

Agenda Item	6.2
Report No	PLN/037/20

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 20 October 2020

Report Title: 20/01129/S42: Kilmac Energy (Glen Ullinish) Ltd
Land 1800m South East of Balmenach, Glen Ullinish, Struan

Report By: Acting Head of Development Management – Highland

1. Purpose/Executive Summary

1.1 **Description:** Section 42 application for non-compliance with condition 1 of Glen Ullinish Wind Farm as consented (14/03964/FUL).

Ward: 10 – Eilean A' Cheò

1.2 **Development category:** Major Development

Reason referred to Committee: Application for non-compliance with conditions on a Major Development

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

2. Recommendations

2.1 Members are asked to agree the recommendation to Grant planning permission as set out in section 11 of the report.

3. PROPOSED DEVELOPMENT

- 3.1 This application has been submitted under Section 42 of the Planning Act and relates to Condition 1 of the conditions attached to planning permission 14/03964/FUL granted on 25 August 2015 in respect of the Glen Ullinish Wind Farm. The planning permission granted in 2015 has not been implemented. This application was submitted prior to the original consent lapsing on 25 August 2020. However, it should be noted that due to the provision of the Coronavirus (Scotland) Act 2020, the original permission would now not lapse until 31 March 2021.
- 3.2 When considering the original application at the meeting of the North Planning Application Committee on 24 March 2015, the committee were minded to grant planning permission for a wind farm comprising 14 wind turbines (height to hub 78m, height to tip 119m, rotor diameter 82m), sub-station building, access tracks, crane hard standings, borrow pits, concrete batching plant and water crossings (Glen Ullinish Wind Farm) subject to conclusion of a legal agreement to secure financial guarantees related to wear and tear on the local road network and site restoration.
- 3.3 The applicant now seeks to modify this permission via Condition 1 (Development in accordance with approved plans) of that permission. Condition 1 states:
- For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement. This permission shall be for 14 turbines, with a maximum height to tip of 119m, to be sited as shown on the Development Layout Plan (APP-001) dated 18.06.2014.*
- Reason: In order to clarify the terms of permission.*
- 3.4 This application seeks to reword Condition 1 (Development in accordance with approved plans) to allow for the development of up to 11 wind turbines with a blade tip height of 149.9m in a reworked layout which involves the removal of three turbines (formerly turbines 4, 7, and 11) and the relocation of four turbines (turbines 1, 3, 6, 10), alongside a reduction in length by approximately 2km of the originally proposed access tracks.
- 3.5 The changes proposed would lead to a conflict with the description of the development. However, it has been agreed with the applicant that subject to the findings of this report and decision of the committee that the wording of the description of development, can be altered as a non-material variation under Section 64 of the Town and Country Planning (Scotland) Act 1997 (As Amended).
- 3.6 The applicant is also seeking a revised timescale direction from the Planning Authority to allow a further period for implementation of the planning permission for five years, starting at the time which any permission may be granted for this application.
- 3.7 A copy of the previous planning permission for the Glen Ullinish Wind Farm is contained within Appendix 2.

3.8 While no modifications have been made to the application following validation of the application, additional supporting information has been provided to allow for an assessment of the impacts of the modified proposal on the Dun Arkaig Schedule Monument.

3.9 This application has been supported by the following information:

- Environmental Impact Assessment Update Report;
- Updated Visualisations;
- Botanical Survey Report; and
- Ornithological Survey Report.

3.10 The applicant undertook informal pre-application advice with the Planning Authority where the procedural route to determination was discussed and advice was provided on the scale of change which may be able to be considered through an application for non-compliance with conditions.

4. SITE DESCRIPTION

4.1 The wind farm site covers some 587 hectares of grassland, heath and blanket bog situated approximately 2.4km east of Ose and 3km north of Struan. The land which is predominantly used for grazing lies on the south westerly side of Glen Ose/Glen Colbost through which runs the River Ose; this watercourse forming the western boundary of the site. Ground levels rise from around 40m to 130m AOD with the eastern boundary formed by the shoulder of a Ben Scudaig (220m) and Beinn na Cloiche (232m).

4.2 The site lies within the River Ose catchment; the River Ose running approximately 400m to the north of the closest wind turbine. A number of smaller water courses are present with the site; most notably the Croglan and Meashader Burns both of which are tributaries of the Ose. The Ose, although not designated, is a locally important trout and salmon river. Spawning gravels, spawn and juvenile salmon are protected from disturbance/injury/destruction under the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003.

4.3 There are no statutory natural heritage designations on the site. However, parts of the site, for example those adjacent to the principal watercourses, are likely to support otter, which is a European Protected Species (EPS). There is evidence of the site being used by foraging bats, particularly adjacent to the woodland along the northern edge of the site.

4.4 There are a number of statutory designated sites in the wider area (i.e. within 15 km of the proposed wind farm):

- Cuillins Special Protection Area (SPA) lies 12km to the south-east; the features of which are its breeding population of Golden Eagle.
- Ascrib, Isay and Dunvegan Special Area of Conservation (SAC) lies 11km to the north-west of the site. The designated features are harbour seal.
- Talisker Site of Special Scientific Interest (SSSI) lies 9km to the south; the notified features of which are largely geological but also relate to the presence of Burnet moth.

- Sligachan SSSI is situated 14km to the south-east of the site. The notified features include upland bog, standing open water and canals and vascular plants.
- An Cleireach SSSI lies 1.2km to the north-west of the site. The notified features are its geological qualities.

4.5 The proposed wind farm site is not covered by any national or local landscape designation. The Cuillin Hills National Scenic Area (NSA) is situated 17km to the south-east of the site. Trotternish NSA lies approximately 18km to the north-east.

4.6 There are a number of Special Landscape Areas (SLAs) within 35km of the site; the coastal SLAs of North West Skye, which lies directly to the south-west of the site, and Greshornish, which is 7km to the north, being of particular note. The Tianavaig and Trotternish SLA, which includes the iconic Storr, lies 11km to the east. Further afield, at around 20km, lies the Rona and Raasay SLA.

4.7 There are two Wild Land Areas within 35km of the site; WLA 22 - Duirinish, which includes MacLeod's Tables, is 8km and WLA 23 - Cuillin is 15km from the application site.

4.8 The majority of the site is located within a landscape character type (LCT) described as 'Stepped Moorland' in the Skye and Lochalsh Landscape Character Assessment (SNH 1996) with the northern part of the site, which contains five turbines, falling within 'Smooth Moorland' LCT. Key characteristics of the Stepped Moorland LCT are the stepped and undulating landform that has rugged appearance and sense of openness. It is a sub-type of the Smooth Moorland LCT the key characteristics of which are the gently undulating or sloping landform with smooth texture and is its exposure that results in extensive visibility.

4.9 The Dun Arkaig Broch (SM13662), which was scheduled in July 2016, is within the site, approximately 200m south west of proposed Turbine 9. There are no other Scheduled Ancient Monuments, Listed Buildings or Conservation Areas within the site. Within 10km of the site there are eighteen Scheduled Ancient Monuments and one listed building:

- Dun Mor Fort (SM-918) ~ 2.1km
- Dun Beag Broch (SM-90325) ~ 2.6km
- Dun Beag Cairn (SM-7930) ~ 2.7km
- Dun Garsin Broch (SM-912) ~ 3.3km
- Knock Ullinish (SM-2139) ~ 2.7km
- Dun Feorlig Broch (SM-3494) ~ 4km
- Ullinish Lodge Cairn (SM-903) ~ 3.7km
- Stuanmore Cairn (SM-7929) ~ 3.5km
- Ullinish Fort (SM-930) ~ 4.3km
- Dun Ardtreck (SM-7120) ~ 5.4km
- Dun Neill (SM-3885) ~ 5.6km

- Ardmore Chapel (SM-3884) ~ 5.4km
- Barpannan Chambered Cairns (SM-893) ~ 4.6km
- Skeabost Island/Columba's Church (SM-947) ~ 7.7km
- Ard Clach (SM-935) ~ 8.5km
- Dun Suladale Broch (SM-921) ~ 8.9km
- Dun Cruinn Fort (SM-910) ~ 9.6km
- Kensaleyre Church (SM-3417) ~ 9.8km
- Dunvegan Castle (HB-501) - Category A ~ 11.3km.

4.10 194 individual cultural heritage features were identified within a walkover survey of the site. These features include:

- Post medieval farmsteads
- Enclosures
- Historic peat cutting
- Rig and furrow.

4.11 Dunvegan Castle Gardens is within the Inventory of Gardens and Designed Landscapes.

4.12 29 residential properties in the area were considered as sensitive noise receptors. The nearest sensitive receptors are:

- Glen Vic Askill (H1) ~ 940m
- Balmeanach Road (H2/3) ~ 2-3km
- Gearymore (H12) ~ 1.5km
- Gearymore (H19) ~ 1.8km

4.13 Other relevant wind farm developments in proximity to the site include:

Built and / or Consented

Ben Aketil - 3.5km to the north-west

Edinbane - 1km to the north

In Planning

Ben Sca – 4.5km to the north

5. PLANNING HISTORY

5.1	14/03964/FUL - Erection of 14 wind turbines (height to hub 78m, height to tip 119m, rotor diameter 82m) and sub-station building, formation of access tracks, crane hardstandings, borrow pits, concrete batching plant and water crossings	Permission Granted	25.08.2015
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6. PUBLIC PARTICIPATION

6.1 Advertised: Environmental Impact Assessment Development, Schedule 3 Development and Unknown Neighbour

Date Advertised: 27.03.2020 and 21.08.2020 in the Edinburgh Gazette and West Highland Free Press

Representation deadline: 20.09.2020

Timeous representations: 2 (2 support, 0 objection)

Late representations: 0

6.2 Material considerations raised are summarised as follows:

a) General support for the proposal.

6.3 Non-material considerations raised are summarised as follows:

a) Community benefit.

6.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

7. CONSULTATIONS

7.1 **Struan Community Council** support the application.

7.2 **Skeabost and Distrcit Community Council** supports the application. It sets out that the Community council recognises the need for renewable energy projects to meet national targets. It raises the non-material issue of community benefit as a reason for support.

7.3 **Access Officer** does not object to the application. They note that the application does not effect the condition on the original permission related to provision of an Access Management Plan.

7.4 **Environmental Health Officer** does not object to the application. They have reviewed the submitted noise assessment and are content that the proposed changes to the development will still allow the development to operate within the previously agreed noise limits. They request that the previously agreed noise limit conditions are retained.

7.5 **Flood Risk Management Team** do not object to the application and have no further comments.

7.6 **Historic Environment Team** do not object to the application but agree with the comments of Historic Environment Scotland.

7.7 **Transport Planning Team** do not object to the application. It recommends that a construction traffic management plan is secured by condition. It advises that this should secure all mitigation measures to allow for the construction of the development and include a detailed assessment of structures along the route to the site. Further it sets out that a Section 96 Agreement under the Roads

Scotland Act 1984 will be required to address wear and tear on the roads which may be attributable to the construction of the proposed development. It explains that the applicant will need to discuss and agree the storage of turbine components at Broadford Aerodrome with the Council separately.

- 7.8 **Highlands and Islands Airports Limited** do not object to the application. It explains that the proposal is outwith the safeguarded areas for Highlands and Islands Airports.
- 7.9 **Scottish Environment Protection Agency** do not object to the application. It considers that the reduction in track length and overall turbine numbers is unlikely to result in a great disturbance of peat beyond that of the consented scheme.
- 7.10 **Ministry of Defence, Defence Infrastructure Organisation** do not object to the application. It requests that the turbines are fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 50 flashes per minute of 200ms-500ms duration. It wishes to be advised of the date of the construction start and finish; maximum height of construction equipment; and the longitude and latitude of each turbine.
- 7.11 **Transport Scotland** do not object to the application. It requests that the conditions attached to the original planning permission securing details of the routes of abnormal loads and traffic control measures continue to apply.
- 7.12 **Scottish Water** do not object to the application. It advises that there is no public water or waste water networks which serve the site and recommends the applicant investigate private water and waste water options.
- 7.13 **Historic Environment Scotland** do not object following submission of further information to assess the impacts of the proposal on the Dun Arkaig Schedule Monument. While noting that the principle of development in this location has already been established it notes that there are still potential significant effects on the setting of the Dun Arkaig broch.

It welcomes the mitigation in terms of siting of turbines away from the scheduled monument and the commitment of a fence outside the scheduled area for Dun Arkaig to protect the monument during construction.

It considers that the proposed development will affect the setting of the Dun Arkaig broch and that the assessment undertaken somewhat underplays the effect on the setting of the monument within wider views. It considers that the placing of turbines in close proximity of the broch will lead to the broch no longer being a focal point in views along the valley.

The conclusion reached by HES is that the revised scheme is of a lesser impact on the setting of the scheduled monument than the original scheme due to the removal of turbines. However, it notes the increase in height does have a slight increase in the adverse effect on the setting of the monument in other views toward the monument. Overall, it considers that the change in level of effect from the original scheme is not so significant that it would object to the application.

In relation to the schedule monuments of Dun Beag broch, Dun Mor fort, Dun Beag cairn, Ullinish fort, Ullinish Lodge chambered cairn and the Barpannan chambered cairns, it concludes that while there will be effects on the setting of these monuments, those effects are not considered significant.

7.14 **NatureScot** (formerly Scottish Natural Heritage) do not object to the application. In relation to ornithology, it notes that the wind farm presents a significant collision risk for White-tailed eagles but are at a similar level of risk as the consented development. It recommends conditions to secure effective monitoring and removal of fallen stock and deer to minimise risk through a modification of the existing condition related to habitat management.

It considers that the qualifying interests of the Cuillins Special Protection Area (SPA), golden eagles, is unlikely to be significantly effected either directly or indirectly.

It notes that the proposal will be visible from key viewpoints within the Cuillin Hills National Scenic Area (NSA) and Trotternish NSA. It does not consider that the proposed development will adversely affect the qualities for which these areas have been designated or have an impact on the integrity of either NSA.

In addition to the above matters, it highlights the importance of blanket bog and peatland in combating climate change. It considers that the current proposal represents a minor improvement over the consented proposals due to the reduction in length of track. It notes that the deleted turbines are not on areas of blanket bog.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design

29 - Design Quality and Place-making

30 - Physical Constraints

31 - Developer Contributions

53 - Minerals

54 - Mineral Wastes

55 - Peat and Soils

57 - Natural, Built and Cultural Heritage

58 - Protected Species

59 - Other important Species

60 - Other Importance Habitats

61 - Landscape

62 - Geodiversity

63 - Water Environment

64 - Flood Risk

65 - Waste Water Treatment

66 - Surface Water Drainage

67 - Renewable Energy Developments

- Natural, Built and Cultural Heritage
- Other Species and Habitat Interests
- Landscape and Visual Impact
- Amenity at Sensitive Locations
- Safety and Amenity of Individuals and Individual Properties
- The Water Environment
- Safety of Airport, Defence and Emergency Service Operations
- The Operational Efficiency of Other Communications

- The Quantity and Quality of Public Access
- Other Tourism and Recreation Interests
- Traffic and Transport Interests

68 - Community Renewable Energy Developments

72 - Pollution

77 - Public Access

8.2 **West Highland and Islands Local Development Plan 2018**

No policies or allocations relevant to the proposal are included in the adopted Local Development Plan.

8.3 **Highland Council Supplementary Planning Policy Guidance**

Onshore Wind Energy: Supplementary Guidance (November 2016)

8.4 The document provides additional guidance on the principles set out in Policy 67 - Renewable Energy Developments of the Highland-wide Local Development Plan and reflects the updated position on these matters as set out in Scottish Planning Policy. This document is a material consideration in the determination of planning applications following its adoption as part of the Development Plan in November 2016.

The document includes a Spatial Framework, which is in line with Table 1 of Scottish Planning Policy. The site sits partially within an “area with potential for wind farm development” and “an area with significant protection”.

8.5 The document also contains the Landscape Sensitivity Appraisals. The application site does not currently sit within an area covered by an adopted sensitivity appraisal.

The following Supplementary Guidance forms a statutory part of the Development Plan and is considered pertinent to the determination of this application:

- Developer Contributions (November 2018)
- Flood Risk and Drainage Impact Assessment (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
- Managing Waste in New Developments (March 2013)
- Onshore Wind Energy: Supplementary Guidance (Nov 2016)
- Physical Constraints (March 2013)
- Special Landscape Area Citations (June 2011)
- Standards for Archaeological Work (March 2012)
- Trees, Woodlands and Development (Jan 2013)

9. **OTHER MATERIAL POLICY CONSIDERATIONS**

9.1 The Highland-wide Local Development Plan is currently under review and is at Main Issues Report Stage.

9.2 In addition to the above, The Highland Council has further advice on delivery of major developments in a number of documents. This includes Construction Environmental Management Process for Large Scale Projects and The Highland Council Visualisation Standards for Wind Energy Developments.

Scottish Government Planning Policy (SPP) and Guidance

9.3 Scottish Planning Policy (SPP) advances principal policies on Sustainability and Placemaking, and subject policies on A Successful, Sustainable Place; A Low Carbon Place; A Natural, Resilient Place, and A Connected Place. It also highlights that the Development Plan continues to be the starting point of decision making on planning applications. The content of the SPP is a material consideration that carries significant weight, but not more than the Development Plan, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.

9.4 SPP sets out continued support for onshore wind. It requires Planning Authorities to progress, as part of the Development Plan process, a spatial framework identifying areas that are most likely to be most appropriate for onshore wind farms as a guide for developers and communities. It also lists likely considerations to be taken into account relative to the scale of the proposal and area characteristics (Para. 169 of SPP).

9.5 Other Relevant National Guidance and Policy

- National Planning Framework for Scotland 3.
- Scottish Energy Strategy (Dec 2017).
- PAN 56 – Planning and Noise.
- PAN 58 – Environmental Impact Assessment.
- PAN 60 – Planning for Natural Heritage.
- 2020 Routemap for Renewable Energy.
- Onshore Wind Energy (Statement) (Dec 2017).
- Onshore Wind Turbines.
- SNH Siting and Designing wind farms in the landscape.

Wind Farm developments on Peat Lands.

10. PLANNING APPRAISAL

10.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

10.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

10.3 The principle of the development has been established through the original planning permission granted in 2015, which has not been implemented and, if the provisions of the Coronavirus (Scotland) Act 2020 were not in place would have lapsed on 25 August 2020 previous permission. This is an application to modify condition and as a result reduce the number of turbines from 14 to 11 within the

development and increase the height of the turbines from 119m to blade tip to 149.9m to blade tip. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

Planning Considerations

- 10.4 Development Plan Policy has changed since the time of the determination of the original application. While the principal policy framework of the Highland-wide Local Development Plan has not changed, the Onshore Wind Energy Supplementary Guidance has been adopted. The West Highland and Islands Local Development Plan has also superseded the West Highland and Islands Local Plan. The key issue therefore is whether the amendment of the condition applied for would result in the development being incompatible with the Development Plan as it is now adopted. The remainder of this report will consider the modification proposed and assess its compatibility with the Development Plan taking into consideration the key changes to the proposal and the likely impacts of these, including:
- a) compliance with the development plan and other planning policy
 - b) Energy and Economic Benefits
 - c) Roads and Transportation
 - d) Landscape and Visual Impact (including Wild Land)
 - e) Built and Cultural Heritage
 - f) Protected species and ornithology
 - g) any other material considerations

Development plan/other planning policy

- 10.4 The Development Plan comprises the adopted Highland-wide Local Development Plan (HwLDP), West Highlands and Islands Local Development Plan (WestPlan). There are no site specific allocations for this site within the WestPlan but it does confirm the Special Landscape Area boundaries. The application therefore requires to be assessed primarily in terms of Policy 67 of the HwLDP which is concerned with renewable energy. The other policies listed at 6.1 of this report are also relevant and require due consideration. These matters also fall within the ambit of Policy 67 and are assessed in full within a number of material considerations examined within this report.
- 10.5 Policy 67 highlights that the Council will consider the contribution of the project towards renewable energy targets; positive and negative effects on the local and national economy; other material considerations including making effective use of existing and proposed infrastructure and facilities. In that context the Council will support proposals where it is satisfied they are located, sited and designed such as they will not be significantly detrimental overall individually or cumulatively with other developments having regard to 11 specified criteria (as listed in para 6.1). Such an approach is consistent with the concept of Sustainable Design (Policy 28) and aim of Scottish Planning Policy to achieve the right development in the right place; it is not to allow development at any cost.

- 10.6 If the Council is satisfied that there will be no significant adverse impact then the application will accord with the Development Plan.

Onshore Wind Energy Supplementary Guidance

- 10.7 The Council's Supplementary Guidance - Onshore Wind Energy, is a material consideration in the determination of planning applications. The supplementary guidance does not provide additional tests in respect of the consideration of development proposals against Development Plan policy. However, it provides a clear indication of the approach the Council towards the assessment of proposals, and thereby aid consideration of applications for onshore wind energy proposals.
- 10.8 The Council's Onshore Wind Energy Supplementary Guidance (OSWEG), which forms part of the development plan, outlines that the site falls within both a "Group 3 - Area with Potential for Wind Energy" and Group 2 – "Area of Significant Protection". The vast majority of the site falls within Group 3 area which requires these areas to be given further consideration to demonstrate that any significant effects can be substantially overcome by design, siting or other mitigation. Group 2 features within the site relate to Carbon Rich Soils and the recently scheduled Dun Arkaig broch Schedule Monument. The potential for high conservation value given to this area, therefore requires the proposal to be assessed against these interests, all as noted within Policy 67 of the HwLDP. The applicant needs to demonstrate that any significant effects on the qualities of these areas as a result of the modified development can be substantially overcome by siting, design or other mitigation. It is also important to note that Group 3 Areas are essentially the areas of land which remain, however may still have localised issues.
- 10.9 The spatial framework identifies a number of Group 1 Areas. These are areas where wind farms will not be acceptable. The site does not contain any Group 1 Areas, however there are a number of these in relatively close proximity of the site. Given the size and prominence of the development proposed, the proximity to both the Cuillin Hills National Scenic Area (NSA) and Trotternish NSA interests are relevant, as is the Cuillins Special Protection Area (SPA).
- 10.10 The OSWESG provides strategic considerations that identify sensitivities and potential capacity for wind farm development. One of the six areas to be examined is the area of Skye and Lochalsh. The Council has yet to progress with its own assessment for this area. However, its approach methodology to the assessment of proposals is applicable and is set out in the OSWESG para 4.16 – 4.17. It provides a methodology for a judgement to be made on the likely impact of a development on assessed "thresholds" in order to assist the application of Policy 67. The 10 criteria will be particularly useful in considering landscape and visual impacts, including cumulative impacts of the modified scheme.

Scottish Planning Policy

- 10.11 SPP sets out continued support for onshore wind. It requires planning authorities to progress, as part of the Development Plan process, a spatial framework identifying areas that are most likely to be most appropriate for onshore wind farms as a guide for developers and communities. It also lists likely considerations to be taken into account relative to the scale of the proposal and area characteristics (Para. 169 of SPP).

- 10.12 Notwithstanding the overarching context of support, SPP recognises that the need for energy and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals. The planning system has a significant role in securing appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy. National policies highlight potential areas of conflict but also advise that detrimental effects can often be mitigated, or effective planning conditions can be used to overcome potential objections to development.
- 10.13 Criteria outlined within SPP for the assessment of applications for renewable energy developments include landscape and visual impact; effects on heritage and historic environment; contribution to renewable energy targets; effect on the local and national economy and tourism and recreation interests; benefits and dis-benefits to communities; aviation and telecommunications; development with the peat environment, noise and shadow flicker; and cumulative impact.
- 10.14 Particularly relevant to this application are the provisions in SPP related to sites identified for wind energy development being suitable in perpetuity and those related to repowering of wind farm sites which have previously been granted permission. In such cases, SPP is clear that if proposals are brought forward on site which have been considered suitable in relation to environmental effects and other impacts subject to mitigation, then the previous consent or use of the wind farm site will be a material consideration. This does not mean that any modifications to the application are accepted unconditionally but that the principle of wind energy developments on such sites should be accepted unless environmental effects or other impacts outweigh the permission previously granted.
- 10.15 As an up to date statement of the Government's approach to spatial planning in Scotland, National Planning Framework 3 (NPF3) is a material consideration that should be afforded significant weight in the planning balance. NPF3 considers that onshore wind has a role in meeting the Scottish Government's targets to achieve at least an 80% reduction in greenhouse gas emissions by 2050, and to meet at least 30% overall energy demand from renewables by 2020, including generating the equivalent of at least 100% of gross electricity consumption from renewables.
- 10.16 A number of publications relating to national energy policy have been published by the Scottish Government. In short, none indicate a relevant distinct policy change. Most relevant to this application are as follows:
- Scottish Energy Strategy: The future of energy in Scotland, December 2017
 - On-shore Wind Policy Statement, December 2017
- 10.17 Further to the above, in late 2019 the Scottish Government's targets for reduction in greenhouse gases were amended by The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. This sets targets to reduce Scotland's emissions of all greenhouse gases to net-zero by 2045 at the latest, with interim targets for reductions of at least 56% by 2020, 75% by 2030, 90% by 2040.

10.18 However, it is also recognised that such support should only be given where justified. The On-shore Wind Policy Statement sets out the need for a more strategic approach to new development that acknowledges the capacity that landscapes have to absorb development before landscape and visual impacts become unacceptable. With regard to planning policy, these statements largely reflect the existing position outlined within the National Planning Framework and Scottish Planning Policy, a policy framework that supports development in the justified locations. In addition it must be recognised that the greenhouse gas reduction targets and the targets in the Energy Strategy are related not just to production of green energy but also related to de-carbonisation of heat and transportation.

Energy and Economic Benefits

- 10.19 The Council continues to respond positively to the Government's renewable energy agenda. Nationally onshore wind energy in the 1st quarter of 2020 had an installed capacity of 13.75GW. Highland onshore wind energy projects in operation, under construction or approved as of 1 January 2019 have a capacity to generate 2.497GW; approximately 34% of the national installed onshore wind energy capacity. There is a further 1.696GW off-shore wind constructed, under-construction and consented.
- 10.20 While Highland Council has effectively met its own target, as previously set out in the Highland Renewable Energy Strategy, it remains the case that there are areas of Highland capable of absorbing renewable developments without significant effects. However, equally the Council could take a more selective approach to determining which wind farm developments should be supported, consistent with national and local policy. This is not treating targets as a cap or suggesting that targets cannot be exceeded, it is simply a recognition of the balance that is called for in both national and local policy.
- 10.21 The applicant has stated that the revised scheme would have the potential to generate 134,600MW hours per annum which is an increase over the consented scheme of 113,300MW hours per annum.
- 10.22 Notwithstanding any significant impacts that this proposal may have upon the landscape resource, amenity and heritage of the area, the development could be seen to be compatible with Scottish Government policy and guidance and increase its overall contribution to the Government, UK and European energy targets.
- 10.23 The proposed development anticipates 30 years of operation prior to several months of decommissioning. Such a project can offer significant investment/opportunities to the local, Highland, and Scottish economy including businesses ranging across construction, haulage, electrical and service sectors.
- 10.24 There is also likely to be some adverse effects caused by construction traffic and disruption. Representations have raised the economic impact that turbines may have on tourism. These adverse impacts are most likely to be within the service sector particularly during the construction phase when abnormal loads are being delivered to site.

- 10.25 The updated assessment of socio-economic impact by the applicant identifies that the development is likely to have a significant positive effect on the local and national economy. This is in line with the findings of the original Environmental Impact Assessment Report. The applicant notes that there will be economic benefits to the local community and economy arising from the community benefit fund and additional expenditure in the local economy. In addition, there would be annual expenditure during the operation of the wind farm. This would include business rates and a contribution to public finance expenditure over its lifetime. The applicant states the investment will benefit UK businesses, local businesses and the wider Scottish economy.

Roads and Transportation

- 10.26 It is anticipated that the turbine components will arrive at Kyle then be transported to site via the A87(T) to Sligachan, then via the A863 Sligachan-Dunvegan local road. This tried and tested route, which was used for the Ben Aketil development, is also expected to be the route for most construction vehicles.
- 10.27 Subject to conditions relating to the movement of abnormal loads and signalisation required on the trunk road network, Transport Scotland has no objection to the proposal. Neither does the Council's Transport Planning Team. In recognising the potential impact however, it has requested that should permission be granted that it is on the basis that the applicant enter into a 'wear and tear' agreement, with before and after survey, confirmation that structures along the length of the route have capacity for the development, and that a construction traffic management plan be put in place, including measures for community liaison. Such matters can be secured by condition.

Design, Landscape and Visual Impact

- 10.28 A total of 19 viewpoints across a study area of 45km have been assessed with regard to landscape and visual impact. These viewpoints are representative of a range of receptors including recreational users of the outdoors, road users and residents. The expected impact of the development in isolation can be seen with the ZTV to Blade Tip with Viewpoints (Figure 4.5(a)) in the EIAR.
- 10.29 The methodology for the Landscape and Visual Impact Assessment generally follows that set out in Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3). As set out in para 3.32 of GLVIA 3 the "LVIA should always clearly distinguish clearly between what are considered to be significant and non-significant effects." The applicant clearly sets out what the assessor considers to be a significant effect following the combination of judgements (Sensitivity and Magnitude). It appears that the applicant has applied a threshold of anything being of major / moderate impact or above to be a significant effect. Moderate is considered to be either significant or non-significant depending on the particular circumstances and based upon professional judgement. This approach is accepted.
- 10.30 In the assessment of each viewpoint, the applicant has come to a judgement as to whether the effect is significant or not. This is undertaken on a viewpoint by viewpoint and case by case basis. In assessing visual impacts in particular, it is

important to consider that the viewpoint is representative of particular receptors i.e. people who would be at that point and experiencing that view of the landscape not just in that single view but in taking in their entire surroundings.

- 10.31 A key consideration in the effects on receptors of wind energy development is the sequential effect when travelling through and area on the local road network both by individuals who live and work in the area and tourists. Those travelling scenic routes, whether designated as such or not, have a higher sensitivity to views. While a driver of a vehicle is likely to be concentrated on the view immediately in front, passengers have a greater scope for looking at their surroundings. In addition the area is regularly frequented by cyclists. As such it is considered that road users are high susceptibility receptors. The applicant has referred to road users as medium sensitivity receptors.

Design

- 10.32 The original wind farm comprised 14 wind turbines of up to 119m to blade tip in a single array, in a manner which was complimentary to the layouts of the neighbouring Edinbane and Ben Akatil wind farms. The modified scheme would be laid out in a similar fashion to the original wind farm proposal, however turbine spacing has been increased through the removal of three of the turbines. In terms of horizontal spread in views toward the of the development, the design is much improved as the wind farm would now present as a more balanced array. This is demonstrated in a number of the visualisations provided by the applicant, including at VP1 (Balmeanach) and VP2 (Harlosh). This allows the modified scheme to continue to compliment the layout of the existing wind farms in the wider landscape.
- 10.33 Discussion has been held with the applicant about the location and scale of turbines 1, 2 and 3 in particular due to their location within the scheme and the resultant interaction between receptors of the wind farm and the views experienced. When considering the proposal from the west, turbines 1, 2, and 3 sit slightly remote from the remainder of the turbines within the development and are backdropped by larger landforms. While this was the case with the original scheme as well, the increase in height has created the impression that these turbines would have an affect on the perception of scale of the landforms which backdrop these turbines. As a result the applicant has agreed to reduce the height of these turbines by 5m. This reduced height does not change the significance or otherwise of the effects on receptors but does help the turbines integrate slightly better with the surrounding landscape. This reduction in height can be secured by the modification to condition 1 of the original planning permission.
- 10.34 With this mitigation secured and the mitigation by design brought forward by the applicant, it is considered that the proposed development meets with the thresholds set out in Criterion 6, 7 and 9 of the Onshore wind Energy Supplementary Guidance.

Landscape Impact (including Wild Land)

- 10.35 In response to changes in development pressures, land use and digital mapping, NatureScot reviewed Scotland's 1990s Landscape Character Assessments (LCA) (including Skye and Lochalsh) and in 2019 produced updated national landscape character mapping and associated descriptions of landscape character types

(Scotland National LCA, 2019). In the 2014 Environmental Statement the southern part of the wind farm was identified as being within the 'Stepped Moorland' Landscape Character Type (LCT) with the northern part of the site, which contains five turbines, falling within 'Smooth Moorland' LCT. Following the changes to the mapping by NatureScot the proposed development is now wholly within the Stepped Moorland LCT, close to its boundary with the Upland Sloping Moorland LCT.

- 10.36 In light of the proposed changes to the scheme the applicant has re-assessed the landscape impact of the proposal on the relevant LCTs. While acknowledging that the increase in height of the turbines and the potential effect on landscape character, the applicant does not consider that the overall effect on landscape character to be significant. It does however recognise that there will be significant effects on the Stepped Moorland LCT between Glen Ullinish and Ben Scudaig and Smooth Moorland LCT Glen Ullinish and Glen Vic Askill. In both LCTs these effects would be in close proximity of the turbines. The applicant's assessment is accepted and it is not considered that the modified scheme would have an adverse effect on the transition, integrity and variety between LCTs. Therefore the modified scheme can be seen to meet with the threshold as set out in Criterion 10 of the Onshore Wind Energy Supplementary Guidance.
- 10.37 NatureScot considers that although visible from key viewpoints within the Cuillin Hills National Scenic Area (NSA) and Trotternish NSA that the proposal will not adversely affect the qualities for which they have been designated or the integrity of either NSA. This is due to the minimal change to the visibility of the proposed development as a result of the blade tip increase. NatureScot also note that the proposed wind farm will form a minor element in views where other wind energy development is already visible.
- 10.38 There will continue to be theoretical visibility of the proposed development from the North West Skye Special Landscape Area (SLA). The applicant considers that the increase in turbine size of the proposed development has limited changes to the assessment undertaken for the consented scheme. It does however acknowledge that the increase in blade tip height would lead to localised effects on the perceived character of the closest parts of the North West Skye SLA around Loch Bracadale. This is noted and accords with the view of NatureScot and the case officer for the consented development as assessed in 2014.
- 10.39 Since the original scheme was consented, Wild Land Area mapping (2014) and Wild Land Area Descriptors (2017) have been published by NatureScot. The 2014 Environmental Statement which accompanied the original application included an assessment of Core Areas of Wild Land, the precursor to Wild Land Areas (WLAs). The nearest WLA is Duirinish, WLA 22, and Cuillin WLA (WLA23) is more remote from the site. The applicant has not identified significant effects on either WLA. It does however note that in views from MacLeod's Table within WLA22 the magnitude of change will increase slightly due to the increased scale of the turbines. While this increase in impact is noted, the overall conclusion is accepted. NatureScot have not raised concerns with regard to the impact on the WLAs.

Visual Impact

- 10.40 The proposed change in height has however meant that from a number of viewpoints the turbines appear more dominant in the landscape and therefore have the potential to have an adverse visual impact on residential receptors, road users and recreational users of the outdoors. While this is the case the theoretical visibility of the development has not significantly altered, as demonstrated by the comparative Zone of Theoretical Visibility figures between the consented and proposed wind farm, Figures A6.5 and A6.6a.
- 10.41 In some middle distance views the proposed scheme would appear of a notably different scale than those existing turbines. This is particularly noticeable from VP10 (Idrigill Point) and VP12 (MacLeod's Table). However, given the distance between the consented turbines at Edinbane and Ben Akatile and the turbines proposed within this application, this is not problematic.
- 10.42 In views where receptors would be closer to the turbines, such as VP3 (Feorlig, 3.972km to the nearest turbine) or VP5 (Glen Heysdal, 4.588km to the nearest turbine), the turbines will sit in views which provide scale indicators in the form of forestry, pylons, houses and agricultural buildings. The scale of the turbines is more obvious and the visual impacts will be significant. However, the original scheme also had significant impacts.
- 10.43 The applicant has undertaken a visual impact assessment to consider the proposed changes to the wind farm. In doing so the applicant has included a table comparing the effects of the consented wind farm and the effects of the proposed wind farm. While no viewpoint has reduced in effect, the applicant has identified that the effects at receptors at the following viewpoints have changed:
- VP2 Harlosh – This view is approximately 4.6km to the west of the proposed development on the east side of the community of Harlosh looking over Loch Caroy. The view is representative of the experience of road users and residents within a small number of properties that face east. Due to the increase in blade tip height the applicant now considers that the magnitude of change experienced by road users and residential receptors at this location will change from medium to high. For these receptors the applicant considers that the proposed larger turbines would likely create more of a contrast with scale of the surrounding landforms. The increase in magnitude of change does not however change the overall level of effect which was identified as significant. It is considered that the assessment by the applicant is appropriate.
 - VP3 Feorlig – This view is chosen to represent the effect of the proposed development on the experience of residents and particularly the small cluster of residential properties at this location. The viewpoint is approximately 4km from the development and 1km north of VP2. It sits at a lower elevation than VP2. As with VP2, the applicant considers that the larger scale of the proposed turbines would create more of a contrast with the scale of the landform than the consented turbines. The applicant now considers that the magnitude of change experienced by the residents and road users in this area would increase from medium to medium / high. This results in the overall impact being considered significant. This is now inline with the assessment by the case officer for the consented proposal and this is considered appropriate.

- VP8 Gearymore – This viewpoint is located just off the A863 at the settlement of Gearymore. It is representative of the views experienced by residents and road users and is 2.2km from the nearest turbine. None of the properties would have direct views of the wind farm. The viewpoint is approximately 1km from where the wind farm would most likely become noticeable when heading north on the A863. The schemes visibility with Edinbane overlaps within this area. Here the overall assessment by the applicant has not changed but the applicant considers that the magnitude of change increases from medium to high for the residents and road users of the settlement of Gearymore. It is considered that despite the increased height, the majority of the turbines will not have an increased effect. However Turbines 1, 2, and 3 are prominent in this location and the agreed reduction in height of these turbines will be of benefit to reducing, but not eliminating, this dominating effect.
- VP9 Fiskavaig – This viewpoint is located on the minor road that runs through Fiskavaig, a settlement on the west coast of Skye, It is representative of residents and local road users. Some, but not all, properties face north toward the development, others would have a more oblique view of the proposed development. As with VP8, the applicant considers that the magnitude of change increases but this time the change is more significant going from low to high. This then results in the overall effect being major / moderate and significant. While the applicant has not provided further reasoning for this change, it is apparent from the visualisation that due to the increased scale of the turbines the turbines will appear more prominent, but still part of a much wider vista. It is considered that the applicants revised assessment is fair.
- VP10 Idrigill Point – This view is on the coastal path to the north of Idrigill Point on the eastern edge of the Duirinish peninsula. The viewpoint lies within the North West SLA and is 9km from the nearest turbine. It is representative of views experienced by walkers. The applicant considers the magnitude of change will increase slightly to medium-low rather than low for the receptors at this viewpoint which lies within the North West Skye SLA. Again the larger turbines are considered to be more prominent than those which are consented, with turbines 1, 2 and 3 being to the front of the scheme. The reduction in scale of these turbines by 5m will go some way to addressing the prominence of these turbines. Overall, the applicant's assessment of the effect being significant is considered reasonable.

10.44 Considering the cumulative impact, it is accepted that the consented baseline of wind energy development has not changed. The separation between operational schemes at Edinbane and Ben Akatil and the modified Glen Ullinish Wind Farm, allow each wind farm to retain its own setting and relationship to the landscape in which it sits. The difference in scale which noticeable is not problematic due to the separation between the operational wind farms and Glen Ullinish Wind Farm. The cumulative effects with consented projects be considered acceptable.

10.45 As Members will be aware, an application for Ben Sca wind farm is currently under consideration by the Planning Authority and will be presented to a future meeting of the North Planning Applications Committee for determination. This is a new project within the cumulative baseline for the proposed Glen Ullinish Wind

Farm. Ben Sca does not have significant cumulative impacts with Glen Ullinish Wind Farm due to the location of the proposed developments. It will however add to the sequential view of wind turbines when travelling on the A863 and A850.

- 10.46 The despite the increased blade tip height the scheme continue to have a relatively confined visual influence within an open landscape that is already influenced by wind turbine development. While there is a cumulative effect, Ben Aketil, Edinbane and Glen Ullinish will maintain their individual design and identity at the same time as managing to compliment one another within their setting.

Built and Cultural Heritage

- 10.47 At the time of the determination of the consented scheme, were no scheduled monuments within the site but there were 18 within 10 kilometres. Of these, 5 would have some theoretical visibility of the wind farm:
- Dun Feorlig Broch (SM-3494) ~ 4km
 - Ullinish Lodge Cairn (SM-903) ~ 3.7km
 - Ullinish Fort (SM-930) ~ 4.3km
 - Ardmore Chapel (SM-3884) ~ 5.4km
 - Barpannan Chambered Cairns (SM-893) ~ 4.6km
- 10.48 The applicant has assessed the indirect effects upon the setting of these scheduled monuments outwith the site. This concludes that the effects would be at worst moderate. Historic Environment Scotland agrees with the assessment.
- 10.49 As set out in paragraph 4.9, Dun Arkaig Broch (SM13662), was scheduled in July 2016. While noting that the principle of development in this location has already been established Historic Environment Scotland (HES) notes that there are still potential significant effects on the setting of the Dun Arkaig broch following the submission of an assessment of the effect of the proposed development on the scheduled monument. As set out in its consultation response, HES consider that the removal of turbines from the consented scheme and fencing of the scheduled area for Dun Arkaig go some way to reducing the impact on setting and will protect the monument from direct effects during construction.
- 10.50 The conclusion reached by HES is that the revised scheme is of a lesser impact on the setting of the scheduled monument than the original scheme due to the removal of turbines. However, it notes the increase in height does have a slight increase in the adverse effect on the setting of the monument in other views toward the monument. Overall, it considers that the change in level of effect from the original scheme is not so significant that it would object to the application.
- 10.51 Having considered the assessment presented by the applicant the response of HES, it is considered that turbines will have an impact on the setting of the broch within the wider landscape. Having said that, subject to mitigation in the form of Cultural Heritage Interpretation alongside an Access and Management Plan the impacts are acceptable.
- 10.52 Dunvegan Castle, which is Category A listed, and it's Inventory Garden and Designed Landscape lies approximately 11.3km north-west of the proposed turbines. The turbines will not be visible from the castle or grounds. They may

however be seen in the same view as the castle, particularly when viewed from higher ground to the west. It is not considered that this will have a significant effect.

Protected Species and Ornithology

- 10.53 The applicant has undertaken updates surveys of protected species and habitats. These have found no signs of otters or any protected species and that since the original surveys in 2012 and they notes that the habitat has not changed significantly. It is however expected that the habitat is suitable for otters and water vole. The change in blade tip height will not increase the construction footprint and therefore it is not considered that the proposed scheme will an impact beyond that of the consented scheme. The mitigation proposed by the original consent related to construction environment management and the use of an Ecological Clerk of Works remain relevant and should continue to be secured by condition.
- 10.54 Based upon the bat surveys and the lack of suitable habitat, it is not considered that bats will be significantly impacted.
- 10.55 An updated National Vegetation Classification (NVC) and Groundwater Dependant Terrestrial Ecosystems (GWDTE) survey has been undertaken. A mixture of GWDTEs are present on site and mitigation will be required, via a Construction Environment Management Document, to reduce impacts. Overall the reduction in turbines and associated infrastructure will reduce the impact on such features. It is however noted by NatureScot that the turbines removed from the scheme are not those that sit on areas of deep peat. As a result, there is a continued requirement for a peat management plan as part of the Construction Environment Management Document. Further NatureScot has recommended that their Peat Management Plan and the Habitat Management Plans should seek to improve future management of blanket bog and improve opportunities for habitat enhancement to improve the condition of existing peatland habitat.
- 10.56 Due to the proposed increase in blade tip height, there was a need to revisit the impact the proposal would have on ornithology. NatureScot was provided with a supplementary collision risk analysis for White-tailed eagle and Golden eagle.
- 10.57 NatureScot have advised that since the original wind farm was consented the White-tailed eagle population has continued to expand on Skye and this has likely contributed to a higher levels of flight activity observed in 2019 compared to 2010/12 when the original survey work was undertaken. The recently collected flight data by the applicant and NatureScot's understanding of eagle behaviour indicate that availability of carrion is a key aspect influencing eagle flight activity in a particular area. Flight data collected in May 2019 showed unusually high levels of activity in a particular part of the site where there was a dead sheep. It recommends that fallen stock / deer removal is carried out and a plan for this is secured via condition. NatureScot has highlighted that the collision risk for White-tailed eagle will be 1.12 collisions per annum which is very similar to the collision risk of the consented scheme based upon up to date flight data.
- 10.58 In relation to Golden Eagle, there is no difference in collision risk between the consented scheme and the proposed scheme, based upon up to date flight data, both being 0.195 collisions per annum. NatureScot have notes that the recent

data set identified a smaller proportion of adult birds versus juveniles or immatures which confirms that currently the Glen Ullinish site is not situated within the core zone of a breeding territory.

- 10.59 Given the potential connectivity to the Cullins Special Protection Area (SPA), which is designated for its breeding golden eagles, a Habitat Regulations Appraisal must be undertaken to assess the impacts of the proposed development on the Cullins SPA. NatureScot have provided advice which sets out that the proposal is unlikely to have a significant effect on the breeding Golden eagles for which the Cullins SPA are designated.

Other Material Considerations

- 10.60 In relation to noise, the applicant has set out that the scheme will continue to be able to be operated within the noise limits set out on the consented development. For the avoidance of doubt these limits are 35 dB_{LA90, 10-min} at any wind speed up to 10m/s at any noise sensitive property existing or with the benefit of planning permission at the time of this permission. The exception to this is the property at Glen Vic Askill where the rating level of noise immissions shall not exceed 45 dB_{LA90, 10-min} at any wind speed up to 10m/s. Subject to the application of these limits Environmental Health has no objection to the application.
- 10.61 In terms of shadow flicker it is not anticipated that this will be an issue for this development either individually or cumulatively given the location of the development in relation to properties. However, as a precautionary approach a scheme for mitigation via mode management could be secured by condition.
- 10.62 The application has raised no concerns with regard to aviation interests in relation to the Civil Aviation Authority and Ministry of Defence. They both highlight that aviation lighting will be required. As set out above, the proposed lighting scheme is of significant concern in relation to visual impact and impact on the qualities of the surrounding wild land areas.
- 10.63 Highlands and Islands Airports Limited (HIAL) have not highlighted concerns with regard to impact on the approach radar.
- 10.64 With regard to the impact on TV reception, the ES states that with the digital switchover now complete for Scotland that the likelihood of picture interference is significantly reduced. The ES accepts that if an effect does occur that mitigation can be put in place. The Council has a standard practice of requiring developers to address adverse impacts that may emerge during construction and over the initial year of operation when problems may be detected and/or experienced.
- 10.65 Given the complexity of major developments, and to assist in the discharge of conditions, the Planning Authority seek that the developer employs a Planning Monitoring Officer (PMO). The role of the PMO, amongst other things, will include the monitoring of, and enforcement of compliance with, all conditions, agreements and obligations related to this permission (or any superseding or related permissions) and shall include the provision of a bi-monthly compliance report to the Planning Authority.

- 10.66 The applicant has advised that at the end of their operational life, if the decision is made to decommission the wind farm, all turbine components, transformers, substation and associated buildings and infrastructure will be removed from the site. Foundations would remain on site; the exposed concrete plinths would be removed to a depth of 0.5m below the surface, graded with soil and replanted. Cables would be cut away below ground level and sealed. New site tracks and hardstanding areas constructed during development of the wind farm would be reinstated to the approximate pre-wind farm condition, unless otherwise agreed with the landowner and/or Highland Council. The material used to construct the tracks would be taken up, removed to areas identified in the site restoration scheme, backfilled with suitable material and covered with topsoil/reseeded. Backfilling of access tracks would be carefully planned in advance to avoid having to move plant machinery and equipment on freshly reinstated land. Any tracks which were upgraded during the development of the wind farm would be left unchanged from the conditions used during the operation phase of the wind farm.
- 10.67 The applicant acknowledges that these matters will not be confirmed until the time of the submission of the Decommissioning and Restoration Plan (DRP). The DRP would be submitted to and approved in writing by The Highland Council in consultation with NatureScot and SEPA no later than 12 months prior to the final decommissioning of the wind farm. The detailed DRP would be implemented within 18 months of the final decommissioning of the development unless otherwise agreed in writing with the planning authority.
- 10.68 The requirements to decommission and restore a wind farm site at its end of life is relatively standard and straight forward, with any request for re-powering to be considered with the submission of a relevant future application. SEPA may also require best practices and the removal of buried cables at the time of decommissioning. It is important to ensure that any approval of this project secures by condition a requirement to deliver a draft decommissioning and restoration plan for approval prior to the commencement of any development and ensure an appropriate financial bond is put in place to secure these works.
- 10.69 There are no other relevant material factors highlighted within representations for consideration of this application.

Other material considerations

- 10.70 It is worth highlighting that an application submitted under S42 of the Planning Act provides the Planning Authority with an opportunity as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed. Following consideration of the conditions attached to the extant planning permission, it is considered that the existing conditions are broadly in line with current good practice and therefore other than the conditions referred to in this report no further conditions require to be modified.
- 10.71 In granting planning permission for an application under the Planning Authority may attach a revised timescale direction. The applicant has requested that should the Planning Authority be minded to grant planning permission, that a fresh

timescale direction be applied. The applicant had sought five years for commencement of development. For a development of this scale and due to grid constraints, this is considered acceptable.

Non-material considerations

- 10.72 The issue of community benefit is not a material planning consideration. In line with Council policy and practice, community benefit considerations are undertaken as a separate exercise and generally parallel to the planning process.

Matters to be secured by Section 75 Agreement

- 10.73 The consented scheme is subject to a legal agreement under Section 75 of the Act to secure a financial guarantee for the proposed development. If Members are minded to grant this application, the Section 75 agreement will be required to be modified to reflect the terms of this permission. The applicant will be required to submit an application for modification of the agreement.

11. CONCLUSION

- 11.1 The Scottish Government gives considerable commitment to renewable energy and encourages planning authorities to support the development of wind farms where they can operate successfully and situated in appropriate locations. This location has previously been deemed appropriate and national policy encourages such sites to be considered favourably. The increased scale of the proposal will increase the renewable energy capacity and make a modest, but meaningful, contribution towards Scottish Government targets. However, as with all applications, the benefits of the proposal must be weighed against potential drawbacks and then considered in the round, taking account of the relevant policies of the Development Plan.
- 11.2 It is considered in this case that there will be additional adverse visual effects to properties within the communities closest to the scheme. The slight reduction in height of three of the proposed turbines from what the applicant had originally proposed will help to ensure that the turbines do not appear significantly out of scale with their surroundings. The impacts on natural, built and cultural heritage
- 11.3 There have been no objections from statutory consultees or members of the public. The proposal will likely have economic benefits. The applicant has been able to demonstrate that many of the potential adverse impacts can be adequately addressed and that there will be benefits also. It was recognised that the consented scheme would become a significant feature in the local area. The reduction in turbine numbers, but increase in height of the remaining turbines, will mean that the proposed scheme will also become a significant feature.
- 11.4 The scheme as now presented reduced the number of wind turbines in the view and the turbines will have more appropriate siting within the site, leading to the scheme presenting as more visually balanced. Given the changes in technology since the original consent and the reduction in turbine numbers to ensure a viable scheme can be delivered, the turbine heights have been increased. However, additional mitigation has been secured to reduce the scale of three of the turbines slightly to address some localised effects on the scale of the landscape. The reduction in turbine numbers and benefits of the layout changes, not just in

relation to visual impact but also as a result of a reduction in tracks, a reduction in disturbance of peat, and the increase in energy yield are considered to outweigh the effects of the increase in blade tip height of the turbines. Therefore it is not considered that the proposed modifications to the development would be significantly detrimental overall, as a result the proposal accords with the provisions of the Development Plan.

- 11.5 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

12. IMPLICATIONS

- 12.1 Resource: Not applicable.
- 12.2 Legal: Not applicable.
- 12.3 Community (Equality, Poverty and Rural): Not applicable.
- 12.4 Climate Change/Carbon Clever: The proposal has the ability to make a meaningful contribution toward the production of renewable energy.
- 12.5 Risk: Not applicable.
- 12.6 Gaelic: Not applicable.

13. RECOMMENDATION

Action required before decision issued Y

Modification of S75 Agreement Y

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following:

Conditions and Reasons

1. For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, the 2014 Environmental Statement and the 2019 Environmental Impact Assessment Report Update. This permission shall be for 11 turbines. Turbines 1, 2 and 3 shall have a maximum height to tip of 145m and Turbines 5, 6, 8, 9, 10, 12, 13 and 14 shall have a maximum height to tip of 149.9m to be sited as shown on the Proposed Layout Plan (A2.1) dated 04.03.2020.

Reason: In order to clarify the terms of permission.

2. This planning permission shall expire and cease to have effect after a period of 30 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 25 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and

restoration works undertaken in accordance with the terms of Condition 2 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the Planning Authority within one month of the First Export Date.

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

3. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. Thereafter:
 - i. No later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the Wind Farm Operator and a copy submitted to the Planning Authority for their written approval, in consultation with SNH and SEPA; and
 - ii. No later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft plan, shall be submitted to, and approved in writing by, the Planning Authority, in consultation with SNH and SEPA.

For the avoidance of doubt, unless otherwise stated within this decision notice, the DRP shall include the removal of all aboveground elements of the development, all new access tracks, the treatment of disturbed ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The detailed Decommissioning and Restoration Plan shall be implemented as approved.

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

4. The Wind Farm Operator shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the Planning Authority within one month of any request made by them. In the event that:
 - i. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, then the wind turbine in question shall be deemed to have ceased to be required. Under such circumstances, the wind turbine, along with any ancillary

equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition; or

- ii. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Wind Farm Operator must notify the Planning Authority in writing immediately. Thereafter, the Planning Authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition. For the avoidance of doubt, in making a direction under this condition, the Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the Wind Farm Operator and such other parties as they consider appropriate.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved detailed Decommissioning and Reinstatement Plan, or, should the detailed Decommissioning and Reinstatement Plan not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified in writing by the Planning Authority.

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

5. No development shall commence until details of the proposed wind turbines have been submitted to, and approved in writing by, the Planning Authority.

These details shall include:

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

Thereafter, development shall progress in accordance with these approved details and, with reference to part ii above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned. For the avoidance of doubt, all wind turbine blades shall rotate in the same direction.

Reason: To ensure that the turbines stated in the application are used in the development and are acceptable in terms of visual, landscape noise and environmental impact considerations.

6. No development shall commence until final details of the location, layout, external appearance, dimensions and surface materials of all control and/or substation buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA and SNH, as necessary). Thereafter, development shall progress in accordance with these approved details. For the avoidance of doubt, details relating to the control, substation and welfare buildings shall include additional architectural design, LVIA and other relevant assessment work, carried out by suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

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

7. No development shall start on site until a Construction Environmental Management Document is submitted to and agreed in writing by the Planning Authority in consultation with SNH and SEPA. The Document shall include:

- An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) and set out in the relevant planning conditions;
- Processes to control / action changes from the agreed Schedule of Mitigation;
- The following finalised specific Construction and Environmental Management Plans (CEMP):
 - i. Peat management plan – to include details of all peat stripping, excavation, storage and reuse of material, avoidance of deeper peat, provision of low impact construction techniques, careful consideration of drainage and improvement and future management of blanket bog;
 - ii. Pollution prevention plan
 - iii. Chemical pollution plan
 - iv. Site waste management plan
 - v. Otter protection plan, including specific measures to be taken to make site staff aware of species and minimise disturbance and/or capture
 - vi. Plan for minimisation of impacts on GWTDE habitats M6, M4 and M32 (through micro-siting) to include the following: the original layout, the micro-sited layout, and M6, M4 and M32 habitats.
 - vii. Noise and vibration mitigation plan
 - viii. Construction Traffic Management Plan – providing details on the proposed route for any abnormal loads, any accommodation measures required and any additional signing or temporary traffic control measures deemed necessary;

- Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities which shall include but not necessarily be limited to:
 - i. Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
 - ii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
 - iii. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
 - iv. Directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and
 - v. The power to call a halt to development on site where environmental considerations warrant such action.
- Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, Planning Authority and other relevant parties.
- Statement of any additional persons responsible for 'stop the job / activity' if in potential breach of a mitigation or legislation occurs.

Unless otherwise agreed in writing by the Planning Authority the development shall proceed in accordance with the agreed Document.

Reason: To protect the environment from the construction and operation of the development.

8.

No development shall commence until a Habitat Management Plan (HMP) has been submitted to, and approved in writing, by the Planning Authority in consultation with SNH and SEPA. The HMP, which shall be implemented in full and in accordance with any timescales outlined therein, unless otherwise agreed in writing, shall include the following elements:

- Measures to minimise the potential for white tailed eagle collisions, such as weekly surveys for and removal of fallen stock and/or deer within 500m of each turbine;
- The improvement and future management of the blanket bog and other Annex 1 habitat on the site.
- Identify opportunities for habitat enhancement that seeks to improve the condition of existing peatland habitat and restore damaged habitat, including outwith the wind farm site

The approved habitat management plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning as well as review of the provisions related to fallen stock / deer removal. Any review shall be submitted to the planning authority for written approval in consultation with NatureScot. Once approved in writing, the amended habitat management plan shall be implemented in full.

Reason: To protect and enhance the nature conservation interests of the area, including the management of vegetation and peat land within the site, mitigate any effects on statutorily protected species and their habitat and avoid adverse effects on other species of nature conservation interest.

9. No development shall commence until pre-commencement surveys to locate the presence or absence of otter and is undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall be carried out in the year preceding the commencement of development and the report of survey shall inform any mitigation measures identified in the Species Protection Plan required as part of the Construction Environmental Management Document/Plan(s) approved under Condition 7.

Reason: To protect and enhance nature conservation from construction activities.

10. No development shall commence until the applicant has provided the Ministry of Defence (Defence Estates - Safeguarding) with the following information; a copy of which shall be submitted to the Planning Authority:

- proposed date of commencement of the construction;
- estimated date of completion of the construction;
- height above ground level of the tallest structure;
- maximum extension height of any construction equipment;
- position of the turbines in latitude and longitude plus eastings and northings;

Reason: In order to ensure the safety of low flying military aircraft.

11. No development shall commence until details, including a timescale for provision, for an appropriately designed footpath to link the wind farm network of tracks to Core Path SL28.01 Loch Caroy to Glen Vic Askill has been submitted to, and agreed in writing by, the Planning Authority. The footpath shall thereafter be constructed in accordance with the approved details and timescale for provision.

Reason: To safeguard and maximise the opportunities for continued public access to the countryside during the construction and operation of this wind farm.

12. No development shall commence until a TV and radio reception mitigation plan has been submitted to, and approved in writing by, the Planning Authority. The plan shall provide for a baseline TV reception survey to be carried out prior to the commencement of turbine installation, the results of which shall be submitted to the Planning Authority. Within 12 months of the Final Commissioning of the development, any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building, shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the Planning Authority. Should any impairment to the TV signal be attributable to the development, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

Reason: To ensure local TV and Radio Services are sustained during the construction and operation of this development.

13. No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason: In order to protect the archaeological and historic interest of the site.

14. No development or work (including site clearance) shall commence until a Cultural Heritage Interpretation, Access and Management Plan has been submitted to, and approved in writing by, the Planning Authority. The approved Heritage and Access Plan shall be implemented prior to the first use of the development hereby approved, or, if different, in accordance with the approved Plan.

Reason: In order to promote the archaeological/historical interest of the site.

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

- i. No wind turbine, hardstanding or track shall be moved:
 - a. More than 50m from the position shown on the original approved plans;
 - b. and in any case to a position within 50m of any watercourse.

All micro-siting permissible under this condition without requiring the approval of the Planning Authority must be approved by the development's Environmental Clerk of Works (ECoW) identified under Condition 7. A written record must be kept of any such ECoW approval and shall be maintained for a period extending to no less than four years following the First Export Date.

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

Reason: To minimise the effect of the development on the water environment and species and habitat contained therein.

16. The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

17. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the trunk road authority before delivery commences.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road

18. Prior to the delivery of turbine components along the A863 applicant shall undertake a review of:

- the maximum axle loading on structures along the access route;
- overhead services along the access route;
- roadside vegetation, in summer conditions, along the access route and detail the clearance of any vegetation that may interfere with construction traffic;
- road works or road closures that could affect the movement of construction traffic;
- new or diverted underground services that may be at risk from construction traffic.

This information, along with proposals for any mitigation, shall be submitted to, and agreed in writing by, the Planning Authority prior to the delivery of the first turbine to site.

Reason: In the interests of protecting the public road infrastructure and ensuring the safety and free flow of traffic on the public road.

19. Access to the site by heavy goods vehicles and any noisy construction activity (e.g. piling, blasting, rock-breaking) shall be restricted to 07.00 to 19.00 on Mondays to Fridays and from 07.00 to 13.00 on Saturdays with no such access on Sundays unless otherwise agreed in advance in writing by the Planning Authority.

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

20. All turbines shall be fitted with appropriate aviation warning lights, the details of which shall be submitted to, and agreed in writing by the Planning Authority in consultation with the MoD, prior the erection of the first turbine on site.

Reason: In order to ensure the safety of low flying military aircraft.

21. The rating level of noise immissions from the combined effects of the wind turbines hereby granted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed 35 dBLA90, 10-min at any wind speed up to 10m/s at any noise sensitive property existing or with the benefit of planning permission at the time of this permission. The exception to this is the property at Glen Vic Askill where the rating level of noise immissions shall not exceed 45 dBLA90, 10-min at any wind speed up to 10m/s and:

- (A) 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.
- (B) 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 level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates. Within 14 days of receipt of a written request from the Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Planning Authority in the format set out in Guidance Note 1(e).
- (C) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits or approved by the Planning Authority pursuant to paragraph (B) of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.
- (D) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (E) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:

- (i) The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.
- (ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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 information provided in the written request from the Planning Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

- (E) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (B) of this condition 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 Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (F) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (E) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.
- (G) 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 permission.

Reason: To ensure that the noise impact of the as built turbines does not exceed the predicted noise levels in the interest of amenity, that the noise immissions will be monitored over time and that there is sufficient scrutiny and assessment in the event that a complaint is received.

22. A community liaison group shall be established by the developer prior to development commencing, in collaboration with The Highland Council and 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 advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components; this should also ensure that local events and tourist seasons are considered and appropriate measures to coordinate deliveries and work to ensure no conflict between construction traffic and the increased traffic generated by such events/seasons. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until wind farm has been completed and is operational.

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

23. There shall be no Commencement of Development until the planning authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO") for the period between commencement of development and completion of post-construction restoration works. The terms of appointment shall;

- a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to thereto;
- b. Require the PMO to submit a quarterly 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 terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.

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 consent issued.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

REASONED CONCLUSION

The Council's assessment of the information presented within the EIA Report and other environmental information in relation to the development is contained within the Report of Handling. Residual significant effects have been identified in relation to landscape and visual effects and built and cultural heritage.

The Council is satisfied that this reasoned conclusion is still up to date.

The Council is satisfied that other effects/issues can be addressed by way of mitigation.

The Council has incorporated the requirement for a schedule of mitigation within the conditions of this permission. Monitoring has been secured through Conditions 7, 8, 13, 14, and 23 of this permission.

All documents can be viewed online at <https://wam.highland.gov.uk/wam/> and searching using the case reference number.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within FIVE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks and Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud and Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: www.nature.scot/protecting-scotlands-nature/protected-species

Major Development Site Notice

Prior to the commencement of this development, the attached Site Notice must be posted in a publicly accessible part of the site and remain in place until the development is complete. This is a statutory requirement of the Town and Country Planning (Scotland) Acts and associated regulations.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Trunk Roads Authority Consent

You are informed that this consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland. Please contact the Route Manager via 0141 272 7100 to obtain permission. The Operating Company have responsibility for co ordination and supervision of works and after permission has been granted it is the developer's contractor's responsibility to liaise with the Operating Company during the construction period to ensure that all necessary permissions are obtained.

Definition of Terms Used in this Decision Notice

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

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

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

"Wind Speeds" means wind speeds measured or calculated at a height of 10 metres above ground level on the site at a specified Ordnance Survey grid reference agreed in writing by the Planning Authority

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

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

Building Regulations

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at Building.Standards@highland.gov.uk or on 01349 886608.

Designation: Acting Head of Development Management – Highland

Author: Simon Hindson, Strategic Projects Team Leader

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

Relevant Plans:

- Plan 1 Layout Plan (A2.1)
- Plan 2 Comparative Layout (A2.3)
- Plan 3 – Comparative ZTV to 40km (A6.5)
- Plan 4 Typical Turbine Elevation (A2.2)

Appendix 2 – Habitat Regulations Appraisal

Section 42 application for non-compliance with condition 1 of Glen Ullinish Wind Farm as consented (14/03964/FUL)

20/01129/S42

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

Cullins Special Protection Area

The status of Cullins Special Protection Area means that the requirements of the Conservation (Natural Habitats, and c.) Regulations 1994 as amended (the ‘Habitats Regulations’) or, for reserved matters the Conservation of Habitats and Species Regulations 2017 as amended apply.

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on those sites, it must undertake a Habitat Regulations Appraisal of the implications for the conservation interests for which the areas have been designated. The need for Appropriate Assessment extends to plans or projects out with the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- Determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- Determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- Make an Appropriate Assessment of the implications (of the proposal) for the site in view of that site’s conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not have an adverse effect on the integrity of the sites. If this is not the case and there are not alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

Screening of Likely Significant Effects

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required. Given the sites status The proposed wind farm has the potential to have a likely significant effect on the qualifying interests due to impacts arising from operation of the Proposed Development. The Council is therefore required to undertake a habitat regulations appraisal of the implications of the proposal on the above named European designated site.

Cullins SPA

NatureScot have advised in its response to the planning application on 29 September 2020 that in its view, it is unlikely that the proposal will have a significant effect on the qualifying interest either directly or indirectly. An appropriate assessment is therefore not required. This is because:

NatureScot guidance suggests using a 6km connectivity distance for golden eagles and this proposal is considerably further away. There is a non-SPA eagle territory between the development and the SPA so direct impacts on territorial eagles within the SPA is very unlikely.

The predicted annual collision risk for the 11 turbine revised proposal is the same as the predicted collision risk for the consented 14 turbine wind farm.

The Modelling report indicates that even when modelling at the smallest scale (Skye) and considering a wind farm related loss of more than one Golden Eagle per year (1.5% mortality) would only result in the a reduction of 1 range. This scenario is precautionary and therefore, indirect, population scale effects which might affect the SPA are unlikely.

As a result of the lack of likely significant effects, as competent authority, The Highland Council is **not required** to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests and can be scoped out of the appropriate assessment.

HIGHLAND COUNCIL APPRAISAL OF THE PROPOSAL

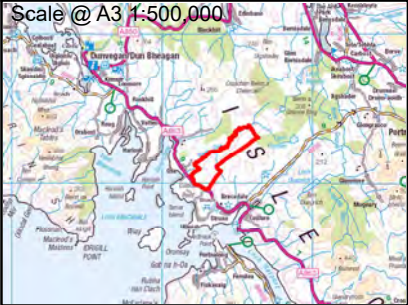
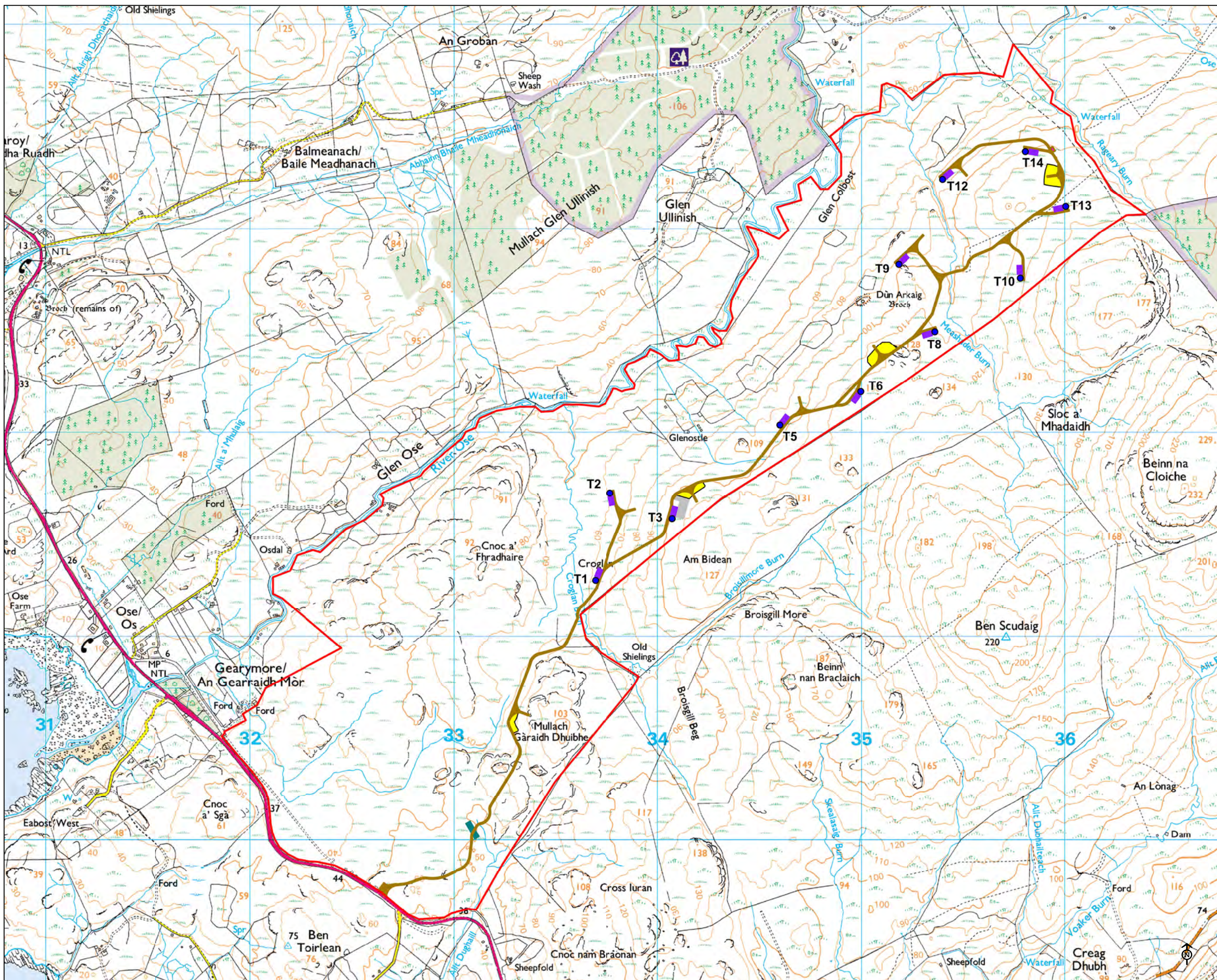
- The proposal is not directly connected with or necessary to site management for conservation;
- The proposal is not likely to have a significant effect on the site either individually or in combination with other plans or projects; therefore;
- An Appropriate Assessment of the implications (of the proposal) is not required.

The impacts on the Cullins SPA have been considered. The mitigation proposed by the applicant in relation to good practice in construction and operation as well as the remoteness of the site for the qualifying features of the SPA should be sufficient to address any significant risk and avoid an impact on the integrity of the designated sites and their qualifying features.

Overall, it can be therefore concluded that it is unlikely that any significant effects will adversely effect site integrity of Cullins SPA.

Glen Ullinish Wind Farm

- Red Line Boundary
- ◆ Turbine Locations
- Access Track
- Turbine Hardstanding (30x50m)
- Turbine Foundation (25m diameter)
- Substation
- Borrow Pit Locations
- Batching Plant
- Construction Compound



Scale @ A3 1:500,000
0 250 500 metres

Scale @ A3 1:17,000

Figure A2.1
Proposed Site Layout

Date: 04/03/2020

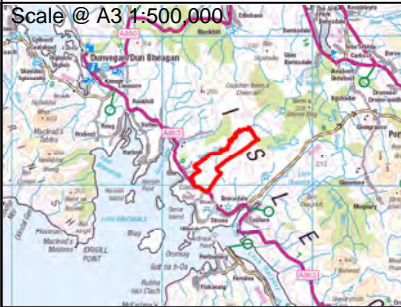
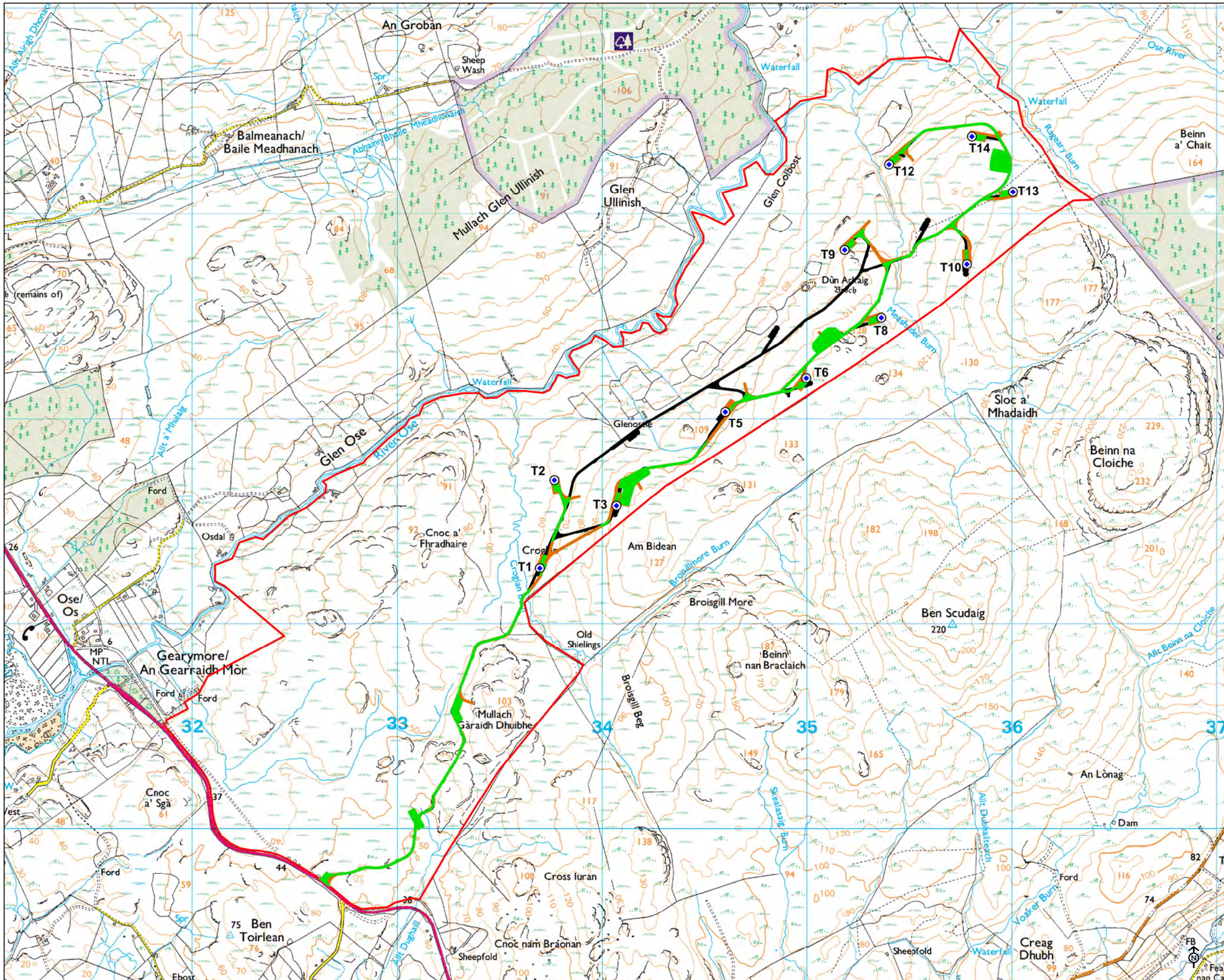
Ref: GU A2.1 Proposed Layout

Drawn: FS Reviewed:RJ



Glen Ullinish Wind Farm

- Red Line Boundary
- Turbine Locations
- Consented Infrastructure not Being Built
- Consented Infrastructure Being Built
- New Infrastructure Required to Facilitate Larger Blades



0 250 500 metres

Scale @ A3 1:17,000

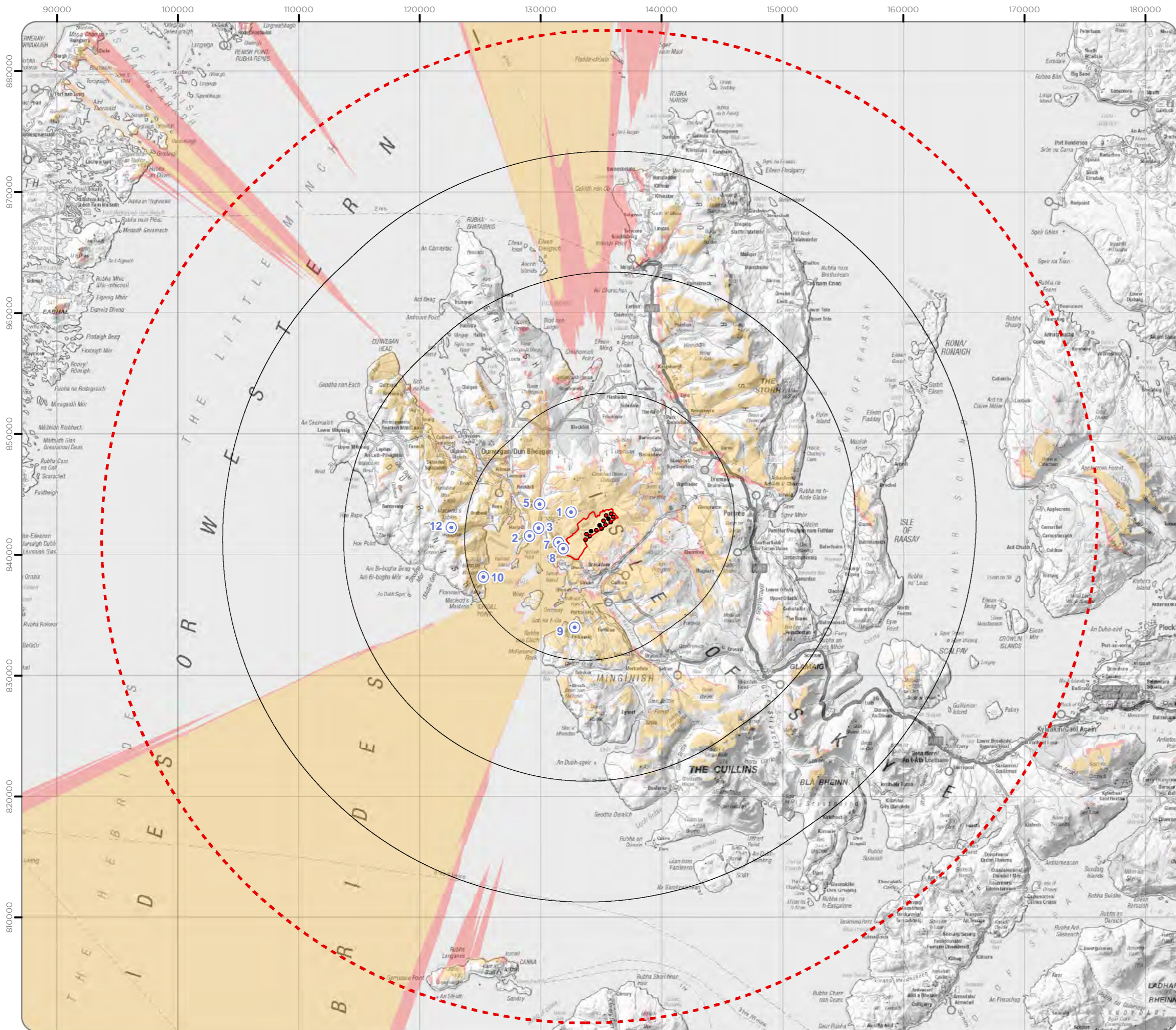
Figure A2.3
Site Layout Comparison

Date: 04/03/2020

Ref: GU Site layout_comp_A2.3

Drawn: FS Reviewed: RJ





- Legend**
- Proposed Turbines
 - Consented Turbines
 - Proposed Site Boundary
 - 10km Radii
 - 40km Radius
 - ⊙ Viewpoints
1. Balmeanach
 2. Harlosh
 3. Feorlig
 5. Glen Heysdal
 7. Ose
 8. A863 Gearymore
 9. Fiskavaig
 10. Idrigill Point
 12. MacLeod's Table
- █ Glen Ullinish Proposed Development Blade Tips Theoretically Visible
 - █ Glen Ullinish Consented Development Blade Tips Theoretically Visible
 - █ Combined Theoretical Visibility

Blade Tip S42:	149.9m	Observer height:	2m
Blade Tip Cons:	119m	Surface features:	Excluded
DTM:	OS T5 & T50	Earth curvature:	Included
DTM resolution:	10m		

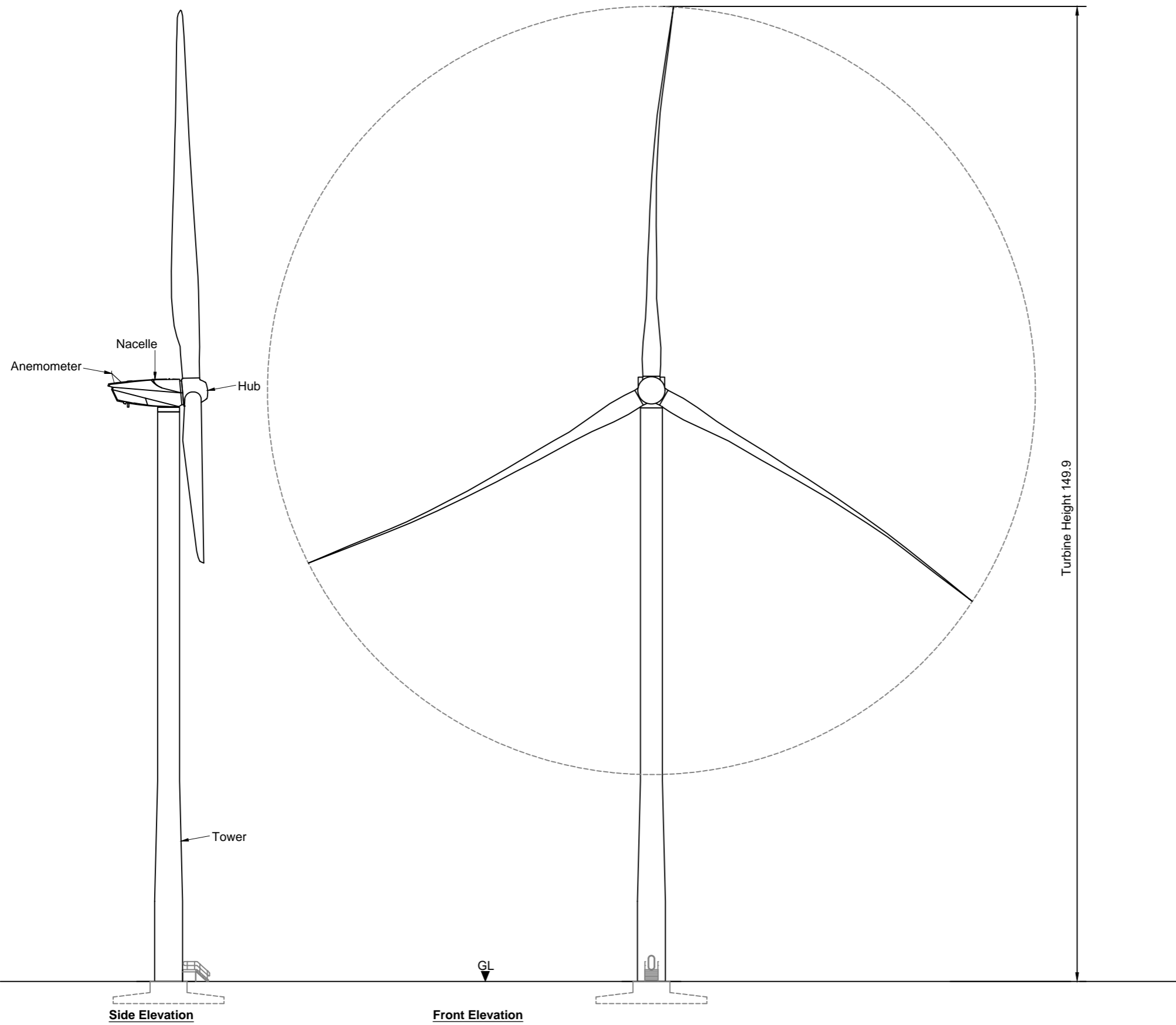


GLEN ULLINISH WIND FARM

Figure A6.5
40km Comparative ZTV for Proposed Development and Consented Development

Ref No:	191366	Created By:	SH	Rev No:	1
Scale:	1:320,000	Drawing Size:	A3	Date:	18/02/2020
Coordinate System: BNG OS GB 1936 Datum					





NOT TO SCALE

Figure A2.2 Typical Turbine Elevation

Date: 04/03/2020

Ref: Figure 2.2

Drawn: FS Reviewed: RJ