent with the SNH guidance on siting and design of wind farms in the landscape.

4.91 In visual terms, there would be further influence of wind turbines into the upland area and the setting of the SLA. The ES finds significant visual effects at representative viewpoints up to around 12 kilometres from the appeal site. In many views there would be a dramatic change and the wind farm would draw the eye and be a dominant feature.

4.92 Close by the turbines would loom large in the view. Their height and scale would become more apparent the closer the view. This impact would be most obvious to those living nearby, at Dava, at parts of Ferness and Edinkillie and at outlying properties. It would also be a significant part of the experience for those driving past the site, and in particular the tourists on the main routes across the area. However, the experience from a vehicle is not the same as from a house or garden, or for those on walking routes, because the windscreen is another screen like a computer or a TV and the experience is passive and framed. In this case, the turbines would not be at an important part of the tourist journey, nor at a destination of especial landscape and visual interest. Whilst the turbines would be a part of the visitor experience, I consider that the significant adverse effects would be limited to short sections of the A939 and A940 roads, which I consider to be of lower sensitivity.

4.93 There would be significant visual impacts from the development proposed. These would affect nearby residents, who could be affected on a regular basis. They would also affect visitors to the area, particularly those coming to the SLA and the Dava way for recreation. To a lesser extent, those travelling on the main routes would be more aware of the incursion of turbines into the landscape surrounding the SLA.

4.94 The upland landscape character straddles the border with Moray to the east. The Knock of Braemory is the most prominent of a group of hills which mark the edge of the more open moorland to the west. These hills largely shield the wind farms of Paul's Hill, Berry Burn and Hill of Glaschyle from users of the principal routes across the area. This landmark hill would be adversely affected by the siting of the proposed turbines close to its steep western flank. Moray Council considers that the attractive approach to Moray from this side would be significantly harmed, diminishing the sense of arrival into Moray. I disagree. There is no visual clue of a change from Highland to Moray and the boundary follows no clearly identifiable landscape character change. The drop into wooded landscape occurs after the site has been passed.

4.95 Longer views would be possible from the Cairngorms and across the Moray Firth. However, in these longer views, wind farms are already an established part of the landscape and the effect of long distance views is to diminish the scale of the developments in the vast panoramas of the highlands.

Cumulative visual impacts

4.96 The proposed turbines would be the most prominent for the road users crossing Dava Moor and for those on sections of the Dava Way and other paths nearby. They would add to the views of the existing turbines at Hill of Glaschyle, Berry Burn and Paul's Hill, and to the potential development at Tom nan Clach. They would reinforce generally the impression of the Highland landscape in this area being one where wind farms are a common feature. However, in cumulative terms, the small amount of additional visibility of

wind farms would not alter the general visual impression to any significant degree. The turbines would encroach into a noticeable gap between the loose clusters to the east and west and that would coincide with a highly accessible area because of the roads across the moor. However, at the scale where significant impacts are appreciated, that is within 5 or so kilometres of the site, the cumulative impacts would be much reduced by local topography.

4.97 Wider views from, for example, the heart of the Cairngorms National Park, would be less affected as the ZTVs show that there would be visibility only from prominent hills at some distance from the application site. At such distances, the supposed band of wind farms encircling the park would rarely be apparent or intrusive in the view.

Residential visual amenity

4.98 The ES concludes that residents at 9 properties would be subject to significant visual effects. I agree that none of the properties is close enough to the appeal site to have residential amenity so affected that the properties would become unattractive places in which to live. Nevertheless, there would be a degree of visual change that could be unpleasant to those living there. In particular, main views from Kerrow and Braemory Lodge would face across the Dorback Burn valley to a skyline of turbines. At Little Aitnoch views would be more open and looking down towards the full array on Cairn Duhie. These would be from secondary windows and the main garden area to the east of the house. These properties would be the most closely affected visually. Others within the applicant's study are further away or more screened. I also note that the separation distance from the turbines at all these properties would comply with SPP and the Moray guidance.

4.99 The residents of Ferness would not be significantly affected in visual terms according to the ES. I note that this relies on tree planting in the foreground and the retention of existing forestry. Nevertheless, I note from my site inspections that the rise of the land towards the site and the opportunity for trees to be retained on the ground between the houses and the A939, mean that the views from these properties are unlikely to include the turbines to any meaningful degree. The forestry between these houses and the application site is amenity woodland rather than commercial forestry and is far less likely to be felled.

4.100 I acknowledge also that residents would be aware of the turbines as they went about their lives in and around their properties and as they come and go on everyday business. That would add to the impact of the turbines on their lives.

Impact on the Cairngorms National Park

4.101 The proposed development lies outwith the National Park. Visibility from the Park would be limited to a few locations on the northern boundary at distances of over 11 kilometres away. From there, the proposed turbines would sit on the moorland edge against a backdrop of lower wooded hills and distant farmland. There would also be visibility from the Cromdale Hills at over 19 kilometres distance. From there the development would be seen on moorland to the north-west of the Paul's Hill and Berry Burn wind farms and at a similar scale. There might be limited views from other peaks within the National Park but at a considerably greater distance and with reduced impacts. At these distances and with the limited visibility, any addition towards encirclement of the National Park would have little impact on its qualities and would not conflict with its aims. I have no evidence that there would be any impact on the cultural heritage of the Park.

4.102 On leaving the Park on the A939 or the Dava Way there would be no visibility at first, but a little further north and increasingly, the turbines would become evident. The ES says that the impact would be major. However, that does not impact on the Park itself. Coming towards the Park, the views diminish and are largely in the rear view mirror of those

crossing the moorlands and entering the gateway to the Park. The impact on that experience would be slight.

4.103 The cumulative impact on the National Park relates to the pattern of wind farm development within the upland and moorland landscapes across the hills to the north. The proposed would add to this but with no significant change in landscape character. In visual terms, there would be little impact other than a moderate and significant impact in a few little-visited locations along the northern boundary.

Conclusions on this issue

4.104 The proposed site for Cairn Duhie wind farm is in an area of open upland suitable for large turbine wind farm development in accordance with the criteria of SPP. The proposed development would accord with the siting and design guidance of SNH.

4.105 The landscape character of the SLA is of undoubted value. It is a plateau world, a high stage with an evocative atmosphere, of great value because of the sparse population and the absence of significant settlement. The proposal lies outside of the SLA, but will affect the setting of parts of that special landscape, particularly close by.

4.106 I find that the site is otherwise suitable for wind energy development because it is relatively unconstrained, suitably distanced from most homes and views would be comparatively contained. The main views would be experienced by those travelling across Dava Moor. Although the main roads here are recognised tourist routes, I do not consider that the turbines would detract from the experience. The site is close to the routes which provide useful access to the area, but the roads themselves are detrimental to the special qualities of the SLA. In this instance, reinforced by my views on the impacts to those in vehicles, I find that the location alongside the road would not be unacceptable.

4.107 The impact on Moray would be limited to the setting of the Knock of Braemoray as a landmark hill and the visual impacts on the approach to Moray. The screening effect of the Moray hills would not be compromised.

4.108 Cumulatively, the proposed wind farm would not alter the landscape character of the surrounding area. It would remain a landscape with wind farms. Visually, the cumulative impacts would be limited by topography and separation. My considered assessment is that cumulative impacts would not be significant.

4.109 The impacts on the Cairngorms National Park would be slight.

4.110 Overall I consider that the site would be suitable for wind farm development. The adverse impacts in terms of the landscape, visual appreciation of it and the experience of those who live there or visit the area would not be so substantial that the development would be unacceptable.

CHAPTER 5. Other relevant issues

5.1 The applicant says that the proposed development would bring significant benefits from renewable energy and economic investment.

5.2 Relevant matters of concern to other parties include impacts on: roads, private water supplies, residential amenity; cultural heritage; noise; tourism; and the potential for unexploded ordinance on the site. I deal with these matters in this chapter.

5.3 The applicant says that there are no other issues such as ecology, ornithology, radar, transport, hydrology or noise where objections are supported by evidence. These and other concerns from interested parties are matters where they say that conditions would be able to overcome the adverse impacts. I deal with conditions in chapter 6.

Renewable energy generation and economic benefits

5.4 The applicant says that the proposed development would contribute up to 60 MW of renewable generation capacity to the national electricity supply mix. That would be a substantial contribution towards national targets. That energy could displace an estimated 84,00 tonnes of CO₂ each year compared to the current fuel mix. It would also further diversify the national energy supply, thus contributing to energy security.

5.5 The proposed wind farm development would also provide employment opportunities during the construction period, but also during the operational and decommissioning periods. Such employment would be direct, indirect and induced.

5.6 The proposed wind farm development would provide a diversification of land use and would result in land owner benefits which would accrue through rental income paid by the wind farm developer/generator for both ground rent and a percentage of revenue generated by the wind farm.

5.7 The business rates revenue from the development and operation of the proposed wind farm is estimated to be up to £9.18m over its 25-year lifetime

5.8 The Proposed development would result in a number of beneficial employment effects. The Applicant estimates that a temporary workforce of up to 36 full time equivalent jobs would be created during the 28 month construction stage of the development, with a significant proportion of these construction jobs being sourced locally. It is expected that the proposed wind farm would also support the equivalent of 1-2 part-time positions during operation and maintenance for the lifetime of the project.

5.9 The applicant would deliver a voluntary contribution to a community benefit scheme related to the proposed wind farm at a rate of £2,000 per MW per year. In addition, a Local electricity discount scheme to the value of £3,000 per MW per annum would be offered to those qualifying within a designated zone of benefit, providing an annual discount on their electricity bills for the lifetime of the wind farm. Both measures would bring significant and measurable benefits to the local community, which directly addresses the Scottish Government's related policy position as set out above and contained within the draft Energy Generation Policy Statement.

5.10 The council accepts the energy generation benefit in support of national policies. It acknowledges the potential for job creation and local spend are considerable during the construction phase, but that jobs after the construction period would be limited.

5.11 CDAG says there will be some short term net economic benefit from this proposal, including local and community benefits such as employment, associated business and

supply chain opportunities; the proposal will make a small scale contribution to renewable energy generation targets, which are in any event already exceeded in Scotland; the proposal will not have any measurable beneficial effect on harmful greenhouse gas emissions.

5.12 It is clear to me that, if approved, the proposed turbines would make a contribution towards achieving the Scottish Governments' renewable energy generation targets. The proposal would contribute to more secure and diverse energy supplies and would support sustainable economic growth.

5.13 In addition, capital expenditure, site construction employment and promised on-going revenue to the local community would result in local economic benefits. That said, I do not have any clear evidence of the level of the net economic benefit.

5.14 No weight should be given to the applicant's proposed community benefits. In any event, very little detail is given as to securing them. The Scottish Government advice on community benefits²⁵ makes it clear that provision of such is not a relevant planning consideration including in S36 applications, although the guidance says that the principles should be considered by all applicants seeking consent for proposals under Section 36 of the Electricity Act.

Transport

5.15 During the construction phase and no doubt decommissioning too, large turbine parts and other materials and equipment would need to be transported on relatively narrow highland roads. Neither the trunk roads authority nor the council's traffic and transportation service raised any objection. Construction traffic management plans would be secured by conditions.

5.16 Local residents and community councils have raised objections based on the disruption caused by abnormal loads on local roads, the shadow flicker and distraction to motorists, and the risk of ice throw at the section of the A939 passing the site. The applicant has addressed transport matters in the ES and ice throw in its turbine layout justification.²⁶

5.17 There are not likely to be significant effects on road traffic, save during the construction phase. The slow moving abnormal load vehicles would have an impact on traffic, but this is calculated to have an effect on about 23 vehicles over a maximum of 80 delivery days. Deliveries will be timed to avoid peak travel times. Further, the road is operating below capacity, which reduces the risk of significant delay.

5.18 Save our Dava presented a well-articulated concern for the safety of the structure of Logie Bridge. The applicant has addressed this in Chapter 14 of the ES. A structural load assessment has been made in consultation with the Council Engineer, who has confirmed the suitability of the bridge for the loads proposed. Some component travelling to the site will have a high gross weight but this will be distributed by the configuration of the axles and load distribution on the transporting vehicle. Even so, the proposed conditions include for an assessment of the capacity of existing bridges and structures along the delivery route, which will allow the council to manage the protection of this and any other listed bridges.

5.19 The transportation of the abnormal loads needed for construction of a wind farm is a matter for the appellant in consultation with the roads authorities (and usually the police). Detailed consideration will be done once final components and programming are available and a trial run would be undertaken. Ministers should assume that the competent

²⁵ [CD4.19](#)

²⁶ Within [CD1.11](#)

authorities will do their job, including ensuring that the loads carried on the road would not put any bridge structure at risk. In planning terms, therefore, this matter carries little weight.

Private water supplies

5.20 The Cairn Duhie Action group raises the potential for significant adverse effects on the private water supplies of certain residencies within the vicinity of the application site. They say that the possibility of permeable bedrock and the high water table means that there would be little attenuation of any pollutants. Any alteration to the drainage run-off could alter water flow in the catchment. There is no certainty that private supplies would not be affected. Cairn Duhie Action Group does however accept that these matters may be regulated by effective planning conditions.

5.21 The council raises no issue subject to conditions, noting that the construction of wind farms can be managed effectively to protect water quality. SEPA raised no objection in relation to private water supplies. The applicant has reported a survey of private water supplies in the ES and has identified a minor impact at Muckle Lyne. The ES proposes mitigation through the construction environmental management plan, which would be secured by condition. On that understanding, any residual impacts would not be significant.

5.22 If different bedrock conditions are found during construction, the detail design of the ground works may need to be changed. This is anticipated in the proposed construction and environmental plans, which are to be submitted in accordance with the proposed conditions.

5.23 Whilst concerns have been raised, I have no alternative evidence to conclude that supplies would be affected. Mitigation measures would need to be secured by condition to deal with any pollution incidents that may occur.

Cultural heritage

5.24 The application site contains some sites of archaeological interest, but no objection is raised by Historic Environment Scotland or others subject to conditions. The ES finds no significant residual impacts on cultural heritage assets.

5.25 The council's own internal consultation broadly accepts the findings of the ES subject to a condition to evaluate, preserve and record any historic finds on the site and at any works along the access route.

5.26 The Ardclach Bell Tower is a listed building and scheduled monument, with public access and extensive views across the wooded Findhorn River valley to the east, south and south-west. From the top of the tower, all of the turbines would be visible above the tree tops. They would have an impact on the setting of the tower. However, the immediate setting of the tower is of prime importance and this includes the strong landscape feature of the river valley and the visual relationship with the parish kirk to the south east. From outside of the tower, and elsewhere within its setting the turbines would barely be noticeable. The turbines appearing away and out of this environment would be noticeable from the tower, but I do not consider that its setting would be significantly compromised.

5.27 Lochindorb Castle is a ruin and a scheduled monument. It is also part of a picturesque and well-visited scene, being set on an island in a loch within the SLA. The proposed turbines would not be visible from the castle or the popular lochside road. They would be visible in views of the castle and Lochindorb from the hillside to the south and south-east of that loch. That could affect the setting of the monument, particularly as its historic interest includes its location on the open moorland. However, the principal setting is the hills immediately around the loch and the views of it from the public vantage points close by. I have found limited harm to the landscape character of this setting. The wider

setting would also be readily appreciated even with the turbines in place. On balance therefore, I consider that the setting of the castle would not be harmed.

5.28 I agree with the findings of the ES that no other cultural heritage asset would be significantly affected by the proposed wind farm.

Residential amenity

5.29 I have dealt with the visual amenity at residential properties in Chapter 4 of this report. There I have found that residential amenity would be significantly harmed. Objections to the proposed wind farm were also received on the grounds of noise and disturbance during construction of the proposed wind farm.

5.30 In terms of the construction (and probably in decommissioning and restoration too) there would be considerable activity on the wind farm site and the access route. This would add to the noise and disturbance in the area, albeit for a limited period. However, the excessive effects of construction would be mitigated by conditions and daily life should continue with little overall disruption or inconvenience.

5.31 The undeveloped moorland is already subject to the noise caused by traffic on this fast section of road. Cairn Duhie would introduce the noise of turbines. However, there is no dispute between the council and the applicant that the proposed turbines would accord with the requirements of ETSU-R-97 (on the assessment and rating of noise from wind farms) and that a suitably worded condition would protect those living nearby from excessive noise, should it occur. I see no reason to disagree.

Tourism and rights of way

5.32 The Highland Council says that the visual impacts, including cumulatively with other wind farms, would be significantly detrimental to the interests of tourism. Visit Scotland notes the opposition within the local tourist industry and is concerned itself at potential negative impacts. Moray Council and the Cairngorms National Park Authority are equally concerned that the visual impacts of the development would harm tourism. This is reflected in many of the individual objectors to this proposal.

5.33 The ES notes that comparative studies have shown that there is little evidence that tourists or recreational users change their behaviour in response to an environment altered by the presence of wind farms. The ES therefore predicts only minor significance of effects.

5.34 I have dealt with the landscape and visual impacts of the proposed development in Chapter 4 of this report, including the impacts on core paths and the Dava Way. The proposed development avoids the most sensitive tourist places and minimises its impacts on the nearby SLA. The residual adverse impacts would be confined largely to a 12 kilometre radius and would not affect any recognised tourist destination to any significant degree. The travelling visitors would mostly experience the wind farm for a short while and from within their vehicles. This would not spoil the majority of their journey or arrival at their destination. Those out in the countryside itself would have the panoramas and vistas all around them, with views between, through and beyond the wind farms in the area. To my mind the turbines would not reduce the ambition of those wishing to visit this area. I therefore conclude that the tourist industry is unlikely to be significantly harmed by the proposed wind farm.

Unexploded ordinance

5.35 Save our Dava says that Cairn Duhie was likely to have been used for wartime exercises. In particular, trenches across the site may have been dug for that purpose.

They say that records would not necessarily exist. Undetonated shells could be buried deep into the peat. The site is potentially highly dangerous.

5.36 The applicant acknowledges that wartime ordnance may be buried at the site, but research has found no reliable records or other evidence of military use. The danger of explosion is considered to be low and site practice could minimise any risk.

5.37 I acknowledge that an explosion from wartime ordnance could have serious consequences. However, the evidence does not point to this site being a special case where consent might be refused as a precaution. Rather, I take the view that with the now heightened concerns, the construction management of the site can be planned to deal with any likely eventuality. That can be secured by the conditions proposed.

CHAPTER 6. Conditions and obligations

Conditions

6.1 Conditions were proposed by the Highland council and by a number of consultees. As a part of my inquiry, I issued a procedure notice for a hearing session to discuss possible conditions and obligations. The applicant and the council submitted an agreed list of conditions prior to the hearing session. These and other suggestions were available for comment by other parties and were discussed at the hearing session. The agreed conditions take into account the ECDU guidance on conditions for Section 36 wind farms.

6.2 Should the Scottish Ministers determine to grant consent, conditions would be attached to the section 36 consent and to the deemed planning permission. I have arranged the suggested conditions in Appendix 1(A) and 1(B) accordingly. In general, these conditions follow the agreed wording between the council and the applicant. In the following paragraphs I set out where I recommend changes.

Section 36 consent

6.3 Conditions proposed for any section 36 consent should set a time limit for beginning the development and an expiry date for the consent. Five years for commencement would be reasonable for this section 36 consent because of the need to organise grid connections and other consents. The condition limiting the development to 30 years clearly needs to have a start date. This would be the final commissioning date, but that could be artificially extended by a protracted construction period. The guidance and definitions provided on the ECDU list suggest an 18 months maximum construction period and this is included in the proposed definition accompanying the conditions.

6.4 The consent should also be conditioned so that Scottish Ministers should authorise any assignment of it.

6.5 The proposed turbines have the potential to interfere with the primary surveillance radar at Inverness Airport. No objection has been received from statutory consultees, provided that mitigation is in place. The suggested condition would require a scheme to be approved for the design, with CAA approval of the proposed mitigation. That would ensure that a proven scheme would be in operation before the development could commence.

Deemed planning permission

6.6 A condition will be necessary to ensure turbines are lit so that they can be seen by aircraft. This might be infra-red to reduce the impact on night skies, but I heard that this would not be appropriate for pilots without infra-red goggles, which might be the case with privatisation of mountain rescue services. However, I am content to rely on the advice of the MOD in this regard. There will be other wind farms with infra-red lighting to minimise the visual impact in darker skies. It would be a matter for other authorities to ensure that rescue and other aircraft are suitably equipped. That said, alternatives such as visible lighting on the cardinal turbines might be preferred. I have therefore adjusted the condition to allow the precise lighting to be agreed. I do not consider that the visibility of red lighting on four or more turbines would be sufficient to affect my overall recommendations.

6.7 The intended decommissioning, restoration and aftercare of the site is included in the 30 year lifetime of the development. A strategy would be provided before development begins and that would trigger preparation of a plan not less than two years prior to decommissioning. The suggested condition sets out what should be included in the strategy and eventual plan. The necessary security for the cost of the plan would be

covered by a bond. A further condition would set out the requirements and management of the bond. That would accord with the specimen condition prepared by ECDU.

6.8 The parties agree that there should be a condition to deal with a failure of any particular turbine, but the council goes further in suggesting that, should half or more of the turbines fail to supply electricity on a commercial basis, the planning authority would then be able to direct that the entire wind farm be decommissioned. The justification for this would be that the removal of half or more of the turbines could be harmful to the balanced appearance and compact design of the wind farm. It seems to me highly unlikely that a wind farm of this scale of investment will be allowed to fail by loss of 50% of its turbines. Even if it were to happen, I do not consider that the situation would endure for very long or that it would be particularly unsightly, provided the required removal and restoration were carried out in accordance with the condition.

6.9 Conditions relating to the appearance of the development, including micro-siting, are agreed between the parties.

6.10 Construction of the wind farm would be a major operation and is the time when most of the environmental impacts would occur. The parties have agreed a series of conditions to regulate this phase of the proposed wind farm. These include a condition to set up a community liaison group; preparation of a construction traffic management plan; specific conditions to manage traffic, including abnormal loads; a construction and environmental management plan; and a bird, mammal and fish protection plan. Those proposed are similar to many attached to consents and permissions for wind farm development. They should ensure that all the measures for mitigation identified in the ES are carried out.

6.11 TV interference can happen with wind turbines. Any issues which arise in the year following final commissioning should be investigated and put right by the wind farm company. I do not consider that a bond is necessary to ensure delivery of this where only small sums are likely to be required and where the developer has a keen interest in good relations with the local population. The proposed condition includes for a scheme to be approved, which can include timescales.

6.12 Further agreed conditions include for protection of any archaeological finds on the site; access management, protection of private water supplies; and a condition to control noise from the wind turbines. Although noise is calculated to be acceptable at residential properties, a condition is needed to deal with any excessive noise produced by abnormal operation or changes in the turbines performance.

6.13 Unexploded ordinance has been raised as a possible constraint on development of the site. Although I have found that the risk would be acceptable, I agree that a condition would be appropriate to ensure that there is a scheme in place to identify and manage that risk. For simplification, I have included this in the requirements of the proposed construction and environmental management plan.

Obligations

6.14 No obligations are proposed by the applicant. In its inquiry statement, the council sought an obligation to secure a bond for decommissioning and restoration of the site at the end of the lifetime of the development. The council also sought that the obligation would cover wear and tear on the road network and any necessary road improvements to enable construction and decommissioning of the project. The council also expected at that stage that other miscellaneous items such as rectifying TV interference might be dealt with by an agreement.

6.15 The general approach to the use of planning obligations is covered in Scottish Government Circular 3/2012 on Planning Obligations and Good Neighbour Agreements. In most cases planning conditions are preferable to legal obligations. The circular also promotes the use of alternative agreements under different statutes. For example, a planning obligation would not meet the test of necessity where the repair or alteration of roads can be achieved by an agreement under the roads (Scotland) Act 1984.

6.16 I have found above that the necessary decommissioning bond can be secured by a planning condition requiring the strategy for decommissioning and restoration to be approved before development begins. That would include the arrangements for a bond. The repair of the roads is a matter that can be agreed between the applicant and the relevant authorities outside of the Section 36 and planning conditions. In any event, the traffic management plan required by condition 16 should cover the arrangements for any abnormal use of the roads.

6.17 I conclude that the matters referred to by the council can all be dealt with by planning conditions or could be achieved by specific agreements beyond the consent and deemed planning permission.

6.18 The appellant offers a variety of community benefits. I have found in Chapter 5 that these are not material to consideration of the S36 consent or deemed planning permission. It would not therefore be appropriate to accept a legal obligation to secure those benefits.

CHAPTER 7. Conclusions and recommendations

7.1 The applicant considers that the proposal would provide significant renewable energy and economic benefits, would accord with local and national policy and that any adverse impacts would be suitably mitigated. The council concludes that there would be significant landscape and visual impacts with consequences for tourism and local people. Other parties object on the grounds of landscape and visual impacts. Local residents and representative organisations raise a number of issues in addition to the landscape and visual impacts. These include cultural heritage, transport, residential amenity and environmental impacts.

7.2 In Chapter 4 of this report I have found that the site would be suitable for wind farm development. The adverse impacts in terms of the landscape, visual appreciation of it and the experience of those who live there or visit the area would not be so substantial that the development would be unacceptable.

7.3 In Chapter 5 I have found that, subject to conditions, there would be no unacceptable impacts on transport, private water supplies, cultural heritage, or residential amenity. On the balance of probability, there would be little risk from unexploded ordinance on the site.

7.4 I have found in Chapter 6 that the proposed development would not be acceptable without the imposition of a number of conditions.

7.5 Taking my findings together and subject to those conditions, the proposed wind farm would sufficiently preserve natural beauty, conserve flora, fauna and geological or physiographical features of special interest and protect sites, buildings and objects of architectural, historic or archaeological interest. The conditions I recommend would provide reasonable mitigation of any adverse effects. The proposals would also avoid, so far as possible, causing injury to fisheries or the stock of fish in any waters. Therefore, the proposed wind farm would comply with the requirements of the Electricity Act.

7.6 In the context of national policy on renewable energy development, the proposed wind farm would be a positive change, helping to meet the need for alternative energy supplies. The lack of any substantial harm to the landscape character or to residential amenity and recreation leads me to conclude that, on balance, the application conforms with NPF 3 and SPP. The proposal would contribute to sustainable development and the presumption in its favour therefore applies. The site is not in a national park or national scenic area. It is not covered by any specific national or international designations and is not mapped for wild land. Parts of the site have deep peat cover and much of the site is within 2 kilometres of the settlement at Ferness. Although this puts the site in an area of significant protection as defined in SPP, further consideration of the design in relation to the landform and woodland around the site demonstrates that significant visual effects on the community would be substantially overcome. At the same time, the layout has been arranged to avoid deep peat and the ES and SEPA response suggest that there would be no significant impact on peat.

7.7 In terms of the development plan, the key policy is Policy 67 of the Highland-wide LDP of 2012. This policy is specific to renewable energy developments and includes reference to all relevant criteria necessary for the consideration of a wind farm application. It also allows for the necessary balance between the effects of the proposal. My findings above conclude that on balance the proposed wind farm would provide a useful contribution towards energy targets on a site where negative impacts are minimised. Taking the mitigation measures into account, I conclude that the proposed development would accord with Policy 67 and with the development plan as a whole.

7.8 The council's supplementary guidance supporting Policy 67 does not yet establish areas of search in accordance with SPP for the area around the application site. In this case the application of the criteria in SPP is appropriate.

7.9 In terms of cultural heritage I have found in Chapter 5 that the impacts would be acceptable and therefore conclude that listed buildings, scheduled monuments and their settings would be preserved.

7.10 I therefore recommend that the Scottish Ministers grant consent for the proposed wind energy development, subject to the conditions at Appendix 1(A) of this report.

7.11 Should ministers grant consent under the Electricity Act, I further recommend that they direct that planning permission shall be deemed to be granted subject to the conditions at Appendix 1(B) of this report.

Dannie Onn

Reporter

Appendix 1: Recommended conditions

Glossary of terms used in the following conditions

Commencement of development means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997.

Date of First Commissioning means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the development.

Date of Final Commissioning means the earlier of: (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the development erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.

The Company means RES Limited or any assignee of the consent granted through condition 3.

1(A): Section 36 Consent

1. Development must commence no later than 5 years from the date of this consent, or such other period as the Scottish Ministers may direct in writing. Written confirmation of the intended date of commencement of development must be provided to the planning authority and Scottish Ministers no later than one calendar month before that date.

Reason: *To ensure that development commences within a reasonable period.*

2. This consent shall expire after a period of 30 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning and Final Commissioning must be provided to the planning authority and the Scottish Ministers no later than one calendar month after that date.

Reason: *To define the duration of the consent.*

3. The Company shall not assign this consent without the prior written authorisation of the Scottish Ministers. The Company shall notify the planning authority in writing of the name of the assignee, its principal named contact and contact details within 14 days of the completion of an assignment.

Reason: *To ensure that the Scottish Ministers know who is responsible for the wind farm.*

1(B): Deemed planning permission

Aviation

4. No development shall commence until a radar mitigation scheme has been submitted to, and approved in writing by, the Scottish Ministers in consultation with the operator of

Inverness Airport. This will include the submission of a safety case to the Civil Aviation Authority for approval.

No turbine shall be erected until the radar mitigation scheme has been implemented. Once operational the development shall be operated in accordance with the approved radar mitigation scheme.

In this condition “Radar mitigation scheme” means a scheme designed to mitigate the impact of the wind farm upon the operation of the primary surveillance radar at Inverness Airport and the air traffic control operations of the airport which are reliant upon that radar. The radar mitigation scheme must set out the appropriate measures to be implemented to mitigate the impact of the development on the radar and shall be in place for the operational life of the development.

These measures shall include (but will not be limited to) the compatibility and interoperability with the Inverness radar; the proven effective range and coverage; the proven effectiveness of filtering out the turbines without loss of aircraft returns; the reliability of the mitigation; the security arrangements in place to protect any installation or equipment associated with the radar mitigation scheme.

The scheme shall also set out the financial arrangements to be put in place in respect of the approval by the CAA of the mitigation scheme and the cost of its subsequent delivery and implementation.

Reason: *In the interests of aviation safety.*

5. No wind turbine shall be erected until a scheme of aviation lighting is submitted to and approved in writing by the Planning Authority in consultation with the Ministry of Defence. The turbines shall be erected with the approved lighting installed, which shall remain operational for the lifetime of each turbine.

Reason: *In the interests of aviation safety.*

6. The Company shall provide the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to Scottish Ministers, the planning authority and Highland and Islands Airports Limited (HIAL), containing the following information

one month prior to the commencement of any development:

- (a) the date of commencement of the development;
- (b) the exact position of the wind turbine towers in latitude and longitude;
- (c) a description of all structures over 300 feet high;
- (d) the maximum extension height of all construction equipment;
- (e) the height above ground level of the tallest structure;

and, one month prior to completion of the construction phase, a revised plan highlighting any changes from (b) above.

Reason: *In the interests of aviation safety.*

Site Decommissioning, Restoration and Aftercare

7. The development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total

period for decommissioning and restoration of the site in accordance with this condition must not exceed three years from the date of cessation of electricity generation without the written approval of the Scottish Ministers in consultation with the planning authority.

Development may not commence until a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the planning authority in consultation with SNH and SEPA. The strategy must set out measures for the decommissioning of the development, restoration and aftercare of the site and final site restoration. It must include proposals for the removal of the development, the treatment of ground surfaces, the management and timing of the works, and all environmental management provisions.

No later than 2 years prior to decommissioning of the development an updated decommissioning, restoration and aftercare plan, based upon the principles of the approved strategy, must be submitted to the planning authority for written approval in consultation with SNH and SEPA. The detailed plan will provide updated and detailed proposals for the removal of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions, which must include:

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) a dust management plan;
- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) sewage disposal and treatment;
- (i) temporary site illumination;
- (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) details of watercourse crossings;
- (l) a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the finalised decommissioning plan.

The development must be decommissioned, site restored and aftercare undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the planning authority in consultation with SNH and SEPA.

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

8. (1) Development may not commence until:

- (a) full details of a bond or other financial provision to be put in place to cover the costs of all decommissioning and site restoration measures outlined in the decommissioning, restoration and aftercare plan approved under condition 7 have been submitted to, and approved in writing by, the planning authority; and
- (b) confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed by virtue of sub-paragraph (a) 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
- (c) Documentary evidence that the bond or other financial provision approved by virtue of sub-paragraph (a) is in place, has been submitted to the planning authority, and the planning authority has confirmed in writing that it is satisfactory.

(2) Thereafter:

- (a) the bond or other financial provision must be maintained throughout the duration of this permission; and
- (b) the bond or other financial provision must be subject to a review five years after the commencement of development and every five years until such time as the wind farm is decommissioned and the site restored.
- (c) Each review must be:
 - (i) conducted by a suitably qualified independent professional; and
 - (ii) 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
 - (iii) 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.

(3) Where a review approved by virtue of sub-paragraph (c) 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, that must be done within one month of receiving the approved review, or another timescale as may be agreed in writing by the planning authority, and in accordance with the recommendations contained therein.

Reason: *to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company*

9. If any of the wind turbines fail to operate for a continuous period of 12 months following the Final Commissioning Date then on the written request of the planning authority a scheme shall be submitted within 1 month, for their written approval, providing for the removal of the wind turbine and any equipment solely associated with that turbine from the site and for the restoration of the relevant parts of the site. The scheme shall be implemented as approved.

Reason: *In the interests of visual amenity.*

Appearance of the Development

10. (1) Development may not commence until details of the proposed wind turbines (including, but not limited to), the size, external finish and colour, which should be non-

reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to, and approved in writing by, the planning authority. The wind turbines must be consistent with the candidate wind turbine or range assessed in the environmental statement, and the tip height must not exceed 110 metres above ground level.

(2) The wind turbines must be constructed and operated in accordance with the approved details and maintained in the approved colour, generally free from staining or discolouration, until the development is decommissioned.

(3) All wind turbine blades must rotate in the same direction.

(4) All wind turbine transformers must be located within the tower of the wind turbine to which they relate.

(5) None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant may display any name, logo or other signage (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority

Reason: *To manage the appearance of the wind farm*

11. Development may not commence until details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the planning authority. The substation building, associated compounds, fencing, external lighting and parking areas must be constructed in accordance with the approved details.

Reason: *To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.*

12. There shall be no external lighting of the site with the exception of that approved under condition 20(k), or as required under condition 5.

Reason: *In the interests of visual and residential amenity.*

13. All electrical cabling between the wind turbines and the switchgear control building shall be installed and kept underground.

Reason: *In the interests of visual amenity.*

Micro-siting

14. Turbines shall be erected and site tracks and associated infrastructure constructed in the positions indicated on revised Layout – Figure 4.1 of ES Addendum 2014, save for the ability to vary without recourse to the planning authority, the indicated position of any turbine, track or associated infrastructure by up to 50 metres. Variations between 50-100 metres will be permitted subject to the prior written approval of the planning authority. Any such micro-siting shall not encroach further into any buffer areas identified in respect of water courses, nature conservation, or historic environment as set out in Chapters 8-11 inclusive of Volume 2 of the Environmental Statement (2013), nor areas of deeper peat, and

shall be carried out under the supervision of the Ecological Clerk of Works required to be employed pursuant to condition 22 of this consent.

Reason: *To protect the cultural and ecological features of the site and visual amenity of the development as viewed from the surrounding area.*

Community Liaison Group

15. Unless otherwise agreed with the planning authority, development shall not commence until a community liaison group is established by the developer, in collaboration with The Highland Council and affected local Community Councils. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow full discussion on the provision of all transport-related mitigation measures and should keep under review the timing of the delivery of wind turbine components. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the wind farm has been completed and is fully operational.

Reason: *To assist with the provision of mitigation measures to minimise potential hazards to road users, including pedestrians, travelling on the road networks.*

Construction Issues

16. No development shall commence until a Construction Traffic Management Plan (CTMP), prepared by a recognised suitably qualified traffic management consultant, has been submitted to, and approved in writing by, the planning authority in consultation with the relevant roads authorities and Transport Scotland. The CTMP, which shall be implemented as approved, must include:

- a) A description of all measures to be implemented by the developer in order to manage traffic during the construction phase; the decommissioning & restoration phase; and major repairs during the operational phase, which involve in excess of 10 HGV arrivals in one day; or abnormal indivisible load (AIL) deliveries (including routing strategies), with any additional or temporary signage and traffic control.
- b) The identification and delivery of all upgrades to the public road network, including those at Nairn & Househill, to ensure that it is to a standard capable of accommodating non-AIL construction-related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of The Highland Council and Transport Scotland.
- c) Drainage and wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road.
- d) A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during the construction period.
- e) Details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage measures, improved geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays.
- f) Details of traffic management, which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of The Highland Council, as roads authority.
- g) 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 local road network that can reasonably be attributed to construction related traffic. As part of this

agreement, pre-start and post-construction road condition surveys must be carried out by the developer, to the satisfaction of the roads authorities. Appropriate reinstatement works shall be carried out, as required by Highland Council, at the end of the turbine delivery and erection period.

h) Measures to ensure that construction traffic adheres to agreed routes.

Reason: *To maintain safety for road traffic and the traffic moving to and from the development.*

17. No deliveries by abnormal loads shall take place until a Traffic Management Plan (TMP) for abnormal indivisible load deliveries has been submitted to and approved by the planning authority in consultation with the relevant roads authorities and Transport Scotland. The TMP, which shall be implemented as approved, must include:

a) A route assessment report for abnormal indivisible loads traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary together with the subsequent delivery of the works.

b) 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.

c) A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness.

d) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with Police Scotland and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted.

e) A detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media and to emergency services. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. All such movements on council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events.

f) A detailed delivery programme for abnormal load movements, which shall be made available to Highland Council and community representatives.

Reason: *To ensure that the transportation of abnormal loads will not have any detrimental effect on the road network.*

18. During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised quality assured traffic management consultant, to be approved, in writing by The Highland Council in consultation with Transport Scotland before delivery commences.

Reason: *To ensure that the transportation will not have any detrimental effect on the road and structures along the route.*

19. No deliveries by abnormal indivisible loads shall take place until an assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the planning authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the planning authority. Thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

Reason: To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

Construction and Environmental Management Plan

20. No development shall commence until a Construction and Environmental Management Plan (CEMP) outlining site specific details of all on-site construction works, post-construction reinstatement, drainage, mitigation, monitoring and contingencies together with details of their timetabling, has been submitted to, and approved in writing by, the planning authority in consultation with SNH and SEPA.

The CEMP shall include (but shall not be limited to):

- a. a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, lighting columns, and any construction compound boundary fencing;
- c. site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local public road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil storage and management;
- g. a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- h. a drainage management plan to accord with current SuDs best practice guidelines, demonstrating how all surface and waste water arising during and after development will be monitored, managed and prevented from polluting any watercourses or sources;
- i. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- j. sewage disposal and treatment;
- k. temporary site illumination;
- l. the method of construction of the crane pads and turbine foundations;
- m. a scheme to identify and manage the risk of any unexploded ordinance on site;

- n. the method of working cable trenches;
- o. the method of construction and erection of the wind turbines and meteorological masts;
- p. details of watercourse crossings; and
- q. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.

A summary of the mitigation measures required by this condition shall be provided, together with details of the process of controlling implementation of all the mitigation measures.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the planning authority in consultation with SNH and SEPA.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.*

Ecology

21. (a) No development shall commence until a Bird, Mammal and Fish Protection Plan (the Plan) has been submitted to, and approved in writing by, the planning authority in consultation with SNH. The Plan shall address:

- 1. Otters
- 2. Badgers
- 3. Wildcat
- 4. Pine Marten
- 5. Water Vole
- 6. Bats
- 7. Fish within and downstream of the development area, including the River Findhorn;
- 8. Breeding birds

The Plan shall contain the outcome of pre-construction surveys for these species and proposed mitigation measures to be employed.

The Plan shall provide details of water quality monitoring and mitigation measures in accordance with current best practice to protect the fish population.

The approved Plan will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to the mitigation measures to better protect these species.

(b) Where a review indicates that amendments are required an updated and amended Plan (the "Amended Plan") shall be submitted for the written approval of the planning authority in consultation with SNH.

(c) Unless otherwise agreed in writing with the planning authority, the approved Plan and any subsequent approved Amended Plan shall be implemented in full.

A summary of the mitigation measures required by this condition shall be provided, together with details of the process of controlling implementation of all the mitigation measures.

Reason: *To ensure that appropriate surveys are carried out to understand potential impacts on birds, mammals and fish and to ensure that suitable protection and mitigation measures are put in place.*

22. (a) No development shall commence until an independent Ecological Clerk of Works (ECoW) has been appointed, as agreed in writing by the planning authority, in consultation with SNH and SEPA as necessary. The terms of appointment shall:

- I. impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application and the Construction and Environmental Management Plan, The Habitat Management Plan, the Bird, Mammal and Fish Plan and other plans approved in terms of the conditions of this consent (the ECoW works);
- II. Require the EcoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- III. Require the ECoW to submit a monthly report to the planning authority summarising works undertaken on site; and
- IV. Require the ECoW to report to the appropriate statutory body and Planning Monitoring Officer any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

(b) The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 20.

(c) No later than 6 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), details of the terms of appointment of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the development shall be submitted to, and approved in writing by, the planning authority.

(d) The ECoW shall be appointed on the approved terms of condition 22(c) throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development.*

Cultural Heritage

23. 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 approved in writing, by the planning authority. Thereafter the approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason: *To ensure any items of archaeological, or historic interest found on site are recorded and preserved, or protected as necessary.*

Amenity

24. Within one year of the first turbine being commissioned, the compensatory planting must be implemented in full as described in Section 5 of the ES Addendum (2014). This planting must be maintained for ten years to deliver established woodland. Thereafter the forest and tree management outlined in Section 5 of the ES Addendum (2014) must be implemented in full and maintained for the operational lifetime of the development.

Reason: *To ensure compliance with Forestry Commission Scotland policy on tree replacement, in the interests of amenity and environment.*

25. No development shall commence until a plan indicating the retention and management of the woodland areas highlighted yellow on applicants' drawing No. 02914D2505-06, is submitted to, and approved in writing by the planning authority. Thereafter the plan as approved shall be implemented for the lifetime of the development.

Reason: *To safeguard the visual amenity of Ferness village.*

26. No development shall commence until an Access Management Plan to ensure public access is retained in the vicinity of Cairn Duhie Wind Farm during construction, and thereafter suitable public access is provided during the operational phase of the wind farm, has been submitted to, and agreed in writing by, the planning authority. Thereafter the plan as agreed shall be implemented within one year of the first export date.

Reason: *In the interests of recreational amenity.*

27. No wind turbines shall be erected until a scheme to secure the investigation and remediation of any electro-magnetic interference to television reception at residential properties, lawfully existing at the date of this consent, caused by the operation of the turbines, has been submitted to, and approved in writing by, the planning authority. The approved scheme shall be implemented in the event any such issues arising between commencement of development and one year of the Date of Final Commissioning.

Reason: *In the interests of safeguarding residential amenity.*

28. (1) Construction work may only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday and 07.00 to 16.00 on Saturday, with no construction work taking place on Sunday. Outwith these specified hours, development on the site must be limited to wind turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance, in writing by the planning authority, with the exception of emergency works which shall be notified in writing within 24 hours of their occurrence.

(2) HGV movements to and from the site (excluding abnormal loads) during construction must be limited to 07.00 to 19.00 on Monday to Friday, and 07.00 to 16.00 on Saturday, with no HGV movements to or from the site taking place on Sunday or on a national public holiday, unless otherwise approved in advance, in writing by the planning authority.

Reason: *In the interests of local amenity.*

29. There shall be no Commencement of Development unless a method statement has been submitted to and approved in writing by the planning authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties

which are served by private water supplies at the date of this consent and which may be affected by the development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

Reason: *To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the development.*

30. No development shall commence until a scheme to identify and manage the risk of any unexploded ordnance on site is submitted to, and approved in writing by the planning authority. The scheme shall be implemented as approved.

Reason: *To ensure any risk of unexploded ordnance is appropriately mitigated, prior to and during the construction phase of the development.*

Noise

31. The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the submitted Noise Measurement and Mitigation Scheme, shall not exceed the values for the relevant integer wind speed set out in or derived from Tables 1 and 2 attached to these conditions.

(A) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. In the event of a noise complaint relating to a dwelling which is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the planning authority, for written approval, proposed noise limits to be adopted at the complainant's dwelling for compliance checking purposes. The submission of the proposed noise limits to the planning authority shall include a written justification of the choice of limits. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the submitted Noise Measurement and Mitigation Scheme shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.

(B) Prior to the First Export Date, the wind farm operator shall submit 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) No development shall commence until a Noise Measurement and Mitigation Scheme has been submitted to the planning authority. The scheme shall include:

- A framework for the measurement and calculation of the rating level of noise immissions from the wind farm (including the identification of any tonal component) to be undertaken in the event of a complaint in accordance with ETSU-R-97 and its associated Good Practice Guide and Supplementary Guidance Notes to be agreed, in writing by the planning authority.
- Details of potential mitigation measures to be implemented within one week of identifying that the agreed noise limits are exceeded which will ensure that those limits are complied with.

(D) Within 21 days from receipt of a written request of the planning authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the rating level of noise immissions from the wind farm at the complainant's property in accordance with the submitted Noise Measurement & Mitigation Scheme. 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.

Within 14 days of receipt of a written request from the planning authority, the wind farm operator shall provide the planning authority with the information relevant to the complaint logged in accordance with paragraph (H) of this condition.

The independent consultant's assessment must be undertaken in accordance with the submitted Noise Measurement & Mitigation Scheme and must relate to the range of conditions which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the Planning Authority and such other conditions as the independent consultant considers necessary to fully assess the noise at the complainant's property.

(E) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the planning authority, unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on the request of the planning authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with the submitted Noise Measurement and Mitigation Scheme and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

(F) Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment to the planning authority unless the time limit for the submission of the further assessment has been extended in writing by the planning authority.

(G) Within one week of the planning authority receiving an assessment which identifies that the wind farm noise levels are exceeding any of the limits in Tables 1 & 2 attached to this condition, the wind farm operator will implement relevant mitigation measures identified in the submitted Noise Measurement and Mitigation Scheme which will ensure that those limits are complied with. Thereafter these measures will remain in place.

(H) 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.

Note: For the purposes of this condition, a "dwelling" is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

Reason: *To ensure that noise from the wind farm does not reach unacceptable levels at nearby residential property.*

SCHEDULE OF NOISE GUIDANCE NOTES

These notes form part of condition 31 (A) – 31 (H). They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm.

Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farm” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

NOTE 1

- a) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant’s property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a 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 shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local 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 3.5m away from the building facade or any reflecting surface except the ground at a location agreed with the Local Planning Authority.
- c) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.
- d) The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods on the wind farm site to enable compliance with the conditions to be evaluated. The mean wind speed 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 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

NOTE 2

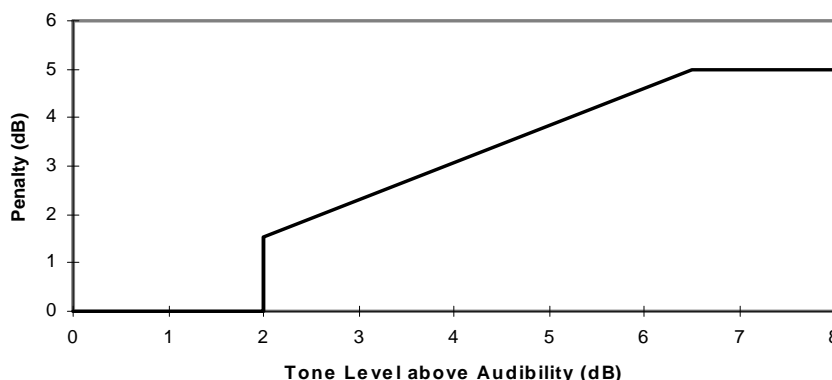
- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise.
- b) Valid data points are those that remain after all periods during rainfall have been excluded. 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 Note 1(c) and is situated in the vicinity of the sound level meter.

- c) A least squares, “best fit” curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured $L_{A90,10min}$ noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

NOTE 3

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used.

- For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean 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 standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta L_{tm}), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.
- The arithmetic average margin above audibility shall be calculated for each wind speed bin where data is available, each bin being 1 metre per second wide and centred on integer wind speeds. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



NOTE 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background

noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind farm switched off in order to determine the background noise, L_3 , at the assessed wind speed. The wind farm noise at this wind speed, L_1 , is then calculated as follows, where L_2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

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

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

Table 1 – Night Time Noise Conditions (Between 23:00 and 07:00 hours)

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H1	Aitnoch Farmhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H2	Little Aitnoch	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H3	Kerrow Farmhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H4	Braemoray Lodge	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H5	The White House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H6	1 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H7	3 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H8	2 Drumore Cottages	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H9	Glenferness Mains	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H10	Achanabechan Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H11	Culfearn	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H12	Tombain	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H13	Factors Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H14	Tomnarroch	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H15	Tomdow	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H16	Tomdow Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H17	Leonach Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H18	6 Glenferness	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H19	Birch Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H20	Sturrock	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H21	Smiddy House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H22	Rose Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H23	The Old Post Office House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H24	Bungalow	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H25	New Inn	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H26	Glebe Cottage	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H27	Roundwood House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H28	Muckle Lyne	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H29	Little Lyne	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H30	Head Foresters House	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H32	1 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H33	2 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H34	3 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H35	4 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H36	5-6 Forestry Houses	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H37	The Mount	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H38	Score Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H39	Airdrie Mill	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H40	Logie Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H41	Logie Farm Riding Centre	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H42	Airdrie Farm	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H46	Property A	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H47	The Lodge	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H48	The Old Schoolhouse	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H50	Wester Tillieglens	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H51	Wester Glenfernie	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H52	Refouble	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H53	Milltown	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H54	Ballindore	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H55	Kennels	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0	39.0

Table 2 – Day Time Noise Limits for Conditions

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H1	Aitnoch Farmhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H2	Little Aitnoch	35.0	35.0	35.0	35.0	35.0	35.2	38.0	39.0	39.0	39.0	39.0	39.0
H3	Kerrow Farmhouse	36.5	36.5	36.7	37.5	38.7	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H4	Braemoray Lodge	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H5	The White House	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H6	1 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H7	3 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H8	2 Drumore Cottages	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H9	Glenferness Mains	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H10	Achanabechan Farm	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H11	Culfearn	35.0	35.0	35.0	35.0	37.4	39.0	39.0	39.0	39.0	39.0	39.0	39.0
H12	Tombain	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H13	Factors Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H14	Tomnarroch	35.0	35.0	35.0	35.0	36.5	38.9	39.0	39.0	39.0	39.0	39.0	39.0
H15	Tomdow	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H16	Tomdow Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H17	Leonach Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H18	6 Glenferness	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H19	Birch Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H20	Sturrock	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H21	Smiddy House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H22	Rose Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H23	The Old Post Office House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H24	Bungalow	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H25	New Inn	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H26	Glebe Cottage	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H27	Roundwood House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H28	Muckle Lyne	35.0	35.0	35.0	35.0	35.0	36.3	38.1	39.0	39.0	39.0	39.0	39.0
H29	Little Lyne	35.0	35.0	35.0	35.0	35.0	36.3	38.1	39.0	39.0	39.0	39.0	39.0

House ID	House Name	Reference Wind Speed, Standardised v10 (ms-1)											
		1	2	3	4	5	6	7	8	9	10	11	12
H30	Head Foresters House	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H32	1 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H33	2 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H34	3 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H35	4 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H36	5-6 Forestry Houses	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H37	The Mount	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H38	Score Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H39	Airdrie Mill	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H40	Logie Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H41	Logie Farm Riding Centre	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H42	Airdrie Farm	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H46	Property A	35.0	35.0	35.0	35.0	35.0	35.0	36.2	38.6	39.0	39.0	39.0	39.0
H47	The Lodge	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H48	The Old Schoolhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H50	Wester Tillieglens	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H51	Wester Glenfernie	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H52	Refouble	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H53	Milltown	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H54	Ballindore	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
H55	Kennels	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

Note to Tables 1 & 2: The wind speed standardised to 10 metres height within the site refers to wind speed at 10 metres height derived in accordance with the method given in the attached Guidance Notes.

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

Table 3 – Coordinates of Properties Listed in Tables 1 & 2

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H1	Aitnoch Farmhouse	298159	839664
H2	Little Aitnoch	296891	840817
H3	Kerrow Farmhouse	299625	841891
H4	Braemoray Lodge	299789	842834
H5	The White House	300059	843252
H6	1 Drumore Cottages	295442	843576
H7	3 Drumore Cottages	295443	843615
H8	2 Drumore Cottages	295448	843632
H9	Glenferness Mains	294960	843656
H10	Achanabechan Farm	295788	843732
H11	Culfearn	300008	843810
H12	Tombain	300613	844376
H13	Factors Cottage	295764	844470
H14	Tomnarroch	296158	844552
H15	Tomdow	300493	844646
H16	Tomdow Cottage	300526	844681
H17	Leonach Cottage	296232	844817
H18	6 Glenferness	296240	844835
H19	Birch Cottage	296250	844855
H20	Sturrock	296261	844881
H21	Smiddy House	296260	844907
H22	Rose Cottage	296272	844916
H23	The Old Post Office House	296281	844939
H24	Bungalow	296312	844990
H25	New Inn	296376	845076
H26	Glebe Cottage	295583	845277
H27	Roundwood House	295583	845277
H28	Muckle Lyne	297924	845289
H29	Little Lyne	297390	845305
H30	Head Foresters House	296355	845369
H32	1 Forestry Houses	296449	845627

House ID	House Name	OSGB Co-ordinates	
		X / m	Y / m
H33	2 Forestry Houses	296459	845638
H34	3 Forestry Houses	296468	845648
H35	4 Forestry Houses	296474	845657
H36	5-6 Forestry Houses	296488	845662
H37	The Mount	297902	845725
H38	Score Farm	297275	845877
H39	Airdrie Mill	297564	845882
H40	Logie Farm	296931	846534
H41	Logie Farm Riding Centre	296947	846555
H42	Airdrie Farm	297990	846929
H46	Property A	295665	843879
H47	The Lodge	295166	843037
H48	The Old Schoolhouse	296296	844955
H50	Wester Tilliglens	300433	846102
H51	Wester Glenernie	300860	845679
H52	Refouble	295199	839996
H53	Milltown	294502	841260
H54	Ballindore	294642	841998
H55	Kennels	294145	842516

Note to Tables 1 & 2: The wind speed standardised to 10 metres height within the site refers to wind speed at 10 metres height derived in accordance with the method given in the attached Guidance Notes.

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

Appendix 2: Schedule of documents

Core Documents

1 Application and Related Documents

- CD1.1 Application Covering Letter to the Energy Consents Unit dated 31 October 2013
- CD1.2 Environmental Statement dated 2013 – Volume 1: Non-Technical Summary
- CD1.3 Environmental Statement dated 2013 – Volume 2: Main Report
- CD1.4 Environmental Statement dated 2013 – Volume 3: Landscape and Visual Figures
- CD1.5 Environmental Statement dated 2013 – Volume 4: Technical Appendices
- CD1.6 Environmental Statement dated 2013 – Confidential Appendices
- CD1.7 Planning Statement dated October 2013
- CD1.8 Design and Access Statement dated 2013
- CD1.9 Consultation Report dated 2013
- CD1.10 Environmental Statement Addendum dated 2014
- CD1.11 Reports: Residential Amenity – Proposed Cairn Duhie Wind Farm; and Turbine Layout Justification for Cairn Duhie (2015)
- CD1.12 Additional Information (January 2016)
- CD1.13 The Highland Council Report of Handling (June 2015)
- CD1.14 Position letter of The Highland Council dated 5 June 2015
- CD1.15 Position Statement of Applicant dated 7 July 2015
- CD1.16 DPEA Pre-Examination Meeting Agenda dated 27 October 2015
- CD1.17 DPEA Pre-Examination Meeting Notes
- CD1.18 Procedure Notice dated 6 January 2016 relating to Inquiry and Hearing Sessions
- CD1.19 Procedure Notice dated 6 January 2016 relating to Further Written Procedure (Private Water Supplies)
- CD1.20 Procedure Notice dated 4 February 2016 relating to Further Hearing Sessions

2 Consultation Responses

- CD2.1 Consultation Responses to Application, including:
 - CD2.1a Association of Salmon Fisheries Board
 - CD2.1b British Horse Society
 - CD2.1c BT
 - CD2.1d Civil Aviation Authority
 - CD2.1e Cairngorms National Park Authority
 - CD2.1f Dava Way Association
 - CD2.1g East Nairnshire Community Council
 - CD2.1h ECU (CH2Mhill) Report
 - CD2.1i Edinkillie Community Association
 - CD2.1j Findhorn District Salmon Fishery Board
 - CD2.1k Forestry Commission
 - CD2.1l Granttown-on-Spey and Vicinity Community Council
 - CD2.1m Highlands and Islands Airports Limited
 - CD2.1n Highlands and Islands Airports Limited: Further Responses
 - CD2.1o Highland Council – Access Officer
 - CD2.1p Highland Council – Contaminated Land
 - CD2.1q Highland Council – EHO
 - CD2.1r Highland Council – Flood Team
 - CD2.1s Highland Council – Historic Environment Team
 - CD2.1t Highland Council – Historic Environment Team: Further Response
 - CD2.1y Highland Council – Traffic and Transportation
 - CD2.1v Historic Scotland
 - CD2.1w HSE
 - CD2.1x John Muir Trust
 - CD2.1y JRC
 - CD2.1z Marine Scotland
 - CD2.1aa Ministry of Defence
 - CD2.1bb Moray Council

- CD2.1cc Mountaineering Council of Scotland
- CD2.1dd Nairn Suburban Community Council
- CD2.1ee NATS
- CD2.1ff RSPB
- CD2.1gg RSPB: Further Response
- CD2.1hh Scottish Water
- CD2.1ii Scottish Wildlife Trust
- CD2.1jj ScotWays
- CD2.1kk SEPA
- CD2.1ll SEPA: Further Response
- CD2.1mm SEPA: Further Response
- CD2.1nn SNH
- CD2.1oo SNH: Further Response
- CD2.1pp The Crown Estate
- CD2.1qq Transport Scotland
- CD2.1rr Visit Scotland
- CD2.2 Consultation Responses to Environmental Statement Addendum of 2014, including:
 - CD2.2a British Horse Society
 - CD2.2b Civil Aviation Authority
 - CD2.2c Cairngorms National Park Authority
 - CD2.2d Dava Residents' Association
 - CD2.2e Forestry Commission
 - CD2.2f Forestry Commission: Further Response
 - CD2.2g Highlands and Islands Airports Limited
 - CD2.2h Highlands and Islands Airports Limited: Further Response
 - CD2.2i Historic Scotland
 - CD2.2j JRC
 - CD2.2k Marine Scotland
 - CD2.2l Ministry of Defence
 - CD2.2m Moray Council
 - CD2.2n Mountaineering Council of Scotland
 - CD2.2o NATS
 - CD2.2p Scottish Water
 - CD2.2q ScotWays
 - CD2.1r SEPA
 - CD2.1s SEPA: Further Response
 - CD2.2t SNH
 - CD2.2u Transport Scotland
 - CD2.2v Visit Scotland
- CD2.3 Third Party Representations submitted in support (as available through DPEA)
- CD2.4 Third Party Representations submitted in objection (as available through DPEA)
- CD2.5 Applicant Correspondence with Consultees

3 The Development Plan, Policy and Regulation

- CD3.1 Highland-wide Local Development Plan (2012)
- CD3.2 Inner Moray Firth Local Development Plan (31 July 2015)
- CD3.3 Highland Council Interim Supplementary Guidance: On-shore Wind Energy (March 2012)
- CD3.4 Highland Renewable Energy Strategy (May 2006)
- CD3.5 Highland Council Onshore Wind Energy – Draft Supplementary Guidance (September 2015)
- CD3.6 National Planning Framework 3 (NPF3) 2014
- CD3.7 Scottish Planning Policy (SPP) 2014
- CD3.8 Scottish Planning Policy: Some Questions Answered (5 December 2014)
- CD3.9 Scottish Government 'Onshore Wind Turbines' Online Guidance (May 2014)
- CD3.10 Circular 4/1998: The Use of Conditions in Planning Permissions
- CD3.11 The Electricity Act 1989 (as amended) *[Available electronically only]*
- CD3.12 The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended) *[Available electronically only]*
- CD3.13 The Highland Council: Construction Environmental Management Process for Large Scale Projects Guidance Note (August 2010)

4 Renewable Energy Policy

- CD4.1 European Commission – Renewable Energy Progress Report (June 2015)
- CD4.2 Scottish Government – Energy in Scotland (January 2015)
- CD4.3 Scottish Government – Renewable Energy Policy (April 2015) (Website extract)
- CD4.4 Scottish Government – The Electricity Generation Policy Statement (June 2013)
- CD4.5 The Scottish Parliament Official Report – Economy, Energy and Tourism Committee (5 February 2014)
- CD4.6 2020 Routemap for Renewable Energy in Scotland (2011)
- CD4.7 2020 Routemap for Renewable Energy in Scotland – Update (19 December 2013)
- CD4.8 2020 Routemap for Renewable Energy in Scotland – Update (17 September 2015)
- CD4.9 DECC: Onshore Wind Direct and Wider Economic Impacts (May 2012)
- CD4.10 DECC: Digest of United Kingdom Energy Statistics (June 2015) (Extract – Chapter 6)
- CD4.11 Report on the achievability of the Scottish Government’s Renewable Energy Targets, The Scottish Parliament (23 November 2012)
- CD4.12 Letter of 29 October 2015 from Amber Rudd in relation to EU 2020 Renewables Target
- CD4.13 Letter of 11 November 2015 from John McNairney to all Heads of Planning in relation to energy targets and SPP
- CD4.14 DECC: UK Energy Secretary Announcement dated 18 June 2015
- CD4.15 DECC Public Attitudes Tracking Survey – Wave 15 (September 2015)
- CD4.16 DECC: The UK Renewable Energy Roadmap (2011)
- CD4.17 DECC: The UK Renewable Energy Roadmap Update (December 2012)
- CD4.18 DECC: UK Renewable Energy Roadmap Update (November 2013)
- CD4.19 Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments (Revised September 2015)
- CD4.20 Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments (September 2015)

5 Landscape and Visual

- CD5.1 Landscape Institute and Institute of Environmental Management and Assessment – Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
- CD5.2 Scottish Natural Heritage – Visual Representation of Wind Farms: Good Practice Guidance (2006)
- CD5.3 Scottish Natural Heritage – Visual Representation of Wind Farms: Good Practice Guidance, Version 2.1 (December 2014)
- CD5.4 Scottish Natural Heritage – Siting and Designing Wind Farms in the Landscape, Version 1 (December 2009)
- CD5.5 Scottish Natural Heritage – Siting and Designing Wind Farms in the Landscape, Version 2 (May 2014)
- CD5.6 Scottish Natural Heritage – Guidance: Assessing the Cumulative Impacts of Onshore Wind Energy Developments (March 2012)
- CD5.7 Countryside Agency and Scottish Natural Heritage – Landscape Character Guidance for England and Scotland: Topic Paper 6, Techniques and Criteria for Judging Capacity and Sensitivity (2004)
- CD5.8 Landscape Institute – Photography and Photomontage in Landscape and Visual Impact Assessment: Advice Note 01/11 (2011)
- CD5.9 Scottish Natural Heritage – Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations, Guidance (June 2015)
- CD5.10 Countryside Agency and Scottish Natural Heritage – Landscape Character Assessment: Guidance for England and Scotland (2002)
- CD5.11 Scottish Natural Heritage – Moray and Nairn Landscape Assessment (1998) (Extract)
- CD5.12 Scottish Natural Heritage – Inner Moray Firth Landscape Character Assessment (1998)
- CD5.13 Scottish Natural Heritage – Cairngorms Landscape Assessment (1996)
- CD5.14 Scottish Natural Heritage – Inverness District Landscape Character Assessment (1999)
- CD5.15 Moray Council – Moray Wind Energy Landscape Capacity Study (2012)
- CD5.16 Cairngorms National Park Authority – Cairngorms National Park Landscape Character Assessment (2009)

- CD5.17 The Highland Council – Visualisation Standards for Wind Energy Developments (2013)
- CD5.18 The Highland Council – Visualisation Standards for Wind Energy Developments (Updated March 2015)
- CD5.19 Scottish Natural Heritage – Policy Statement 02/02 Strategic Locational Guidance for Onshore Windfarms in Respect of the Natural Heritage (2009)
- CD5.20 The Highland Council – Assessment of Highland Special Landscape Areas (2011)
- CD5.21 Moray Onshore Wind Energy Supplementary Planning Guidance (March 2013)
- CD5.22 Cairngorm National Park Authority: The Backclothing of Wind Turbines in the Scottish Landscape (2012)
- CD5.23 Citation for the Drynahan, Lochindorb, Dava Moor Special Landscape Area
- CD5.24 Scottish Natural Heritage ‘The Landscapes of Scotland’ Map

6 Socio-Economics

- CD6.1 Moffat Report: The Economic Impacts of Wind Farms on Scottish Tourism (2008)
- CD6.2 Visit Scotland: One Poll Wind Farm Consumer Research (2012)
- CD6.3 Climate X Change Report on Impacts of Windfarms on Scottish Tourism (2012)

7 Section 36 and Planning Appeal Decisions/Reports

- CD7.1 Hill of Glaschyle Appeal Decision (PPA-300-2032)
- CD7.2 Tom nan Clach and Glenkirk Report and Appeal Decisions (PPA-270-2043)
- CD7.3 Moy Appeal Decision (PPA-270-2063)
- CD7.4 Paul’s Hill s36 Decision (April 2003)
- CD7.5 Paul’s Hill Extension s36 Decision (December 2005)
- CD7.6 Berry Burn s36 Decision (August 2009)
- CD7.7 Baillie s36 Report to the Scottish Ministers (Extract)
- CD7.8 Burnthouse Farm Appeal Report to the Secretary of State (APP/D0515/A/2123739) (Extract)
- CD7.9 Harelaw Renewable Energy Park Report to the Scottish Ministers (June 2013) (Extract)
- CD7.10 Fauch Hill Wind Farm and Harburnhead Wind Farm Report to the Scottish Ministers (January 2014) (Extract)
- CD7.11 Lochend Appeal Decision (PPA-270-2108)
- CD7.12 Spittal Hill Appeal Decision (PPA-270-2119)
- CD7.13 Tressady Appeal Decision (PPA-270-2103)
- CD7.14 Enifer Downs Appeal Decision (APP/X2220/A/08/2071880)

8 Judgments

- CD8.1 R (on the application of) Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Energy and Climate Change (31 January 2012)
- CD8.2 William Grant & Sons Distillers Ltd v Scottish Ministers [2012] CSOH 98
- CD8.3 Trump Decision, First Division Inner House, Court of Session (5 June 2015)
- CD8.4 Trump International Golf Club Scotland Limited and another v The Scottish Ministers [2015] UKSC 74

9 Miscellaneous Documents

- CD9.1 Applicant Statement of Case
- CD9.2 The Highland Council Inquiry Statement
- CD9.3 Moray Council Written Submission and Appendices
- CD9.4 Cairngorms National Park Authority Statement
- CD9.5 Cairn Duhie Action Group Procedure Note on Evidence
- CD9.6 Cairn Duhie Action Group Outline Inquiry Statement
- CD9.7 Save Our Dava Statement
- CD9.8 James Murray Statement
- CD9.9 Normal Thomson Statement
- CD9.10 Statement of Agreed Matters as agreed between the Applicant and the Highland Council

CD9.11 Suggested Planning Conditions as agreed between the Applicant and the Highland Council

Applicant: Additional Supporting Documents

February 2016 Consultation Responses

RES1 Consultation Responses to Additional Information of January 2016, including:
 a) Marine Scotland
 b) Ministry of Defence
 c) Scottish Natural Heritage
 d) Scottish Water
 e) Transport Scotland
 f) Historic Environment Scotland
 g) Moray Council

Applicant Evidence

RES2 Landscape and Visual Inquiry Report of Ms Sam Oxley
 RES3 Landscape and Visual Precognition of Ms Sam Oxley
 RES4 Planning Policy Hearing Statement of Mr David Stewart

Landscape and Visual

RES5 Additional Figures 1, 2, 10 and 11 – Cumulative Wind Farms and SNH 'Landscapes of Scotland' Map
 RES6 D.R. Miller, S. Bell, M. McKeen, P.L. Horne, J.G. Morrice and D. Donnelly Assessment of Landscape Sensitivity to Wind Turbine Development in Highland Summary Report (Macaulay Land Use Research Institute, September 2010)
 RES7 Scottish Natural Heritage and Cairngorms National Park Authority: The special landscape qualities of the Cairngorms National Park – Scottish Natural Heritage Commissioned Report, No.375 (iBids and Project no 648) (2010)
 RES8 Report of the Examination of the Inner Moray Firth Proposed LDP dated 20 March 2015 – Issue 3: Special Landscape Areas (Extract)

Private Water Supplies

RES9 Applicant Further Written Submissions
 RES10 Highland Council Further Written Submissions
 RES11 Cairn Duhie Action Group Further Written Submissions
 RES12 Applicant Rebuttal Further Written Submissions

Renewable Energy Policy

RES13 Energy Voice, Fergus Ewing MSP – Statement on Tourism and Wind Farms (15 September 2015)

Cultural Heritage

RES14 Historic Scotland: Managing Change in the Historic Environment – Setting (2010)
 RES15 Scottish Historic Environment Policy (SHEP) dated December 2011
 RES16 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 [Available electronically only]
 RES17 Camilty Wind Farm Appeal Decision Notice (PPA-400-2055) (14 January 2016)
 RES18 Cultural Heritage Written Report of Mr George Mudie

Unexploded Ordnance

RES19 Pre-Desk Study Assessment undertaken by Zetica in relation to Unexploded Ordnance
 RES20 Desk Study Assessment Interim Summary undertaken by Zetica in relation to Unexploded Ordnance

RES21 Desk Study and Risk Assessment undertaken by Zetica in relation to Unexploded Ordnance

Miscellaneous Documents

RES22 RES Ltd's response to the consultation on The Highland Council's Draft Onshore Wind Energy Supplementary Guidance dated 29 January 2016

RES23 Scottish Hydro Electric Transmission Plc Consultation Document on the Beauly – Blackhillock Reinforcement and the Blackhillock – Kintore Reinforcement together with RES Ltd's response

Transport

RES24 Transport Hearing Statement of Mr Kevin Martin

RES25 Abnormal Loads Assessment POI 53

RES26 Abnormal Loads Assessment Sketch 001 250m south of Detail F of ES Appendix 14.1

RES27 Abnormal Loads Assessment POI 71

RES28 Extract from 'The Guidelines for the Environmental Assessment of Road Traffic'

RES29 'Alternative Route' Information for A939/B9007 junction

RES30 Alternative Route Information Swept Path Analysis

Additional Applicant Evidence

RES31 Private Water Supplies Hearing Statement of Ms Judith Jeans

RES32 BGS 2012 Solid Map

RES33 Forestry Management Plans

RES34 e-mail exchange between Res Ltd and Zetica regarding UXO report

RES35 Drawing 02914D2505-06 option plan Glenferness Estate

Documents: The Highland Council

THC1 Landscapes of Scotland: descriptions 11 - 20

TNC2 Landscapes of Scotland: descriptions 21 - 30

Documents: Save our Dava

Document A which collates and summarises the case and acts as a guide to accessing all specific objection detail relating to these issues as previously submitted to SGECU and THC during the agreed planning consultation window

Document B initial objection document of 3rd December 2013

Document C Supplementary Information document of 23rd December 2013

Document D Information document submitted to Planners and Highland Council Planning Committee members 15th February 2014

Document E document detailing past cultural and literary associations of the Dava area.

Document F Our document collating various pertinent correspondences sent to and received from consultees during the consultation period

Appendix 3: Appearances

Inquiry Session: Landscape and Visual Impact, including the impacts on tourism and those living in the area

For RES Ltd - Mr Marcus Trinnick QC who called:
Ms Sam Oxley

For the Highland Council - Mr James Findlay who called:
Ms Anne Cowling
Mr Ken McCorquodale

For the Cairn Duhie Action Group - Mr John Campbell QC who called
Mr Mark Steele
Mr Bill Evans

Save our Dava: Mrs Jeannie Munro and Mr Hewitt

Hearing Session: Policy Matters

For RES Ltd: Ms Carolyn Wilson, Mr Marcus Trinnick, Mr Fraser Gillies
For the Highland Council: Mr Ken McCorquodale, Mr James Findlay, Ms Anne Cowling
For the Cairn Duhie Action Group: Mr Bill Evans, Mr John Campbell
For Save our Dava: Mrs Jeannie Munro

Hearing session: planning conditions and legal obligations

For RES Ltd: Mr Marcus Trinnick
For the Highland Council: Mr Ken McCorquodale
For Save our Dava: Mr Hewitt

Hearing session: other matters

Traffic matters:
For RES Ltd: Mr Marcus Trinnick, Mr Kevin Martin
For Save our Dava: Mrs Munro, Mr Hewitt

Unexploded ordinance
For RES Ltd: Mr Stewart
For Save our Dava: Mr Hewitt

Private water supplies:
For RES Ltd: Ms Judith Jeans
For Cairn Duhie Action Group: Mr John Campbell