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Ms G Pearson
Highland Council
Sent By E-mail

Our ref: PPA-270-2212
Planning Authority ref:17/02436/FUL

23 October 2019

Dear Ms Pearson

PLANNING PERMISSION APPEAL: LAND 3290M NORTH EAST OF CHURCH OF SCOTLAND WEST HELMSDALE HELMSDALE KW8 6JS

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

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

We collect information if you take part in the planning process, use DPEA websites, send correspondence to DPEA or attend a webcast. To find out more about what information is collected, how the information is used and managed please read the [DPEA's privacy notice](https://beta.gov.scot/publications/planning-and-environmental-appeals-division-privacy-notice/) - <https://beta.gov.scot/publications/planning-and-environmental-appeals-division-privacy-notice/>

I trust this information is clear. Please do not hesitate to contact me if you require any further information or a paper copy of any of the above documentation.

Yours sincerely

Liz Kerr

LIZ KERR
Case Officer
Planning and Environmental Appeals Division



Decision by Keith Bray a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2212
- Site address: land 3,290 metres North East of Church of Scotland, West Helmsdale, Helmsdale, KW8 6JS
- Appeal by Mr Phil Davidson against the decision by The Highland Council
- Application for planning permission 17/02436/FUL dated 19 May 2017 refused by notice dated 11 March 2019
- The development proposed: erection of 5 wind turbines with a tip height up to 125 metres and associated infrastructure, including upgraded and new access tracks, crane hardstandings and a sub-station building
- Date of site visit by Reporter: 25, 26 and 27 July 2019

Date of appeal decision: 23 October 2019

Decision

I dismiss the appeal and refuse planning permission.

Attention is also drawn to the 2 advisory notes at the end of the notice.

Environmental impact assessment (EIA)

The proposed development is described as above, and at Chapter 2 of the EIA report. It is EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”).

I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the EIA report submitted on 19 May 2017;
- Additional Information on peat and peatland, landscape, protected species and further mitigation submitted in October 2017;
- the planning application drawing dated 1 February 2017;
- consultation responses from Helmsdale and Brora Community Councils, the council’s access, archaeology, environmental health and transport functions, Transport Scotland, Scottish Natural Heritage, Scottish Environment Protection Agency, Highlands and Islands Airport Limited, Ministry of Defence, National Air Traffic Service En Route, Scottish Water and Historic Environment Scotland;



- 204 representations to the council from members of the public;
- 28 representations submitted to Planning and Environmental Appeals Division by members of the public and others; and
- information on Wild Land, biodiversity and peat management, planning obligations and the West Garty Wind Farm Report in response to my request for further information issued on 31 July 2019.

I am required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 1 at the end of the notice. My conclusions on the significant environmental effects of the proposal are set out as part of my reasoning below.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the acceptability of: (i) landscape and visual impacts, including cumulative impacts; (ii) impacts on areas of peatland; and (iii) the acceptability of other relevant impacts.

The development plan

2. The relevant development plan consists of the Highland Wide Local Development Plan 2012 and the Caithness and Sutherland Local Development Plan 2018; together with adopted Supplementary Guidance.

3. Based on the submissions, I find that the key policy framework for the main issues is the Highland Wide Local Development Plan Policy 67 (renewable energy developments) and the Onshore Wind Energy: Supplementary Guidance. This is the basis on which the application was refused by The Highland Council.

4. Policy 67 supports renewable energy proposals where they are located, sited and designed in manner which is not significantly detrimental after assessing them against eleven specific criteria. Such matters include landscape and visual impacts, and avoiding significant detrimental impacts overall. The policy also expects a decision maker to consider the contribution a project makes to renewable energy targets and any likely economic benefits.

5. There are a number of other development plan policies highlighted in the council's committee report. They supplement the key policy framework for a wind farm contained in Policy 67. The appellant has not challenged the use of these other policies and where relevant I make reference to additional policies. However, I recognise that it is Policy 67 which is the policy specific to renewable energy.

6. The Onshore Wind Energy: Supplementary Guidance, prepared on the context of Policy 67, lists a range of considerations for assessing a wind farm. This includes landscape and visual effects, and impacts natural heritage resources. For the purposes of the supplementary guidance the turbines are sited in a Scottish Planning Policy Group 2 area (an area of significant protection). This is because the turbines are located in the

'Causeymire – Knockfin Flows' area of wild land at its south east corner. The existence of priority peatland habitat within the site also means, according to Scottish Planning Policy, that the site should be considered as a Group 2 site.

7. Although the Caithness and Sutherland Local Development Plan does not contain specific policies for onshore wind, it does set out a number of points relevant to this case:

- the definition of settlements (including Helmsdale);
- an aim to be characterised as an international centre for renewable energy;
- safeguarding the outstanding environment and natural built and cultural heritage;
- the North Coast 500 route and east coast connectivity and tourism corridor (on local development plan strategy map);
- the value of peatland as a vital carbon store and its international importance;
- renewable energy generation in the North Highland helping to meet national climate change targets and delivering economic benefits for the area; and,
- a number of Special Landscape Areas are mapped.

Landscape and visual effects

8. The EIA report predicts significant visual effects from three of the viewpoint/wireline locations chosen. Significant localised landscape effects around the site were identified in the EIA report. Significant cumulative impacts were predicted; primarily in combination with the (refused) West Garty wind farm.

Landscape effects

Landscape character and designations

9. According to Scottish Natural Heritage Strategic Locational Guidance for Onshore Wind Farms, the site lies in a 'medium' natural heritage sensitivity area. Scottish Natural Heritage indicate there is often scope to accommodate wind farms of an appropriate scale when acceptable in natural heritage terms within such an area.

10. The development is located in the Low Moorland Slopes and Hills landscape character type. It is a character type where the overall landscape sensitivity to wind turbines is agreed to be 'high'. The appellant acknowledges there would be localised significant impacts on the landscape character type. However, there is broad agreement between the council and the applicant that the Moorland Slopes and Hills is a landscape type that, taken in isolation, could be able to accommodate larger wind farm developments. Given the broad size of the landscape character type I find that it is unlikely that the turbines would influence the landscape character of other landscape types across Caithness and Sutherland.

11. Due to the distances involved and limited predicted visibility, I agree with the appellant that there would be no impact of concern on the Dornoch Firth National Scenic Area. I find that Scottish Natural Heritage have no concern regarding the National Scenic Area.

12. The site is not located within any of the Special Landscape Area's designated in the Caithness and Sutherland Local Development Plan. There are no direct effects on these designated landscapes.
13. The Loch Fleet, Loch Brora and Glen Loth Special Landscape Area is located to the south west of the turbines. The turbines would be seen from a limited area, largely to the north of the designation (for example viewpoint 10 and wireline 11), and would be seen from the south on the horizon created by the Special Landscape Area. However, the proposal site is not related to the defined hills within the Special Landscape Area. The visibility from within the area is predicted to be low. I agree with the council and the appellant that indirect impacts on this Special Landscape Area are therefore not significant. I do not see evidence which suggests to me that visibility of the proposal would impact on the characteristics and qualities of the Special Landscape Area as described in the Assessment of Highland Special Landscape Areas. I do however note that a number of representations have made judgements to the contrary.
14. The Flow Country and Berriedale Coast Special Landscape Area is located three kilometres to the north of the proposal site. I find that the indirect impacts on the Special Landscape Area are visual impacts: travelling south on the A9 looking towards the Navidale proposal and looking outwards from hill tops and elevated positions within the designated area.
15. I agree with the appellant's assessment that key views of the Special Landscape Area are recognised to be from coastal areas or transportation routes towards Morven, Scaraben, open moorland and glens; described as 'distinctive mountain and moorland skyline' in the Assessment of Highland Special Landscape Area. In my judgement, and after visiting the area in some detail, the development would not compromise these views of the exposed peaks and striking profile of the lone mountains, glens and peatland or the perception of their scale.
16. The visibility of the proposal when viewed from mountain summits (for example from Morven and Scaraben) and from higher ground would indirectly affect one of the qualities of the Special Landscape Area. That is the opportunity to view a panorama over the flow country and out to the North Sea. However, I find that the proposal would not affect the landscape character within the designated area. It would create a prominent visual impact which conflicts with the panoramic view out to the North Sea. That said, I do not consider that would bring the proposal into conflict with the overall range of qualities of the Flow Country and Berriedale Coast designation. That is because the focus of the Special Landscape Area is on views 'inward' to the designated landscapes as described in the Assessment of Highland Special Landscape Area.
17. I note that the council nor Scottish Natural Heritage do not raise any significant concern regarding indirect impacts on the Flow Country and Berriedale Coast Special Landscape Area.

Supplementary Guidance criterion

18. The Onshore Wind Energy Supplementary Guidance sets out ten criterion around which an assessment of a wind farm should be made. Six of the criterion are highlighted in the council's committee Report as of some concern (1, 2, 6, 8, 9 and 10). In the council's opinion three of these matters (1, 2 and 6) are significant enough to contribute to the refusal of the application.

19. Based on my visit to the area and the zone of theoretical visibility information provided by the appellant, I agree with the appellant that the landscape context of nearby settlements would not be significantly affected. Where the development would be seen in West Helmsdale it is blade tips that would be visible. They would not be prominent. I accept that they may be visually distracting. However, the turbines would not be prominent in the landscape from views within and around Helmsdale. The turbines would not overwhelm the skyline from Helmsdale or other settlements further afield.

20. Given the small numbers of turbines, the distance involved, and having visited viewpoint 8 and additional viewpoint 1, I do not accept that the landscape setting of Brora would be significantly altered. I also find that there is a significant difference in perception with regard to viewing turbines located offshore at Beatrice and West and East Moray and their impacts on settlements. The chosen site would therefore, in my view, adhere to criterion 1 of the supplementary guidance regarding prominence and relationship with settlements.

21. Criterion 2 aims to ensure that at gateway locations wind turbines or other infrastructure do not overwhelm or otherwise detract from the landscape characteristics which contribute to distinctive transitional experiences at gateway locations.

22. The council say that the Ord of Caithness is a gateway location. The appellant argues that the landscape characteristics do not transition until further north. After visiting the area and having regard to the landscape character types nearby, I would agree with the appellant about landscape transition. Nevertheless, the Ord of Caithness is a recognised and fairly distinct landscape feature. It is recognised as the boundary between Sutherland and Caithness. This is reiterated by those individuals objecting to the proposal. As such, I find that the Ord of Caithness should be considered as a gateway location for the purposes of the supplementary guidance.

23. I accept that those stopping at the Ord of Caithness would look outwards along the coast and over the Moray Firth. Such views would be largely unaffected by the turbines. In addition, long range views inland are not available due to the proximity of the rising landscape to the north east. This would likely encourage those to look towards the coast. Nevertheless, the scale of the turbines located on rising land, and in close proximity, would in my view be a dominant feature within the landscape. This is illustrated in viewpoint 3.

24. Impacts are to be expected from turbines of one hundred and twenty five metres in height, and within 1.1 kilometres. However, the location of the turbines on rising ground gives additional and more harmful prominence in relation to the landscape. Those stopping and using the road would be very aware of the turbines; albeit for a reasonably short duration when driving. I find that the proximity of the turbines and their scale located on

higher ground, would detract from the experience of the topographical interest at the Ord of Caithness and the perception of moving into Sutherland or Caithness. This is a matter which the appellant acknowledges in the appeal statement and the EIA report noting that the visual impact will be locally 'Major'. It is also a matter raised in letters of objection.

25. The existing pattern of wind farm development is expected to be followed as part of any assessment against criterion 6. Given the relatively small number of surrounding wind farms, a distinct pattern is not easy to establish. However, it is clear to me that other wind farms, built or consented in reasonable proximity to the proposal site, are set back from the coast. This is evident at Gordonbush and Kilbraur wind farms. I find that these wind farms are in contrast to the current proposal which would be sited on coastal hills and seen clearly in association with the coast. I find that the siting, on the coast, increases the local prominence of the turbines and would deviate from the inland pattern of other nearby wind farms. I therefore conclude that the proposal would be out of character with the prevailing pattern of existing wind turbines (of commercial scale).

26. While there may be similarities with other wind farms in terms of turbine size and layout, I find that there is an obvious tension created by the Navidale turbines located further towards the coast in an attempt to mitigate impacts on an area of wild land.

27. I recognise that in a very limited number of views on the A879 Kinbrace to Helmsdale road the scale of the proposals would contrast with the consented Navidale Estate Turbines (if constructed). However, having driven on the road and observed the limited nature of the views I do not consider that it brings the proposal into conflict with criterion 8 or 9. Nor do I find that visual impact of the wind farm would be a dominant visual feature when viewed from the Strath of Kildonan.

28. Notwithstanding the general agreement that a Moorland Hills and Slopes landscape character type could accommodate wind turbines, the proposal is in a location where the landscape character type rolls down to the edge of the coast. In that respect only a limited amount of moorland hill is evident when viewed from the A9 when approaching the site from the north. The turbines would appear to be dominant over the hills that are visible from the road. I therefore conclude that the distinctiveness of localised landscape character is affected by the siting the turbines so close to the coast. This suggests to me that there is a tension with regard to criterion 10 which aims to ensure that the distinctiveness of landscape character is respected.

Cumulative landscape impacts

29. The cumulative landscape issues of concern is with the West Garty wind farm. That proposal has been refused consent by Scottish Ministers. Cumulative landscape impacts were not a matter of concern for the council other than on the landscape context for settlements which I have dealt with above.

Visual effects

30. Thirteen of the EIA report viewpoints have been used to assist with visual impact upon communities and transportation routes.

31. The council has concerns about views from Brora. While in environmental impact assessment terms the visual impact could be regarded as significant, I do not consider the potential impact to be harmful. I visited viewpoint 8 and additional viewpoint 1 as well as familiarising myself with views out from Brora. I appreciate that the turbines would be seen from some locations in and around Brora on days of good visibility. Nevertheless, the distance involved and the limited area of the horizon impacted means that the turbines would not be seen out of scale or dominant over the landform. They would also be significantly screened by intervening topography.

32. I do not find that the scale of visual effects on residents in and around Helmsdale, including the village of Navidale, would be dominant visual impacts. Visibility of the turbines is very limited. I agree with the EIA report that visual impacts on settlements are not significant.

33. In general terms, travelling north along the A9 I found that visibility of the turbines would be low. This is evidenced by the zone of theoretical visibility 'route assessments' produced by the appellant. Where visible the turbines would be significantly screened by the existing landform. Tree cover and growth along the roadside would also reduce potential visibility for those travelling north on the A9.

34. When travelling south the impacts would become more pronounced from south of Berriedale (at around 6 kilometres). This is shown in viewpoint 4 and the Berriedale to Ord of Caithness Route assessment within the EIA report (Figure 1.6b). There would be locations where the wind turbines would be locally prominent against the skyline.

35. In terms of impacts on routeways I am conscious the council has designated the corridor along the coast as the North Coast 500 and a 'connectivity and tourism corridor'. These are set out in the Caithness and Sutherland Local Development Plan and are factors to be considered in a balanced conclusion on landscape and visual effects. The North Coast 500 route is reflected as important to the local tourism industry in many of the letters of objection to the Navidale proposal.

36. Representations have also highlighted concerns over visual impacts on valued fishing and golf experiences, and on businesses nearby. The Mountaineering Council for Scotland has advised the proposal is detrimental to the nationally significant mountaineering resource of Morven; the highest hill on the east coast between the Dornoch and Pentland Firths. Their concerns include landscape and visual impact, but also impact on an area of wild land which is discussed below.

37. The visual impacts from the summits of Morven, Scalabsdale and Scaraben would be of significance. From these locations (in particular from Morven and Scaraben) the turbines would be very prominent on vast open views of unsettled landscape. This would impact on the panoramic view experienced by walkers.

38. Finally in relation to visual impacts, from the evidence submitted, the EIA report and my site inspections, I do not find that any individual property would be visually overwhelmed by the proposal. Visual amenity of individual properties is not a matter for this appeal.

Cumulative visual impacts

39 The cumulative zone of theoretical visibility maps within the EIA report, along with my site inspections and the refusal of West Garty wind farm, have demonstrated to me that cumulative visible impact is not a concern for this case. It is not a concern for the council or Scottish Natural Heritage.

Wild Land Area

40. The nationally important Causeymire - Knockfin Flows Wild Land Area covers a large area of landscape from the proposed site in the south to Ben Aliskey in the north.

41. I am not aware that The Highland Council has adopted any additional Wild land Supplementary Guidance. In response to my further information request the full description of the wild land area was provided by Scottish Natural Heritage. On my site inspection I was able to appreciate and understand the five stated key attributes and qualities of the area. It is the impact on three of these that is at the heart of this appeal and I address them below. In addition, within the official description I have found no evidence that the 'flow county' is the principal defining character of the wild land area. Having visited the area and observed the physical attributes and the perception of remoteness that it possesses I cannot agree with the appellant that the flow country is the principal defining quality.

42. The appellant has raised concerns over the southern boundary of the wind land area. However, the drawing of the boundary is not a matter that I can address in my decision other than to recognise that such boundaries are intended, as I understand it, as a strategic tool and 'broad brush' in nature.

Wild land area quality: Awe inspiring simplicity of wide open peatland from which rise isolated, arresting, steep mountains.

43. In the Scottish Natural Heritage wild land area description it is stated that panoramic views from key hill tops show the scale of open peatlands and a sense of naturalness for 360 degrees. The sense of naturalness is intended to include views to the north from summits and to the more complex topographies to the south and south east (towards the proposal site). Unlike other manmade structures near to the proposal site, I find that the turbines would be clearly visible and very prominent from key summits when looking in a southerly direction. Their prominence on the skyline and scale in relation to the landscape would reduce the sense of naturalness which is currently experienced from hill tops. I understood that to be the case on my visit to Morven and to Scaraben on a day with good visibility. I also appreciated that views to the north across open peatlands would be unaffected.

Wild land area quality: An extensive remote interior with few visitors in contrast to the margins;

44. After visiting summits in the area, I agree with Scottish Natural Heritage that views of the turbines would diminish the perceived remoteness and sense of solitude in the interior of the wild land area. This was my conclusion when walking around the 'Wag' area (additional viewpoint 3), to the south of Morven. I came to that conclusion despite the fact

that the turbines would benefit from a degree of screening from the surrounding topography. Although the turbines would likely appear more in scale with the landscape than when viewed from the hill tops, the turbines would still be significantly prominent on the skyline. After walking in the interior, I came to the overall conclusion that the turbines would clearly diminish the extensive remote quality of the southern interior of the wild land area. The zone of theoretical visibility maps prepared for the EIA report indicate a large proportion of the area south of Morven and Scaraben would have visibility of the turbines.

Wild land area quality: Rolling, interlocking hills in the south containing remote, sheltered glens with limited visibility.

45. The appellant accepts the proposal is located on a hill which forms part of the containing interlocking hills (Creag Thoraraidh) at the southern edge of the group of hills. Having visited the area, I do not agree with the appellant that Creag Thoraraidh does not play an important role in framing the wild land area. I accept that in the lowest lying areas it plays a much lesser role. However, that is not the case from elevated positions and from hill tops within the wild land area. The fact that the hill is further to the south would only serve to increase the prominence of the turbines as the turbines would only be seen against the skyline.

46. The Scottish Natural Heritage wild land area description indicates that there is generally a greater number of human artefacts on the containing hills in the southern part of the wild land area. I found that to be the case on my site inspection. The appellant makes that case in submissions. However, I find that the turbines would be prominent and extensively visible in elevated views to the south. This is shown in viewpoints at Scalabsdale, Morven, and Scaraben. I find that the scale of the wind turbine would be far in excess of the existing human artefacts like telecommunications masts. Their location on Creag Thoraraidh would serve as a major and harmful visual impact on the rolling hills which are seen to contain the wild land area.

47. The appellant has drawn comparisons and examples from other wind farm decisions in or adjacent to wild land areas. However, I need to consider the specific merits of this case. Others decisions have their own specific circumstances and are not necessarily directly comparable with the Navidale proposal.

Conclusions on landscape and visual effects

48. I find no significant impact on national scenic areas or special landscape areas.

49. I agree with the appellant that simply being in a wild land area does not preclude development. I find that, regardless of the straight line nature of the southern boundary of the wild land area, Creag Thoraraidh plays an important role in framing the area with wild land quality. My conclusion is that the wind turbines could not be accommodated as proposed on this site without significantly diminishing three of the five key qualities of the wild land area. In coming to that conclusion I have taken into account the EIA report (and wild land assessment) and the draft guidance note on Assessing the Impacts on Wild Land Areas produced by Scottish Natural Heritage. I find that Scottish Natural Heritage have not overstated the impacts on the wild land area and that the EIA report has understated them.

50. I also find that there would be other significant visual effects. The wind farm would introduce a new pattern of wind farm development for the area close to the coast. It would be a distracting and prominent feature at a gateway location. In addition, due to the siting of the turbines, in close proximity to the site from the A9, they would dominate the localised landscape character due to their scale in relationship with the coast and the limited amount of rising land that is in view.

51. Finally, the route affected is on the North Coast 500 visitor routeway and located in a transport corridor identified and promoted for tourism development in the local development plan.

Peatland impacts

52. The EIA report indicates that turbines and infrastructure, where possible, have been sited away from areas of deep peat. The main habitats recorded by the EIA report and its supporting botanical survey is blanket bog communities (of class 2) and bog pools (class 3). Areas of 'class 1' peatland habitat are also recorded. The EIA report predicts that there is some potential for significant impacts. The use of a peat management plan and floating sections of roads is said to mitigate these effects. The creation of peatland habitat is also proposed through the restoration of a borrow pit area. No significant residual effects are predicted for the peatland habitat in the EIA report.

53. The appellant accepts there would be an impact on areas of 'class 1' peatland habitat and that the quality of the habitat is generally high across the site. Scottish Natural Heritage say that the restoration of peat bank areas within the site would not compensate for the loss of priority peatland habitats (class 1) within the site. This is because of the quality of what would be lost compared to the quality of what would be gained.

54. Scottish Natural Heritage have a number of concerns about the measures and arrangements put forward by the appellant as part of a peat management plan. This is also the case with regard to the appellant's offer to deliver peatland restoration beyond the site boundary.

55. In their response to my further information request, I find that Scottish Natural Heritage highlight that there is insufficient information to determine the potential impact or success of off-site restoration to peat cuttings. Scottish Natural Heritage acknowledge that if peatland is restored (inside and outside the wind farm site) there is some potential for biodiversity gain. However, based on the information presented as part of the application, Scottish Natural Heritage are of the view that the significant effects on the high quality and Class 1 peatland habitat on the site cannot be overcome.

56. The appellant highlights that the carbon balance for the project shows emissions savings of over 376,775 tonnes of carbon dioxide over the 25 period. This is ten times the displacement from the disruption of peat. I find that there is no dispute over this matter and that this is in favour of the proposal. In addition, the appellant indicates that the peatland is not a designated site. The appellant is also willing to refine and develop proposals for habitat restoration beyond the site through the use of planning conditions.

57. Taking the above matters together, along with the evidence submitted, I conclude that there would be significant effects on a Class 1 peatland habitat that cannot be mitigated within the site by siting and design. In my view the feasibility of, and gains to be secured from, habitat restoration outwith (together with on site) have not been sufficiently developed by the appellant to demonstrate the level of habitat gain which could be possible.

58. I note Scottish Planning Policy (paragraph 169 and 205) indicates that impacts on carbon rich soils should be assisted by using a carbon calculator to measure the carbon balance. In this case the significantly positive carbon balance is not in question. However, impacts on the high quality peatland habitat is a key impact to consider alongside that.

Other impacts

59. The EIA report assesses a wide range of other impacts: ecology; ornithology; noise; cultural heritage, hydrology and hydrogeology (excluding peatland impact), shadow flicker; infrastructure, energy balance; and safety. The council has not based its refusal on these impacts. I note that there are no outstanding concerns on these matters from key agencies.

60. The EIA report and additional information submitted by the appellant acknowledged potential residual significant environmental effects on aviation radar. Effects on aviation are addressed in Chapter 9 (Infrastructure) of the EIA report.

61. The application had objections from both Highlands and Islands Airport Limited and the Ministry of Defence in connection with air traffic control radar. In December 2018 information was received by the council that allowed the objections to be withdrawn subject to investment in appropriate mitigation works. This could be the subject of a suspensive planning condition. Aviation interests also indicated the need to be notified as the proposal progresses. Again, this is a matter which could be managed by a planning condition.

62. The conclusions of the EIA report are that some habitat would be lost on the site and construction may displace certain species for short period. The EIA report does not consider these as significant. Subject to conditions (including for deer management), Scottish Natural Heritage are content with the proposals from an ecological and ornithological point of view (excluding matters relating to peatlands which I address above). Despite the concerns raised in objections, in addition to those impacts I have already highlighted, I have found no evidence that natural heritage resources (including ornithology) would be impacted further.

63. The turbines would be a distance of two kilometres from any housing. The developer nor the council expect that television signal interference, shadow flicker, operating noise and construction noise would be an issue. I agree with that assessment. Nevertheless, planning conditions could manage any potential for disturbance arising.

64. The council and its archaeological advisors do not have any concerns about impacts on cultural heritage assets. The EIA report and supporting detailed assessments show that the proposed location and associated infrastructure would not impact directly on any areas of archaeological interest. Therefore no mitigation is proposed. The zone of theoretical visibility in the EIA report demonstrates that the turbines would, in the main, not be visible from a large number of culture heritage assets. While the turbines would be visible to listed

buildings Gartymore and Navidale House they would not occupy a main view. The EIA report highlights that hubs or blades would be visible from a list of sixteen scheduled monuments. These were subject to detailed assessment. The assessments predicted no significant effects on the sites or a moderate/minor impact on its setting.

65. Notwithstanding a number of technical concerns over the EIA report, Historic Environment Scotland agrees with its conclusions. Historic Environment Scotland say that none of the visual impacts would affect the integrity of the setting of scheduled monuments; that being a key test identified in Scottish Planning Policy.

66. Although unacceptable impacts on the historic environment is raised in objections, I find that is not the opinion of the council's archaeologist or Historic Environment Scotland nor has additional evidence been submitted to substantiate those concerns.

67. There are no private water supplies in the vicinity of the site. Any impacts on the hydrology of the site could be managed by management plans required by planning conditions. Scottish Environment Protection Agency would require conditions in this regard.

68. The proposal is assessed by the council as not significantly impacting traffic flows or the road network. Transport Scotland raise no concern. To secure the management of damage to roads and decommissioning works a Planning Obligations agreement would be sought by the council. This is a matter on which there is no dispute.

69. No Core Paths go through the site. Any direct impact on informal walking routes on open ground would be during construction where some access to the site may be restricted. Given the relatively small footprint of the proposed wind farm, this is not significant.

70. The council and the appellant agree that the project would be expected to benefit the local economy by an estimated £1.16 million during construction. Benefits to the local economy of £228,000 per annum are expected during the operation of the project. Despite a number of concerns raised in objections, there is no evidence put forward that this wind farm would have a significant economic impact on tourism. The EIA report assesses the impacts on tourism as either minor or negligible.

71. The appellant acknowledges that the primary purpose of the proposed wind farm, beyond the generation of electricity, is to create a revenue stream that would act as a catalyst for the creation of business and employment. I find that this would be reliant on the project owners to decide re-invest to create employment opportunities.

72. There is the potential for local economic benefits from the operation of the wind farm. Business ventures are listed by the appellant although they are not clearly defined in the appellant's submissions. They all rely on future investment decisions of the project owner. The appellant characterises the list of ventures as 'ideas'.

73. I have taken all the consultation responses into account, alongside the points of those making representations. Following my consideration of all the environmental information and the comments made on it made, I have not identified additional significant effects to those I have already highlighted in previous sections of this notice.

Compliance with development plan

74. I agree with the appellant that a commercial scale wind farm would result in some landscape and visual impacts. Such impacts should be balanced against energy production and other benefits of the development according to Policy 67.

75. The central argument made by the appellant is that the potential local benefits of sustainable business ventures and the redistribution of funds in the local community would outweigh the negative environmental effects. This is said by the appellant to be in line with the vision of policy 28 in the Highland Wide Local Development plan to support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland.

76. I find that the core economic benefits are during construction (with a lesser annual value during operation). In addition, while there would be the potential for sustainable employment opportunities, I find that they remain a set of ideas that would require future funding decisions by the owner.

77. My overall assessment is that the impact on the qualities of the Causeymire - Knockfin Flows Wild Land Area together with the impacts on the existing pattern of windfarm and the coastal gateway feature of the Ord of Caithness, on a route identified as important for tourism and on the North Coast 500 Route, would render the development in conflict with Policy 67 of the Highland Wide Local Development Plan and its supplementary guidance. The impacts on the wild land area would also conflict with Policy 57; natural, built and cultural heritage. In addition, the lack of clarity over the potential net impact from off-site peatland restoration when an area of high quality peatland habitat is to be lost is not in the project's favour regarding Policy 67 (and Policy 55, peat and soils, and Policy 60, important habitats). I do not consider that the scale of the benefits of the proposal, including a positive carbon balance, would be of greater importance than the negative environmental effects and the grounds of objection from Scottish Natural Heritage.

78. I do not consider that the proposal is in conformity with Policy 28 due to the environmental impacts that would arise from the chosen site and scale of the turbines.

79. I therefore consider that the policy conflicts are of such significance that the proposal does not comply with the Development Plan overall.

Material considerations

80. There is no doubt the project would make small a contribution to challenging national Scottish Government targets for renewable energy and would contribute to reducing carbon emissions. This matter is echoed in letters of support for the proposal. The appellant has assessed this impact as a minor contribution but is nonetheless in favour of the proposal.

81. The appellant argues that the proposal would contribute to a Scottish Government strategy of 1 Gigawatt of production in community and locally-ownership. I find no evidence to suggest that the proposal would be in community ownership. However, the project would appear to contribute as a locally owned project. The distribution of a community fund is not

a matter that I (or the council) consider to be material to be case. This is also the case in other decisions of Scottish Ministers that were submitted as evidence by the appellant.

82. Scottish Planning Policy states that wild land areas have “little or no capacity to accept new development” and expects development plans to safeguard the character of areas of wild land. The appellant highlights that Scottish Planning Policy (in paragraph 215) states “in areas of wild land (see paragraph 200), development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.” My earlier findings are that the effects of the proposed turbines on the qualities and character of the wild land area have not been overcome by the siting, design, scale or any other mitigation offered by the development.

83. The appellant highlights a number of questions around the drawing up of the boundaries of the Causeymire - Knockfin Flows Wild Land Area. However the drawing of the boundary is not a matter that I have a locus in for this appeal. However, I do find that Creag Thoraraidh plays an important role in framing the area when looking out southwards from elevated locations within the core of the wild land area.

84. Many of the issues raised by those making objections and supporting the development are dealt with in my assessment of topics in relation to the development plan above. In addition, those in support of the proposal have said the site has good wind resources, would reduce reliance on fossil fuels and will bring long term economic and business benefits to the area.

85. Finally, a number of concerns about the handling of the application by the council have been raised by the appellant. Those matters are not relevant to my consideration of the planning merits of the case.

Conclusion on material considerations

86. While there are material considerations which support the proposal, I conclude that there are none of sufficient scale and importance to indicate that proposal should be consented despite not complying with the development plan.

Overall conclusions

87. My assessment has set out my conclusions on significant environmental effects. I am satisfied that the information on which my findings are based is still up to date.

88. I conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Keith Bray
Reporter

Advisory notes

- 1. Right to challenge this decision:** This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.
- 2. Notification of this decision by the planning authority:** The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating in the locality of the proposed development or by other reasonable means and (b) to make a copy of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

Schedule 1: Opportunities for public participation in decision-making

There is evidence of opportunities the public had to take part in decision-making procedures on the application. These are:

- an advertisement of the application was made on 16 June 2017. It advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report. The period for representations closed 28 days after the advert;
- the planning authority received 204 public representations on the application, 151 objections and 53 representations in support;
- those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal;
- following submission of the appeal, 28 representations were submitted to Planning and Environmental Appeals Division; and,
- additional information requested by the reporter was made publicly available.