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Ms K Lyons
Highland Council
Sent By E-mail

Our ref: PPA-270-2250
Planning Authority ref: 20/00584/FUL

7 January 2022

Dear Ms Lyons

**PLANNING PERMISSION APPEAL: LAND AT TORR LEATHANN, STRATHRORY,
ARDROSS, ALNESS, IV17 0YD**

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

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

DPEA is continuing to look at how we can improve the services we deliver and welcomes contributions from all those involved. In this regard I would be grateful if you could take five minutes to complete [our customer survey](#).

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

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

Yours sincerely

Christopher Kennedy

CHRISTOPHER KENNEDY
Case Officer
Planning And Environmental Appeals Division



Decision by Keith Bray, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2250
- Site address: land at Torr Leathann, Strathrory, Ardross, Alness IV17 0YD
- Appeal by Energiekontor UK Ltd against the decision by The Highland Council
- Application for planning permission 20/00584/FUL dated 6 March 2020 refused by notice dated 15 June 2021
- The development proposed: erection and operation of a wind farm for a period of 35 years, comprising of 7 wind turbines with a maximum blade tip height of 149.9 metres, access tracks, borrow pit, substation, control building and ancillary infrastructure
- Date of site visit by Reporter: 1, 2 and 3 September 2021 and 1 November 2021

Date of appeal decision: 7 January 2022

Decision

I allow the appeal and grant planning permission subject to the 22 conditions listed at the end of the decision notice at Schedule 1. Attention is also drawn to the 5 advisory notes at the end of the notice at Schedule 2.

Preliminary matters

The application has been amended on two occasions during the planning application process. I do not compare the changes made in my assessments and decision as I need to consider the proposal as it is currently presented.

After the publication of the consultative draft Scotland 2045 – Our Fourth National Planning Framework on 10 November 2021, I provided the opportunity for the council and the appellant to inform me of their view on the materiality and relevance of the draft to this case. I have incorporated their responses into my considerations for this case.

Environmental impact assessment

The proposed development (as revised) is described as above, and at Chapter 3, section 3.9, of the Environmental Impact Assessment Report Further Environmental Information (II). It is 'EIA' development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 EIA regulations").

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



- the Environmental Impact Assessment Report as revised by the Further Environmental Information (II), Volumes 1, 2 and 3 (January 2021);
- consultation responses from the environmental health, transport, historic environment, development plan, landscape and access functions of the council, NatureScot, Historic Environment Scotland, Scottish Environment Protection Agency, The Royal Society for the Protection of Birds Scotland, Highlands and Islands Airport Limited, Ministry of Defence, National Air Traffic Systems, Scottish Forestry, Transport Scotland and Scottish Water;
- responses from Kilmuir and Logie Easter, Ardross, and Strathpeffer Community Councils; and,
- over 50 representations from members of the public and groups to the planning application and over 30 representations from individuals and groups received by the Planning and Environmental Appeals Division as interested parties.

Five additional figures were submitted to the Planning and Environmental Appeals Division on 23 August 2021 by the appellant in response to comments made by interested parties, including Ardross Community Council. The figures were to provide additional clarity for Further Environmental Information (II). I regard the information as essentially submitted to verify the conclusions of the Environmental Impact Assessment Report and not as providing substantive new information on significant effects. As such I do not regard them as Supplementary Information for the purposes of the 2017 EIA regulations.

I am required by the 2017 EIA regulations to include information in this decision notice with regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 4 at the end of this decision. My conclusions on the significant environmental effects of the proposal are set out throughout the decision.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are landscape and visual impact, other environmental impacts and energy related policy.

Development plan

2. The relevant development plan consists of the Highland Wide Local Development Plan (2012) and the Inner Moray Firth Local Development Plan (2015), together with adopted supplementary guidance.

3. The most relevant policy of the Highland Wide Local Development Plan is policy 67 which relates to the assessment of renewable energy proposals. It is essentially a list of policy considerations to use in taking an overall view on the acceptability of any proposal. The council's committee report acknowledges policy 67 as the primary policy for this case. In addition, the committee report references policies 28, 57 and 61. The council does not add to this in its reasons for refusal. I also recognise that policy 55 is of relevance with regard to peat resources. Given the overarching nature of policy 67 for renewable energy, it is compliance with that policy which is of central importance. It is also the single policy referenced in the council's reason for refusal.

4. The Inner Moray Firth Local Development Plan has no site-specific policies for the appeal site and is therefore less relevant. However, it does set out Special Landscape Area boundaries.
5. The most relevant adopted supplementary guidance is the Onshore Wind Energy Supplementary Guidance (first adopted in November 2016). There is no disagreement that the appeal site sits within both 'Group 2' and 'Group 3' areas identified in the guidance. The supplementary guidance sets out a range of criteria to aid an assessment against policy 67. It also contains the Black Isle, Surrounding Hills and Moray Firth Coast Caithness Sensitivity Study (in supplementary guidance, version 2b, 2017).
6. Although the Highland Wide Local Development Plan is more than five years old, I do not find the relevant provisions of the plan to be particularly out-of-date with specific reference to this case. Policy 67 gives the council's position on the considerations to take into account for any renewable energy proposal. That is supplemented by the more recent supplementary guidance (updated in 2017) which sets out the balancing considerations in more detail.

Landscape and visual impact

Context

7. The proposed wind farm comprises the erection of 7 wind turbines with a maximum blade tip height of 149.9 metres, access tracks, borrow pit, substation, control building and ancillary infrastructure (including energy storage).
8. At the heart of this appeal is a difference of opinion on the acceptability of landscape and visual impacts. I have identified no fundamental disagreements on the methodology for the landscape and visual impact assessment within the Environmental Impact Assessment Report or Further Environmental Information or with the visualisations which are produced to The Highland Council and NatureScot visualisation standards. I also find no disagreements with the baseline of wind farm projects to be considered within a cumulative assessment.
9. The local development plan(s) and supplementary guidance confirm that there are no landscape designations in or around the site.
10. Based on the supplementary guidance (part 2b) the northern portion of the site is within the East and Central Sutherland landscape sensitivity study area. A landscape sensitivity appraisal has not been produced for that area to date. The southern portion of the site falls into the Black Isle, Surrounding Hills and Moray Firth Coast landscape sensitivity appraisal area. However, the council has pointed out that the boundary between the two study areas does not suggest a change in landscape character type.
11. The site is characterised as the Rounded Hills and Moorland Slopes (BL40) landscape character type. The supplementary guidance says that the susceptible characteristics of this landscape type are the setting of:

- the Cromarty Firth;
- the designed landscape cluster at Balnagown Castle and Tarbat House;

- Ardross Castle designed landscape; and,
- Sutors of Cromarty, Rosemarkie and Fort George Special Landscape Area.

12. The Black Isle, Surrounding Hills and Moray Firth Coast landscape sensitivity appraisal gives the site's landscape character type a score of 3 for large scale wind farms. This is on a scale of 1 to 4, where 4 is most able to accommodate large scale wind farms. The highest sensitivity of receptors are considered (by the guidance) to be residents of the immediate locality, people at key viewpoints, visitors/tourists including cyclists and walkers. The appraisal also says that in this landscape type there is limited scope for larger turbines. Any large or medium scale turbines are advised to:

- be located where turbines bases are on the far side of horizon to maintain the containment of space;
- not be of a scale to overwhelm the landscape and sense of place of the Moray Firth;
- not breach interim horizons when seen from key locations;
- not impinge on Key Views;
- protect legibility of layered landscape in longer views;
- protect key characteristics and qualities of Ben Wyvis Special Landscape Area; and,
- preserve mitigation established by current nearby schemes.

13. In addition, the supplementary guidance provides 10 criteria to consider landscape and visual impacts against, including cumulative impacts, in order that judgements on the Highland Wide Local Development Plan policy 67 can be made. I have noted that the Ardross Community Council consider that the landscape sensitivity appraisal is out-of-date because turbines heights have increased recently. It is however the most up-to-date appraisal available for the area.

14. The Environmental Impact Assessment Report in Chapter 6, and based on Further Environmental Information (II), predicts significant landscape and visual effects with regard to:

- direct effects on the host landscape character type;
- indirect effects on neighbouring landscape character 'Forest Edge Farming: Ardross';
- visual effects (including cumulatively) on B9176/Moray Firth Tourist Route (including at Strathrory Bridge and Strathy Road junction);
- visual effects on minor road between Crannich and Dublin (Strathy Road);
- visual effects on minor road between Contullich and Boath;
- visual effects on Core Path R41.01: Strathrory;
- visual effects (including cumulatively) on Core Paths RC05.03 (Dam Wood) and RC05.04 (Dublin to Ardross Mains) around Loch Dubh;
- visual effects (including cumulatively) on Core Path RC05.01: Fyrish Path and viewpoint 5 hill summit;
- visual effects (including cumulatively) on Core Path RC05.02: Tollie to Lealty Path;
- visual effects (including cumulatively) on Core Path RC15.04: Struie Hill; and,
- cumulative visual effects only on Sustrans Cycle Route 1, Far North railway line and Ben Wyvis summit.

15. The appellant's viewpoint analysis concludes that significant visual effects are likely to affect a limited number of locations within 8.5 kilometres distance from proposal. This is predominantly from the south, southeast and southwest.

16. Before considering landscape and visual impacts in detail, I note that the operation of a commercial scale wind farm will inevitably result in landscape and visual amenity effects; some of which will be significant for the purposes of Environmental Impact Assessment. However, establishing significant effects within an Environmental Impact Assessment Report does not determine a decision maker's judgment on the acceptability of the impact of any wind farm.

Landscape impacts

17. The Environmental Impact Assessment Report and Further Environmental Information (I) and (II) confirm there are no landscape related designations on the site. The Dornoch Firth National Scenic Area lies to the north east; a small portion of it lies within 10 kilometres of the proposed turbines. A number of locally designated Special Landscape Areas lie beyond 10 kilometres of the site. The nearest is the Ben Wyvis Special Landscape Area.

18. The council does not appear to have any concerns over direct or indirect impacts on landscape character or landscape designations.

19. Representations are concerned that the turbines would be out of scale with the iconic and scenic landscape around Ardross, and that the carrying capacity of the landscape character type has been reached. Objections are also made on the basis of cumulative landscape impacts and impact on the Dornoch Firth National Scenic Area.

20. On my site inspections I observed the rounded hills landscape character of the site. It has a simple but fairly large scale form with more complex landscape character types to the edges of the rounded hills. In my view this simple large scale composition assists the landscape character type in being less sensitive to large scale turbines.

21. After visiting the immediate surroundings of the site (and beyond), I agree with the findings of the Environmental Impact Assessment Report (updated by Further Environmental Information (II)), that the proposal would have a significant impact on the landscape within a fairly discreet area of up to two kilometres. This would be primarily experienced when travelling along the B9176 near the site. The proposal would therefore impact the rounded hills character type. However, due to its relatively low lying and compact siting, together with the simple but large scale character of the landscape character, the impact would diminish as you move away from the site. At a distance of around five kilometres or more (e.g. viewpoints 3 and 4, from Struie Hill, the B9176 sequential route assessment point 6 and the minor road from Edderton to the B9176), I find that the scale of the turbine components in view would not dominate or overwhelm the landscape character.

22. Despite other wind farms within six kilometres and within the same landscape character type (Beinn Tharsuinn, Coire na Cloiche and Beinn nan Oighrean), while on my site visits I did not consider that the landscape type would become characterised by wind turbines if Strathroy Wind Farm were to be consented. This was in part due to the lack of areas from where all turbines would be seen together and due to separation seen between

the different turbines groups. Nevertheless, the proposal would, in very limited views, increase the number of turbines and horizontal spread of turbines within the landscape type. After carrying out my site visits, together with assessing the cumulative visibility diagrams, I find that the addition of Strathroy Wind Farm would simply confirm wind turbines as an influence on the landscape character type.

23. In relation to indirect impacts on the landscape character of the adjacent Forest Edge Farming (Ardross) character type, my site visits confirmed the findings of the Environmental Impact Assessment Report Further Environmental Information (II); where impact was regarded as of moderate significance in limited geographical areas. I find that viewpoints 2, 4 and 5 best illustrate the possible changes and I visited these viewpoints together with walking within the Forest Edge Farming landscape type around the Ardross area. The possible impacts, which I did not regard as likely to be dominant over the landscape, would be perceived as you move around; principally when viewed from the open areas to the south east of the proposed wind farm. However, even from the affected areas the patchwork of fields, woodland and shelterbelts which characterise the landscape type would be legible and perceived. This is best illustrated by viewpoint 4. In addition, within the Forest Edge Farming (Ardross) character type itself I observed extensive screening of the proposal offered by mature woodland.

24. The proposal would also add to the cumulative impact of the Novar Wind Farm group. However, the cumulative impacts of the Novar turbines do not, in my view, alter the characteristics of the Forest Edge Farming landscape further, as these turbines are clearly seen within a different landscape type (although are visible from the Forest Edge Farming landscape character type).

25. I do not consider that any other landscape character type identified in the Environmental Impact Assessment Report would be subject to noteworthy indirect landscape effects.

26. With regard to the susceptible characteristics of the host landscape type, as set out above in paragraph 11, I find that:

- the scale of the proposal in its specific landscape setting would not affect the wider area of the Cromarty Firth;
- the designed landscape cluster at Balnagown Castle and Tarbat House would not be affected at 10 kilometres in distance;
- my conclusions (below) on the Ardross Castle designed landscape does not give rise to significant concerns; and,
- the Sutors of Cromarty, Rosemarkie and Fort George Special Landscape Area would be unaffected at around 20 kilometres distance.

27. No party argues that the Ben Wyvis Special Landscape Area is affected. On my site inspections, around the site and to the summit of Ben Wyvis, I was able to observe that the qualities of that Special Landscape Area would not be affected as the boundary is tightly drawn around the Ben Wyvis range and the proposal is some 13 kilometres from its boundary.

28. The qualities of the Dornoch Firth National Scenic Areas are set out in the NatureScot Report, No 374. Its boundary is drawn fairly tightly around the firth, with the

seven landscape qualities predominantly reflecting the relationship in the area with the firth and its shoreline. While three of the special qualities were assessed by the Environmental Impact Assessment Further Environmental Information (II), I consider that only one of the seven qualities directly relates to the proposal. This is the quality relating to a backdrop of wilder hills and moors. However, the enclosing (or backdrop hills) are not generally within the National Scenic Area boundary. Nevertheless, it was clear from my site visits that the backdrop of hills to the south do contribute to the scenic quality of the National Scenic Area. This was most obvious to me while driving on the A9 southwards across the firth and when moving around the Dornoch area.

29. Based on the theoretical visibility maps and visualisations, the proposal would be seen from limited areas in the central part of the designation. They would appear low in the overall landscape and be observed below the visible hill summits. The visible components would also appear behind and beyond the initial enclosing landscape and be viewed at a distance of 10 kilometres or more. I also find that the horizontal impact of the turbines would be limited; largely due to the small number of turbines when set against an expansive panorama. The enclosing hills, in my view, would also remain significantly dominant over the scale of the proposed turbines in this view. Although there have been representations which conclude that the scale of the turbines are such that the designation is negatively impacted, I consider that the turbines would appear as relatively minor visual elements in the landscape. It is for these reasons that I consider the special qualities would not be affected significantly. I agree with the Environmental Impact Assessment Report (as updated) assessment of 'not significant'.

30. I have also noted that the council did not refuse the proposal because of predicted impacts on the National Scenic Area. The council defers to the assessment in their committee report on that matter. Within that report the NatureScot advice is adopted. The NatureScot advice was that the proposal would not significantly impact the most relevant Special Landscape Quality of 'inhabited surrounds within a wilder backdrop of hills and moors'. The NatureScot advice is equivalent to my own assessment.

31. I consider that there is a lack of evidence to suggest that the qualities or the integrity of the National Scenic Area would be unacceptably impacted by the proposal.

32. More generally, I find the proposal to be in compliance with the relevant landscape advice in the supplementary guidance (noted in paragraph 12 above) because turbines are often seen beyond the initial horizon, they would not be of such a scale to overwhelm landscapes, the legibility of layered landscapes in longer views would not be undermined and because the special qualities of the Ben Wyvis Special Landscape Area would be unaffected. In addition, although representations are made to the contrary, the area around the site is not regarded as possessing scenic qualities worthy of designation.

33. Based on my assessments and the relatively moderate level of predicted significant landscape effects, I consider that the proposal would not come into conflict with Criterion 8, 9 and 10 of the Onshore Wind Energy Supplementary Guidance concerning perception of landscape scale, landscape setting of other wind turbines and integrity of landscape character.

Visual impacts

34. The council's refusal is based on an assessment of significant detrimental visual amenity impacts; individually and cumulatively. This relates to views from the Black Isle and A9 to the south, the B9176, the Dornoch Bridge and A9 to the north, as well as the proposal being dominant locally in and around the Ardross area.

35. I consider that the majority of objections to the proposal are connected with visual impacts. The concerns, including those from the Ardross Community Council, are focused on:

- excessive height of turbines, out of scale with previous consents;
- unacceptable level of visibility of turbines, including the close proximity;
- visual encirclement of Ardross from turbines, a 'ring of steel' would be formed;
- unacceptable combined cumulative visual impact with five other farms and 82 turbines, including sequential impacts moving around and approaching/passing viewpoints;
- the proposal will effectively join the existing Beinn Tharsuinn and Coire na Cloiche windfarms making one enormous wind farm complex;
- the Novar Wind farm already dominates the Avern valley;
- Ardross has at least two wind farms visible contributing to significant detriment;
- combined and sequential cumulative impacts are both overwhelming;
- any screening afforded by coniferous trees (due to felled) should be discounted, even if areas of woodland are to be replanted there will be several decades between felling and re-establishment of screening;
- unacceptable visual impacts upon recreation walkers to Beinn Tharsuinn, on Core Paths in the Ardross area and on views from the Fyrish Monument;
- significant cumulative impacts on the promoted tourist road, the Struie Road;
- negative visual effects from the Boath Road near Lealty (viewpoint 4), including dwarfing other buildings/landmarks in views;
- the visual impact of any new access tracks;
- the sensitivity and magnitude of the viewpoints has been understated by the appellants, especially around the Ardross area;
- turbines are too close to the communities in Ardross resulting in negative residential amenity impacts for those living in the Ardross area in close proximity, including those houses not included in the residential amenity study; and,
- the lack of 360 degree wirelines from viewpoints 2, 4 and 5 is a weakness.

36. During my site inspections I visited most viewpoints of the Environmental Impact Assessment Report and all within 20 kilometres of the site. The site visit advice of Ardross Community Council provided in written submissions was useful in that regard.

37. Taking into account the above representations, I now consider the criteria set out in the council's Onshore Wind Energy Supplementary Guidance in respect of visual impacts. This provides a framework for my assessment of visual amenity.

Supplementary guidance criterion 1

38. Criterion 1 seeks to guard against settlements becoming encircled by turbines or wind farms. This relates directly to the representations made about combined cumulative visual impacts around Ardross.

39. Based on the Zone of Theoretical Visibility diagrams and testing those out in the field, I find that areas where different wind farms would be seen together (in the Ardross area) would in reality be relatively limited. Any potential for encirclement by the introduction of Strathroy Wind Farm is minimised by the extensive screening offered by land form, buildings and mature mixed woodland scattered around the Ardross settlements. My site inspections also suggested to me that no groups of houses or locations would feel encircled because the surrounding countryside and landscape panoramas would remain the dominant characteristic in all views. This is coupled with the relatively low lying nature of the proposed turbines in the landscape when seen alongside adjacent hills.

40. Viewpoints 2 and 4 illustrate views in and around Ardross. At viewpoint 2, on the Strathy Road (and when moving around that area), Beinn Tharsuinn Wind Farm and turbines to the north east would be almost completely out of sight when the tips and hubs of Strathroy Wind Farm would be seen. This would be the case even without the existing tree cover which is unlikely to all be clear felled at the same time. This is confirmed in the 2017 Forestry Scotland Ardross management maps submitted in evidence which shows compartments in the settled area to be felled at different times; with some compartments retained long term and others for felling up to and after 2051. Looking in the opposite way, in a south east direction, the Novar Wind Farm group would be seen at about six to eight kilometres where open views are gained (shown on the appellant's Figures 1a, 1b, 1c and 1d of August 2021). However, views west to the rising land of Cnoc an t-Sidhean Beag and views eastward are uninterrupted by turbines. That was also my consistent impression when moving around Ardross. I considered that the dominant characteristic would always be the surrounding countryside. Given the screening of the intervening land form, I did not get the impression from within the settled area of Ardross that the wind turbines would 'loom down' over the area or that a feeling of total enclosure would be experienced as is suggested by the Ardross Community Council.

41. At viewpoint 4 on the Boath Road (Figures 1e, 1f, 1g and 1h, of August 2021), and outside the main settled area within Ardross, the distance separating the Strathroy and Novar turbines is such that the sense of encirclement highlighted in representations would not occur. I disagree with the Ardross Community Council as I do not consider that viewpoint 4 clearly shows the Strathroy wind turbines would be visually dominant or overwhelming in the view over the landscape. In addition, the turbines of Beinn Tharsuinn, Beinn nan Oighrean and Coire na Cloiche would not be seen in this view. The Novar Wind Farm group is clearly observed to be within a different landscape setting and generally not in the same view/direction.

42. Based on the above, I do not consider that the appellant has inaccurately described the cumulative visual impact when moving around the settled area of Ardross. The contribution of Strathroy Wind Farm to a moderate level of combined cumulative visual impact would not amount to the encirclement of settlements. However, that is not to say that significant visual impacts would not arise from the siting of the Strathroy Wind Farm in its own right and I address that below.

Supplementary guidance criterion 2

43. Criterion 2 deals with key gateways and routes, which are defined within the supplementary guidance (part 2b). Based on predicted visibility, I consider the routes (identified on page 15 to 18 of the guidance) directly relevant are the A9, B9176 (Struie Road), A96, far north railway line, Core Paths at Sutors, National Cycle Network 1 and Cyclists between Allangrange and Tain via Nigg Ferry.

44. The three areas on the route of the A9 which have potential for visibility are around Dornoch Firth Bridge (viewpoint 7), Milton south of the B9175 roundabout and the Duncanston junction on the Black Isle. The A9 is also on the promoted tourist route the North Coast 500. However, the theoretical visibility on the road appears to be fairly limited.

45. After driving on the A9 a number of times, I consider that the visibility of the turbines north of Milton would be very short lived, if seen at all, due to screening by roadside woodland. Moving south on the A9 south of Dornoch (to part way across the Dornoch Firth Bridge) would see greater visibility of the proposed turbines. Because of tree cover and screening to the north it is only within two kilometres or so of the Firth (travelling south) that visibility of the turbines would be observed. In this view, depicted by visualisations for viewpoint 7, the turbines would appear compact in their siting with a small number of hubs and blades visible. They would appear recessed into the view behind the landscape in the foreground and are generally not back-clothed by surrounding hill sides. The horizontal and panoramic nature of the views gained here (within the National Scenic Area) are in my view not significantly affected as the turbines would not dominate in these views or draw the viewers' attention to a significant degree. Given the existence of the National Scenic Area, I agree with the appellant's assessment that the sensitivity for receptors would however be high and thus producing a moderate to slight visual effect.

46. When visiting viewpoint 12, on the A9 at the Duncanston junction, I appreciated that not all turbines would be seen and generally four sets of blades would be visible. This would be at a distance of over 20 kilometres where the open horizontal nature of the landscape would remain visually dominant. Visual impacts would not be a concern in that context.

47. Although cumulative sequential effects along the far north railway line may be regarded as significant, I agree with the findings of the Environmental Impact Assessment Report that, due to the limited prospects of visibility, the contribution of the Strathroy Wind Farm to that significant cumulative effect on the route would be very slight.

48. A sequential visual assessment was carried out in the Environmental Impact Assessment Report (and updated) for part of the nationally promoted tourist route along the B9176 (The Struie Road). I visited all the assessment points and travelled along The Struie Road on a number of occasions. I was left with no doubt that as you approach the proposed wind farm from the south, generally from assessment point 3 onwards, that the proposal would generate significant visual impacts. The turbines would be seen as very large additional objects in the landscape at relatively close range (about two kilometres) in addition to the existing pylons and turbines of Beinn Tharsuinn Wind Farm. These impacts would continue, through assessment point 4, until just after the Strathroy Bridge. Thereafter, any view (e.g. assessment points 6 and 7) of the turbines, including when travelling south, would be minimal.

49. I consider that up to a maximum of two kilometres of any journey (north or south) on the Struie Road would be affected by substantial visual effects. I consider that to be a

relatively short duration (of around two minutes) along the entirety of the Struie Road. In addition, the small number of turbines would not be seen as vastly out of scale with the rounded hills landscape character which retains less scenic qualities compared to earlier and later parts of the journey along this promoted route. Cumulatively, the Strathroy Wind Farm would add to the existing views of generally smaller and more distant turbines along the Struie Road. However, I did not get the impression that the route would become characterised or defined by turbines. I concluded that the main visual impression of the route is maintained; as a pleasant visual experience.

50. The visual impact for those traveling on the A96 near Nairn would be negligible. This is because of the distances, at over 30 kilometres, and given the low lying nature of the turbines in this view. This is confirmed by visualisations for viewpoint 15.

51. Where visible on the Core Paths around the Sutors of Cromarty, views would be similar to that of viewpoint 8 at the Nigg Bay reserve. In that type of view the turbines would not be seen above the horizon and would not be a visual focus in a vast open panorama. The turbines would appear to nestle into the landscape when seen through the glen of the Strathroy River.

52. I consider that, only slight views of the proposed turbines would be observed while using National Cycle Network 1 within 30 kilometres of the site, including those cyclists between Allangrange and Tain via the Nigg Ferry. The route travels past viewpoint 8 where the turbines would be most visible on the route for around three kilometres which I do not consider would be significant in its visual impact.

53. With regard to the Key Gateways identified in supplementary guidance (on page 19 and 20) the A9 at Duncanston heading north and the Dornoch Firth Bridge are of relevance. However, I have considered those views above. As far as I understand, no other Key Gateways would have visibility to the proposal, including the B9176 in vicinity of Balnacraig, south of Dalneich Bridge while heading south.

54. Key views in relation to the host landscape type are identified as views from Cromarty Harbour and from Nairn (listed on page 79 of the supplementary guidance). However, I find that the proposal would not be visible from Cromarty Harbour. The proposal would be theoretically visible from Nairn. However, the scale of the elements seen would have negligible impact (as shown in the visualisations for viewpoint 15). Another view of interest (although not listed) is looking south from Dornoch and in particular around the golf course. However, in my view, and having visited the golf course, the scale of change and resultant effects in a vast horizontal panorama would not be of significant visual detriment (as shown in the visualisation for viewpoint 11). In addition, when visiting the Black Isle, for example at viewpoints 10 and 6, I did not consider that the proposals, while seen in part, would be prominent or visually dominant in views north across the Cromarty Firth.

55. In relation to criterion 2, I have identified substantial effects on the Struie Road for around two minutes as you approach and pass the wind farm. Despite the nature of the effects, given the limited duration of them, I do not consider that amounts to a significantly detrimental impact on the route as a whole.

Supplementary guidance criterion 3

56. Criterion 3 deals with local landmarks and cultural heritage. I deal with cultural heritage matters below and in relation to local landmarks the council's assessment in their committee report did not highlight any specific local landmarks. I consider the Cnoc Fyriish monument below along with Ben Bhraggie.

Supplementary guidance criterion 4

57. Criterion 4 relates to impacts on key recreation routes and ways. This is a particular concern for those making representations. I have dealt with the principal cycle route above. However, there are a number of other recreation routes which are likely to be impacted. Among them are low level Core Path walking routes around Ardross and some popular higher level walking routes in the area.

58. The Ardross Community Council also highlight impact upon the Averon Valley/Strathrusdale Dalnavie Drove Road route as a concern. However, I find that there would be no or negligible visibility of Strathroy Wind Farm along that route.

59. Core Paths RC05.03/4 (Dam Wood and Dublin to Ardross Mains) in Ardross are short local paths on which I walked (in full) during my site inspections. Despite no viewpoint visualisations being available, there is no question in my mind that direct and oblique views of the turbines would be seen between Loch Dubh and the village of Dublin at a distance of three to four kilometres. This section of the paths may take around 10 to 20 minutes to walk. While large sections of turbine towers would be masked by the rising land to the north, I have no reason to question the appellant's and the council's assessment of significant visual impacts due to the number of the components in view in this location. However, I did not get the impression that walkers would feel overwhelmed by the scale of the turbines on these routes. In this more open landscape setting the Novar turbines would also be visible at a distance to the south west. Additional visibility would be observed if clear felling of the Dam Wood was to take place. However, the 2017 Forestry Scotland Ardross management maps submitted in evidence show the areas around Loch Dubh are generally not programmed for felling. I also noted that the council's access advisor has said that the paths are likely only to be of local interest and that appeared to be the case. However, that should not diminish the value of the paths for those wishing to enjoy the countryside locally.

60. There is also likely to be local interest in Core Path RC05.02 (Tollie to Lealty), located in the Ardross Castle designed landscape. While walking on the path, I found that the southern portion of the path would be affected when travelling in a northerly direction. Similar to viewpoint 4, the views of Strathroy Wind Farm from this path would introduce significant new features above the land form for around half of the route north. However, as you descend northwards onto lower ground in the Averon valley that impact would be reduced in prominence and tree cover would start to close off views towards the turbines. No Strathroy turbine is seen when taking a southerly journey.

61. Having visited the general area, I do not question the appellant's Environmental Impact Assessment Report's updated visual amenity assessment of Core Paths around Edderton as not significant. In addition, after walking to the summit of nearby Struie Hill (Core Path 15.04), I am also in agreement with the appellant that visibility on the upper slopes would be a significant addition to the western horizon and also a significant cumulative addition in combination with Beinn Tharsuinn and Beinn nan Oighrean. That path also appeared to me to be reasonably well use. However, I noted that the main scenic

interest from this summit is towards the Dornoch Firth and in the opposite direction from the Strathroy turbines.

62. When travelling west along the Strathroy Core Path (R41.01), I was able to observe the views in which significant visual impacts are predicted to occur. Given the framing offered by the strath and the elevation of the site in relation to the route, the proposed turbines would be a key and prominent visual focus on the route for the last 30 minutes or so of that walk when travelling west towards the proposal. A visual focus on turbines would also be accentuated by visibility of Beinn Tharsuinn turbines. This route, as part of local drove road and as a Scottish Hill Track, is clearly promoted and would appear to be a popular route. Little impact would be observed when travelling east along the route.

63. My walk up to the Cnoc Fyrish monument (Core Path RC05.01) was on the promoted route from the north. The path makes its way through a heavily wooded area and because of the location of the path, to the south of slightly higher ground, substantial views of the turbines would not be achieved until moving into the more open views seen close to the summit (which is to the north of the Monument by some 100 metres). It is the hill summit which is used for the viewpoint 5 visualisation. However, I found that those walking to the monument (a reasonable number on the day I was there) were focused on views out across the Cromarty and Moray Firths and to the south. They were not focused on views north over to Ardross (towards the turbines) and that is likely to be typical of visitors to the monument. I did not observe many visiting walkers venturing over to get views north from the summit. I therefore consider that the visual impact of the Strathroy turbines on the route and monument itself would be minimal and not significant. However, from viewpoint 5 the turbines would be prominent, seen in full height and likely to be the most visible of all viewpoints for this wind farm. It is from here that new access tracks would be most visible. The sensitivity of this viewpoint is rightly considered 'high' by the appellant due to visiting walkers. Nevertheless, due to the small number of turbines, lack of stacking of turbines and low level siting, the turbines would not appear to be out of scale with the surrounding and expansive landscape. I therefore agree with the appellant's assessment of moderate to substantial impact.

64. Viewpoint 14 provides a visualisation of the view gained at the summit of Ben Bhraggie above Golspie. At nearly 30 kilometres, the visual impacts of the proposal, cumulatively with other turbines, is such that it would not present a significant visual focus. In my view, the landscape views from Ben Bhraggie would remain dominant. I noted on my route (assumed to be a Core Path due to the signage) to the statue on Ben Bhraggie that opportunities to see the turbines are not generally available until approaching the summit. Therefore, the walking experience up to the summit would not be impacted.

65. After reviewing the evidence, I do not consider that there are any other Core Paths that would be impacted to any significant extent.

66. In addition, when walking to the summit of Ben Wyvis on the conventional route from the east, north of Garve, I noted that the route to the summit would not have visibility of the proposal. Only around the summit itself would the proposal be seen and at a distance of around 20 kilometres; set low into the landscape. I did not consider that the experience of such a walk would be significantly altered by the additional presence of the Strathroy Wind Farm when seen cumulatively with the Novar Wind Farm group.

67. There are also tourist road routes promoted in the area. However, these are the North Coast 500 (A9) and the Moray Firth Tourist Route (B9176) which I have considered above.

68. In relation to criterion 4, and based on my assessments above, I do not consider that the extent and magnitude of visual impacts on pathways and routes as a whole should be determined as significantly detrimental. However, impacts on four Core Paths (R41.01, RC05.02, RC05.03 and RC05.04) would give rise to substantial effects at times for those using these paths. In all occasions, I do not consider that the visual effects would be overly dominant or overwhelming for the users of the routes.

Supplementary guidance criterion 5

69. In relation to criterion 5 of the guidance, the amenity of other transport routes is to be considered and I have already addressed some of those above. However, the minor road between Contullich and Boath is assessed by the appellant to suffer from significant visual impacts. Viewpoint 4, along this route west of Wester Lealty Farm, depicts open views that would be observed (interrupted by some trees) for about one kilometre on this road. The turbines would be clearly seen, above the horizon and beyond the Ardross farming landscape. That said this road would not appear to be a frequently used route based on my experience of using it a number of times and the fact that it is not a through route. These factors, together with the number and size of the turbines (which are not clearly out of scale with the host landscape), suggest to me that a lesser level of concern should be placed on the significance of visual effects observed from the roadside.

70. After driving on the minor road between Crannich and Dublin (The Strathy Road), and looking north, the possible visual effects of the proposal would be related to moderate levels of visibility (illustrated by viewpoint 2). This is primarily due to the masking of turbines from view by the immediate land form. However, more significant visual effects would be presented as views of the turbines open up at the junction of the road with the B9176; a route which has had a more detailed assessment above.

71. Finally, it would also appear to me that the additional glimpses of Strathroy Wind Farm seen on the A949 between Dornoch and Bonar Bridge (around Clashmore/Skibo Castle), would be minimal. In part, this would be due to significant screening along the road side and the turbines being at an oblique angle to the road.

72. After assessing the impacts on all routes, I consider that the amenity of transport routes in general should be regarded as relatively unaffected by the proposal both individually and cumulatively.

Criterion 6 and 7

73. Criterion 6 and 7 require an assessment of this proposal in relation to the existing pattern of wind farm development and the extent to which the project affects the spaces between developments. Because of the intervening space, difference in scale and elevation of the proposal compared with Beinn Tharsuinn, Beinn nan Oighrean and Coire na Cloiche, I find that the project would be clearly seen as a separate and discreet wind farm. This was particularly apparent to me from Struie Hill where I observed the physical relationship of the site to that of the more upland nature of the existing turbines. The smaller scale of the existing turbines and physical geography between the turbines would

maintain a distinction between the proposed turbines despite a separation of just under two kilometres at the nearest point. After my site visits, in my view there would be clear separation between Strathroy Wind Farm and the Novar turbines.



Other elements of the supplementary guidance

74 I have additional findings with regard to the relevant elements of the supplementary guidance set out in paragraph 12 above:

- from many locations the bases and towers of turbines would be beyond a horizon to maintain the containment of space (except from around viewpoint 5);
- viewpoint analysis shows that interim horizons are not regularly breached; and,
- I am not aware of impacts on any mitigation established by nearby schemes.

75. As part of considering visual impact, I must also take account of private residential visual amenity. There are five residential properties within two kilometres of the proposal: Crannich; Wester Baldoon; Easter Baldoon; Easter Strathy; and Wester Strathy. It is understood within the planning system that there is no right to maintain an individual's view from a private property. Seeing turbines on a permanent basis does not, on its own, demonstrate unacceptable harm to those living there. For impacts on private property to over-ride a public interest in wind farms, the impact needs to be severe. That said, there will be cases where there is clear public interest in refusing development where it is considered that significant detrimental impacts on the visual amenity of residences would occur.

76. Guidelines for Landscape and Visual Impact Assessment (3rd Edition) says that residents are receptors with a high susceptibility to change (at page 113). It says that consideration must be given to the extent to which residents are likely to be focused on views and visual amenity together with the number of residences affected. The scenic value of any view is also suggested to be considered in determining overall sensitivity.

77. After visiting the area and observing the properties nearest the proposal, I agree with the Environmental Impact Assessment Report that only Crannich and Wester Baldoon should have been assessed given the lack of visibility of turbines from other properties (including the screened off stone cottage just south of the junction of the B9176 and the Strathy Road). I consider that from these two properties, the views north to the turbines could detract from the enjoyment of the private residence. However, I am not persuaded that visual amenity impacts for these individual properties would be so negative that it should be considered unacceptable in terms of residential amenity. I do not consider that these properties (or other properties off The Strathy Road) would be unattractive places to stay. My reasons for saying that are:

- a reasonable distance from the turbines is achieved of at least over 1.6 kilometres;
- intervening landscape and woodland play a significant role in mitigating and masking views of the turbines – even if woodland was to be felled;
- the limited scale and number of turbine components in view would not have an overbearing presence;
- there would be a limited horizontal spread of turbines;
- landscape views towards the turbines do not appear to be of the highest scenic interest or relate directly to any landscape designations; and,
- in the main properties have their key view and orientation away from the turbines southwards where no turbines would be seen in the same relative proximity.

78. Finally with regard to visual impacts, after walking around the settlement of Dublin and driving around the scattered settlement pattern of Ardross, I do not consider that these settlements would be substantially impacted. The Strathroy turbines, when in view, would not be significantly out of scale with the landscape nor would they be unduly prominent or overbearing. They would also be generally over two kilometres or more from most properties in Ardross. I also find that no other settlements have the potential to be significantly affected on visual amenity grounds; including those on the Black Isle. This is due to the low magnitude of visual change that would be experienced when turbines could be in view on the Black Isle.

Night-time impacts

79. Visual impacts during night-time and impacts on dark-skies from the use of aviation lighting was of concern to many of those making representations. Ardross Community Council's objections were partly based on previous requirements for visible aviation lighting. However, the revised layout would not require visible lighting (as discussed below) and, subject to a condition to that effect, there would be no night time effects seen from any wild land area or elsewhere. A planning condition would also address fears expressed in representations that lighting could be placed on the turbines after consent was issued.

Wild land impacts

80. Due to significant distances involved, it is only Wild Land Area 29 (Rhiddoroch, Beinn Dearg, and Ben Wyvis) that has the potential to be affected by the proposal; at 10 kilometres at its nearest point. All other wild land areas are over 30 kilometres away.

81. Having visited the Ben Wyvis area and its summit, I appreciate that the proposal would have a slight adverse visual effect on wild land area 29 qualities when looking east from Ben Wyvis: quality 1 (a range of awe-inspiring massive, high rounded hills and plateaux, as well as steep rocky peaks and ridges, offering elevated panoramas); and, quality 3 (a very large interior with a strong sense of remoteness and sanctuary that seems even more extensive where appearing to continue into neighbouring wild land areas). I find that the Novar Wind Farm (and extension) is at a much closer distance and therefore the additional impact on the qualities arising from Strathroy Wind Farm, even with its larger turbines, would not appear significant in terms of a cumulative effect. No other part of the wild land area is affected and visibility of Strathroy Wind Farm from around the southern parts of the Wild Land Area is very limited according to the theoretical visibility mapping. The impact on Wild Land Area 29 would, in my view, be slight.

82. A number of the representations say that a wilderness area will be lost and that a significant industrialisation of wild land will occur if the proposal were to go ahead. However, the site is within two to five kilometres of a settled area, with roads and other infrastructure (including wind turbines) in proximity to the site. While the site appears undeveloped and in the open countryside, I do not consider that the area around the site possesses wilderness qualities in the sense that wild land areas would. I do not consider that the representations made concerning the loss of wild land are as directly relevant. Similarly, I do not consider that arguments made by representations about the loss of open space in the countryside to be of direct relevance where no national or development plan open space designation existing on the site.

Landscape and visual impact conclusions

83. My overall conclusion on landscape and visual impact is that while there would be a number of significant adverse effects arising, I do not consider that the scale, duration, magnitude and range of these impacts to be unacceptably detrimental when considered in the round. I find that the proposal relates to the scale of the host landscape type and would not be seen as a dominant or an over bearing visual distraction in most settings. In my view, the level of impact arising (that I have described) would not amount to a development which should be considered beyond that expected for a commercial wind farm or unacceptable in terms of policy 67 of the Highland Wide Local Development Plan or in terms of the criteria of the supplementary guidance. I have identified no additional significant effects over and above those assessed in the Environmental Impact Assessment Report (updated by Further Environmental Information (II)).

Other environmental impacts

Cultural heritage and archaeology

84. Archaeology and cultural heritage matters are addressed in Chapter 7 of the Environmental Impact Assessment Report and subsequent Further Environmental Information. No significant effects are predicted on known heritage assets arising from the construction, operation or decommissioning of the development.

85. Representations made against the development say that the setting of the listed Ardross Castle and its designed landscape would be severely impacted. In addition, it is said that comments made by Historic Environment Scotland have not been properly addressed.

86. The council has raised no concerns over the impacts on the setting of the A-listed Ardross Castle or its Inventory Garden and Designed Landscape.

87. Although the appellant considers that the overall impact on the designed landscape would be negligible, the Environmental Impact Assessment Report is said, by Historic Environment Scotland, to underestimate the impact on the setting of the designed landscape but not to an extent that affects its cultural significance. They also say that the views of Ardross Castle from the south, with Strathroy turbines in view, would show the castle in its designed landscape setting from the Lealty Parklands. Historic Environment Scotland, despite having some reservations about the appellant's assessments, say that impacts on their interests (scheduled ancient monuments and the A-listed Ardross Castle, together with its Inventory Garden and Designed Landscape) do not raise issues of national significance.

88. Historic Environment Scotland also noted that the Environmental Impact Assessment Report did not carry out a separate assessment of the impacts on the castle as a listed building. I consider that was a weakness in the Environmental Impact Assessment Report also. However, I visited the general area around Ardross Castle on my site visits. While walking through the parklands, the setting of the castle appeared to me to be made up of formal gardens to the east, a large grass embankment to the south, the adjacent woodlands and extended gardens and buildings beyond. More generally, the back drop of a rising farmland landscape to the north plays an important part in the setting for the castle when viewed from the south. To the east, the castle's setting appeared to me to reach out to the

east along the main access route in advance of the entrance gates. On the western side, the castle's influence did not appear to go much beyond the area around the bridge over the River Averon. In general, and based on my site inspections, I observed a more compact setting for the castle compared to the more extensive boundary of the castle policies and their designed landscape.

89. I was able to verify, from the zone of theoretical mapping and by walking along the Core Path through the castle parklands from the south, that views directly out from the castle and its immediate gardens would be unaltered by the proposed turbines. This is due to the Castle's relatively low level sitting in the landscape, the screening effect of the mature woodland of the designed landscape and, in particular, the rising land to the north. Historic Environment Scotland say that the views out from the castle to the west, east and south are important. I find that they would all remain unaltered. The principal approach toward the castle is from the east (passing Easter Ardross on the way) and that will also be unaltered.

90. There are views of the castle, nestled into its woodland landscape setting, when viewed from the southern parts of the Lealty Parklands. Viewpoint 4 (EIAR Figure F6.26i) illustrates that type of view and I observed those views on my site inspection while walking along the Core Path (RC05.02). In a worst case scenario, all seven turbine hubs would be visible above the skyline which is created by the wooded farmland which in turn provides an extensive back drop for the castle. However, in my view, the setting of Ardross Castle, would be not be significantly altered by the Strathrory turbines. While turbines would be observed (from the south) behind the landform rising to the north and while their impact would be negative, that would not alter the ability to clearly appreciate the landscape context of the castle. The separation distance of some 3.5 kilometres with the rising land behind the castle, together with limited visibility of the turbine structures have been the main influences on that conclusion.

91. The Ardross Castle Inventory Garden and Designed Landscape sits within the Forest Edge Farming (Ardross) landscape character type with the castle at its centre. The turbines would be some three kilometres from the designation to the north. Although turbines would be in view from the southern edges of Lealty Parklands (as noted above), I find that the immediate landscape context of rising farmland to the north and the Averon valley itself would not be visually interrupted by the presence of the turbines. The legibility of the castle policies would, in my view, not be diminished when entering the designation from the B9176, when moving towards the castle entrance, when near the site of the Ardross distillery and when moving over into the Lealty Parklands. Viewpoint 4, provides a worst-case scenario in terms of visibility of the designed landscape and the turbines when in the southern parts of Lealty Parklands. Even in that scenario, in my view, there is sufficient rising land 'behind' the designed landscape and overall distance to mitigate any feeling of dominance of turbines over the designed landscape. New modern structures would be seen from the south and their affect would be negative but not one which I would consider to be detrimental to the overall integrity of the designation itself. Historic Environment Scotland also say that it would remain possible to understand and appreciate the value of the designed landscape.

92. Within the appeal site boundary there are five undesignated cultural heritage assets. These assets are proposed to be marked out on site and be subject to protective barriers to safeguard these features from construction activities. An Archaeological Management Plan and programme of work for the evaluation, preservation and recording of any

archaeological and historic features are also suggested by the council; to be secured by planning condition.

93. Taking into account my assessments above, and in particular giving weight to the views of the national advisors (Historic Environment Scotland) on these matters, I consider that both policy 57 (regarding national built and cultural heritage resources) and the considerations of policy 67 for cultural heritage contained within the Highland Wide Local Development Plan and its supporting supplementary guidance would not be compromised by the scale of the impacts on the setting of Ardross Castle or its surrounding designed landscape. This conclusion is also made in the context of Scottish Planning Policy guidance to protect Inventory Garden and Designed Landscape but not specifically their overall setting.

Ornithology

94. Ornithology matters are addressed in Chapter 8 of the Environmental Impact Assessment Report and the subsequent Further Environmental Information. Any impact would be associated with either habitat loss, disturbance, displacement, or collision with turbines (including cumulatively). The site is not within any areas designated as important for natural heritage or ornithology. No significant impacts on any bird populations, or on the conservation objectives for the Capercaillie of the adjacent Morangie Forest Special Protection Area were identified within the Environmental Impact Assessment Report. No confirmed breeding of any Annex 1 species was found within the site or the survey area.

95. There are concerns expressed from those making representations that the risk to birds from collision and disturbance is unacceptable. General research on the subject was submitted as evidence. Impacts on Osprey, White Tailed Eagle, Golden Plover, Curlew, Capercaillie, Black Grouse, Hen Harrier and Red Kite are specifically identified in the objections as species at risk from the development.

96. The council did not refuse the proposal on the grounds of ornithological impact and have adopted NatureScot's advice. NatureScot advise, after an initial objection, that the development would not adversely affect the integrity of the nearby Special Protection Areas; due to the further information received and commitments to mitigation. None of the birds species identified in the representations were a cause for concern for NatureScot.

97. Despite initial reservations, The Royal Society for the Protection of Birds do not object to the proposal. This is subject to the completion on an appropriate assessment, the development of a detailed Habitat Management Plan and the mitigation set out in the Environmental Impact Assessment Report. Specific conditions are also requested to address pre-construction surveys, avoidance of construction during the lekking (male display) season, the submission of a Habitat Management Plan before determination or commencement of development and mitigation to reduction in the collision risk for pink-footed geese.

98. Based on the advice of NatureScot, the council's adoption of that advice, together with supportive comments of The Royal Society of Protection of Birds, I am satisfied that subject to mitigations being secured by planning condition the proposal would not have significant effects on ornithological interests or related designations. This includes those species highlighted by those making representations. Without further and specific evidence related directly to this proposal, I consider it appropriate to place weight on the advice of

national advisors NatureScot. In that regard, NatureScot do not ask for the mitigation suggested by The Royal Society for the Protection of Birds for Pink-Footed Geese.

99. Based on the above, I consider that, in relation to ornithology, the Highland Wide Local Development Plan policies 57 and 67 (in relation to species and habitats) and the supporting supplementary guidance would not be compromised.

100. I address the matter of appropriate assessment in relation to designated sites and the Habitats Regulations separately below. I also address the matter of suitable planning conditions below.

Ecology

101. Ecology is addressed in Chapter 9 of the Environmental Impact Assessment Report and subsequent Further Environmental Information. Evidence of important ecological features were found including: bats; habitats; otter; reptiles; and, fish. However, no significant effects during construction, operation or decommissioning were predicted as a result of the proposal (including cumulatively with other wind farm projects in the area) after considering the magnitude of habitats loss and taking into account mitigation. This takes into account the Kinrive/Strathrory Site of Special Scientific Interest (1 kilometre to the east) and the Loch Achinacloch Special Area of Conservation (4.7 kilometres to the south east).

102. The revised layout and turbine removal are said not to pose an increased risk to the potential Ground Water Dependant Terrestrial Ecosystems identified on site and would reduce deep peat and habitat impacts more generally. Mitigation measures for peat disruption are proposed to minimise disruption to blanket bog habitats and associated areas, with early restoration after construction. In addition, the revised layout would not increase potential effects to Otters in the area. The Environmental Impact Assessment Report, also noted that Sitka Spruce regeneration was present across the mire habitat types present on the site.

103. Objections to the wind farm have been made on the basis of:

- a net negative impact on natural capital/biodiversity;
- disruption to mammal species including deer, pine martin and hare;
- no assessment on invertebrates, particularly insects - impact on insects caused by rotation of blades;
- no reason to scope out aquatic interests/ concern over sediment impacts on protected species during periods of heavy rain;
- concern over impact on fresh water pearl mussels believed to be present in the Strathrory river;
- lack of comprehensive and up-to-date assessment of impacts on bats including conflicts with NatureScot Guidance (and criticism of the NatureScot guidance “Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation”; NatureScot January 2019), cumulative impact, collision risk, population estimates and barotrauma;
- negative impact on rare bats around Ardross due to collision risk and availability of bat habitat;
- the bat survey is not in line with NatureScot guidance, including cumulative impact;

- habitat loss, specifically class 1 carbon rich soils, deep peat and priority peatland;
- impact on wetlands not adequacy assessed; and,
- conflicts with Crannich North Native woodlands - 150 metres from turbines.

104. In consultation responses, Scottish Forestry do not raise any concern over impacts on the Crannich North Native woodlands scheme nor do NatureScot express any concern about the woodland in relation to risk to Capercaillie.

105. The site contains the 'Group 2' feature of Carbon Rich Soil, Deep Peat and Priority Peatland Habitat. The requirement of Scottish Planning Policy (for Group 2 areas) to demonstrate that 'any significant effects have been substantially overcome' applies in this case. NatureScot advise that although part of the site is the nationally important mapped carbon rich soils (Class 1 on the NatureScot Carbon Rich Soils map), no turbines have been located in peat greater than one metre in depth. As such, any significant effects have been substantially overcome by siting, design or other mitigation. However, a draft Habitat Management Plan is required by NatureScot to identify the quality of and pressures on the blanket bog habitat of the site with options for habitat management works. No additional monitoring is request by NatureScot beyond that to be included in a Habitat Management Plan.

106. NatureScot do not have concerns over impacts on any non-avian species, including mammals and bats. This is despite turbine 2 infringing a bat related buffer distance to watercourses and tree lines. They do not have concern over impacts on invertebrates or aquatic creatures. Given the lack of site specific information submitted with representations and lack of any specific requirement to consider invertebrates (and insects in particular) at this site, I accept the advice of NatureScot.

107. I am aware that a significant concern exists in representations with regard to impacts on bats. A great deal of effort has gone into the extensive submissions of the Ardross Community Council on that matter. However, the fact remains that NatureScot, as national advisors, do not have any concerns over bat impacts. The Environmental Impact Assessment Report concludes that no significant impacts would occur in relation to the site. In addition, I am not aware of any concern from NatureScot over the surveys or methodologies used for bats. Given the lack of site specific information submitted with representations, I accept the advice of NatureScot with regard to bat impact.

108. Scottish Environment Protection Agency are also content that deep peat resources are not significantly affected. This is all subject to specific conditions requested; including the preparation of a Peat Management Plan, micrositing, pollution prevention, details of borrow pits and restoration/decommissioning plans.

109. The Royal Society for the Protection of Birds say that it is essential that a detailed Habitat Management Plan is developed which secures peatland restoration, addressing Sitka Spruce regeneration across the site, and habitat improvements for certain bird groups.

110. The council's committee report concluded that there were workable and practical mitigation that can be put in place to minimise the environmental effects and raised no concern over ecological matters.

111. Based on the assessments of Scottish Environment Protection Agency, NatureScot and the council's advisors, I consider that the location of the tracks and turbines have generally avoided the most sensitive Ground Water Dependent Terrestrial Ecosystems and that areas of deep peat have been avoided.

112. Based on the appellant's Further Environmental Information and the consultation responses of agencies, my overall assessment is that, subject to a range of specific conditions, impacts should not be regarded as significant for the purposes of Environmental Impact Assessment. I do not identify any clear evidence of significantly detrimental ecological impacts with regard to supplementary guidance or policy 67 of the Highland Wide Local Development Plan. This judgement is also made in the context of Scottish Planning Policy aiming to minimise general impacts on biodiversity, conserving protected species and avoid significant adverse effects on national designations.

Noise

113. Noise (from construction, decommissioning and operation of the wind farm), including cumulatively, is addressed within Chapter 10 of the Environmental Impact Assessment Report and subsequent Further Environmental Information. With regard to operational noise, the proposal was found to comply with the required noise limits at all receptor locations on an individual and cumulative basis with no specific mitigation required. Construction noise levels are expected to meet typical requirements and no specific mitigation measures are required other than best practice procedures. The updated assessment for the revised layout found that operational noise would fall within the noise criteria (including cumulatively) at all eight properties considered to be noise sensitive and based on background noise levels taken locally. No significant effects were predicted.

114. Representations object to the proposal because of the potential for noise effects from the operation of the turbines, including from noise spikes (amplitude modulation) and lack of local background noise reading and impacts of infrasound (low frequency noise). An alternative approach to ETSU-R-97 "The Assessment and Rating of Noise from Wind Farms" noise assessment was also put forward using an approach similar to BS 4142 "Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas". In particular, the Ardross Community Council point out the inadequacies of using the existing ETSU standards.

115. The council's supplementary guidance expects ETSU-R-97 and associated good practice guidance to be used in assessments. I am not aware of any updated guidance and I note that the Environmental Impact Assessment Report uses the ETSU-R-97 approach. The supplementary guidance also indicates that research into amplitude modulation is ongoing but there is no accepted best practice for measuring, monitoring or setting limits for amplitude modulation. In addition, the supplementary guidance does not highlight the need for infrasound assessments.

116. The council's environmental health team agree with the appellant's assessments and seek best practice measures for construction noise and a standard noise condition in order to minimise any risks of operation noise occurring. The council consider that a noise management and mitigation scheme, secured by condition would allow the council's noise limit of 35dB (at the lower end of the range indicated in the national guidance) to be met at all times. No issues with compliance with best practice are highlighted by the council.

117. I am aware that a relatively small number of properties have the potential to be affected by the proposal. However, they are relatively close to the turbines and noise impact is clearly a concern for those making representations. The adjacency of the properties is seen on the revised noise contour map set out in Technical Appendix F8.3 for the Environmental Impact Assessment Report. Notwithstanding that, based on the council's environmental health consultation response and subject to the application of conditions, including for construction practices, my conclusion is that significant effects are not likely to occur at properties with regard to noise. There is no evidence to show the likelihood of noise from the operation of the turbines would go beyond the council's accepted limits, including cumulatively. In addition, the appellant has used the recognised guidance for operational noise in its assessments and to the best of my knowledge has used relevant background noise level measurements related to the local area. As a result, I do not consider that there would be conflict with the detailed advice of the supplementary guidance or with policy 67 of the Highland Wide Local Development Plan.

Traffic and transport

118. Traffic and transport matters are addressed in Chapter 11 of the Environmental Impact Assessment Report. Effects assessed include levels of severance, driver delay, pedestrian amenity/delay and accidents/safety. Traffic assessments are based on a worst case scenario where all construction aggregate is taken to the site. The assessments, including abnormal loads, find potential for significant effects on the A836 at Edderton in relation to delays if the northern route is chosen ahead of a southern route option. However, mitigation measures are proposed by the appellant; including the implementation of management plans, which are said to reduce the potential for significant effects to 'not significant'. Impacts on the B9176 (Struie Road), including the proposed access 650 metres south west of Strathroy Bridge are assessed as negligible. Overall, effects associated with an increase in traffic movements were considered by the appellant not to be significant after appropriate mitigation is put in place. No significant cumulative effects were identified in relation to other consented schemes in the broader area.

119. A reasonable proportion of the representations made against the proposal are concerned about traffic generated by the proposal and the state of the current roads. The suitability of the proposed access and the use of local roads is also questioned by those objecting as well as the lack of a preferred route for delivery of abnormal loads. It is also suggested that Ardross and neighbouring districts will suffer chaos from the traffic movements required for the wind farm and from the negative impacts on the repair quality of local roads. The use of single track roads and the roads around Edderton is also questioned. Due to the possibility of all aggregate being won outwith the site, a comprehensive survey of roads before and after is requested to ensure that roads are restored to an acceptable standard at the end of the contract. In addition, Ardross Community Council is concerned that 'pinch points' on the possible routes for the delivery of abnormal roads have not been properly assessed and that the required works make the proposal unviable. In particular a junction at Edderton is of particular concern, with works affecting the war memorial. The damage due to the works required at various pinch points is said to be substantial and would take years to recover.

120. Transport Scotland do not object to the proposal (including the use of the 'A' road A836 around Edderton). They say that a range of conditions should be attached to any consent. Despite concerns by local residents, the council's roads advisors do not object.

They also recommend a number of conditions. It is accepted by the council's advisors that, in terms of capacity, development traffic can be accommodated on the local road network. Council advisors also acknowledge that the environmental impact of development traffic can be suitably managed by: a programme of mitigation works; further detailed technical assessments of routes; a road traffic management plan; and, a separate legal agreement to address 'wear and tear' of the road infrastructure. The developer would enter into a wear and tear agreement with the council either by voluntary agreement or via Section 96 of the Roads (Scotland) Act to make good any road or verge damage caused by construction traffic.

121. Based on the advice of the roads authorities, I am of the view that traffic related matters would not generate significant effects if subject to the kind of planning conditions suggested by the council's roads advisors and by Transport Scotland. There is no data available to me which suggests that the overall capacity of roads would be reached. I did not observe the roads to be particularly busy when I was driving around the area on my site visits at various times of the day (although I noted it was outwith the peak tourism season). In addition, no adverse comments have been received from council advisors on the proposed site access arrangements and works required at potential 'pinch points'. That said, planning conditions would require further assessment of the preferred route for abnormal loads in order to specify the detail of works and mitigation required, along with the level of reinstatement works to be delivered. A video trial run would also be required. No delivery of abnormal loads would occur until all assessments were complete and all the necessary upgrade works complete.

122. In relation to a request by Ardross Community Council for a survey of roads before and after works, I consider that to be a valid request to consider and I have addressed that in my drafting of planning conditions.

123. Overall, I am content that planning conditions could address the matters raised in representations. In my experience transport and roads related planning conditions are not uncommon for wind farms. However, the current state of the public roads in general is not a matter for me to consider. Planning conditions could nonetheless require the roads to be upgraded to the extent appropriate to accommodate the wind farm related traffic.

124. I agree with Ardross Community Council on the potential impact and general level of concern that would be caused if the northern route is chosen with regard to the war memorial at the junction at Edderton and the unclassified Balleigh Road. Having visited the site and viewed the 'swept path' road plan in the appellant's Technical Appendix 11.1, I consider that a specific management plan for such a sensitive junction would be required in light of the requirement for the war memorial to be 'by passed' very close to the south.

125. When taking into account the mitigation available by the use of planning conditions, I do not identify conflict with local development plan policy 67 or related supplementary guidance arising from transport related matters. This is not to say that there would not be a level of temporary disruption for the local community. That is inevitable with a large scale project. Nevertheless, my conclusion is that no significant and unacceptable impact is likely to arise, subject to the application of detailed planning conditions.

126. In addition, a planning condition dealing with arrangements for community liaison would also assist in the sharing of traffic related matters and is discussed in more detail below.

Geology, Hydrogeology and hydrology

127. Geology, hydrogeology & hydrology are addressed in Chapter 12 of the Environmental Impact Assessment Report and subsequent Further Environmental Information. I have already addressed peat (in part) and blanket bog habitats above in the ecology sections. However, the Peat Management Plan and Peat Landslide and Risk Assessment prepared as part of the Environmental Impact Assessment Report demonstrates that any peat disturbed by the proposal could be reused for restoration purposes. Mitigation measures are proposed which included a buffer to watercourses and the potential Ground Water Dependant Terrestrial Ecosystems on site (mire and wet modified bog). A Construction Environmental Management Plan is also proposed. Overall, the environmental information of the appellant concludes that the design and embedded mitigation would not result in significant effects on geology, hydrogeology and/or hydrology, including on potential Ground Water Dependent Terrestrial Ecosystems. The appellant is committed to providing detailed water quality monitoring plans in order to safeguard the Strathroy River fishery. The site-specific carbon calculator has calculated the carbon payback for the proposal is 1.3 years.

128. Scottish Environment Protection Agency are content that the layout revisions have addressed any concerns they had on the impacts on Ground Water Dependant Terrestrial Ecosystems. This is all subject to specific conditions.

129. No key agency raised objections about deep peat. There appears to be general agreement that areas of deep peat have been avoided and that all disturbed peat can be used in reinstatement works. I have also noted that roads will be floated over peat depths of over one metre.

130. Although flooding is raised in representations, no consultee considers that the site (or its surroundings) would be at risk of flooding. It is also proposed that watercourse crossings are designed to accommodate a 1 in 200 year flood event plus allowance for climate change. The use of a Sustainable Drainage Systems to attenuate run off and filter out pollutants can, as advised by the council, be secured by condition.

131. There is no evidence to suggest that there are private water supplies in close proximity to the proposal.

132. I consider that the carbon balance of 1.3 years 'payback' appears to be within normal thresholds and a positive factor in favour of the development. However, I am aware that a number of representations claim the carbon balance is inaccurate and should take into account displaced electricity, transmission losses and the whole life cycle carbon embodied within the project as a whole.

133. The carbon calculator used by this development (Appendix 13.2 of the Environmental Impact Assessment Report), takes into account the manufacturing, construction and installation of the turbines. The calculator also takes account of energy generation required to back up wind technology and carbon losses associated with peat disturbance. Despite concerns being raised in representations, there has been no alternative set of calculations submitted. In addition, key agencies or council advisors do not raise concerns over the developer's use of the carbon balance calculator or its basis.

134. Based on the above (including assessments within the ecology section), I consider that Highland Wide Local Development Plan policy 55 (peat and soils) is satisfied for the following reasons:

- unnecessary disturbance of deep peat is being avoided;
- overall predicted climate change benefits from the proposal are positive;
- a peatland management plan can minimise impact (using a planning condition); and,
- no adverse impact on integrity of nearby designations would be observed.

135. Supplementary guidance does not provide any further substantive policy tests in relation to peat matters. The considerations set out in local development plan policy 67 would not, in my view, be compromised.

Other specific issues

136. Chapter 13 of the Environmental Impact Assessment Report and subsequent Further Environmental Information assessed impacts for other issues including: health and safety, telecommunications and television, aviation and radar, shadow flicker and climate change mitigation and adaptation. In summary, the assessments find no significant effects are anticipated in relation to:

- health and safety;
- television reception;
- aviation; and,
- residential properties or other buildings being affected by shadow flicker.

137. A number of health related impacts have been raised by those making representations, including wind turbine syndrome, mental health impacts, stress and increased risk of disease. The potential for additional health risks, in addition to air quality (from dust), shadow flicker and noise are not part of the considerations that the current Scottish Planning Policy would expect a decision maker to assess. The local development plan or supplementary guidance do not require health matters, other than impacts of noise and shadow flicker, to be taken into account. There is also no specific evidence put forward to demonstrate that specific health impacts would arise from this proposal and no significant impacts on human health are identified in the appellant's Environmental Impact Assessment Report.

138. Representations also highlight the possibility of smell, fumes or glare from floodlights during construction. While there is no evidence to suggest that adverse impacts would occur, the preparation and implementation of construction management plans required by planning condition would be able to control such impacts.

139. The appellant said it is unlikely that television signals are affected. The council do not have concerns and have not requested a condition to be attached to any consent. Representations have been made regarding potential impacts on horizontally beamed internet signals and impacts on mobile phone connectivity arising from recently upgraded infrastructure. These matters concerning recent infrastructure upgraded do not appear to have been addressed in the council's committee report nor in the appellant's response to representations. I consider that a planning condition could be applied to any consent to

secure a scheme for mitigation if negative impacts arise after the construction and operation of the wind farm.

140. Discussions with Highlands and Islands Airport Limited were ongoing at the time of the submission of the second Further Environmental Information. However, on 4 May 2021 Highlands and Islands Airport Limited confirmed that the revised layout would not impact on the safe operation of Inverness Airport and that there was no objection to the revised proposal. Subject to conditions (including infrared lighting) the Ministry of Defence do not object. Also, National Air Traffic Systems do not have any objection. In its committee report the council confirms that there are no outstanding aviation matters.

141. The council's environmental health advisors do not have a concern regarding shadow flicker.

142. Having considered all the evidence on these 'other matters', my conclusion is that, subject to specific conditions, the development would not lead to significant effects and, in particular, it would be acceptable to authorities responsible for aviation safety. There is therefore no conflict with development plan policy or supplementary guidance in respect of these 'other matters'.

Socio-economic, tourism and recreation

143. The Environmental Impact Assessment Report at Chapter 14 (in conjunction with other chapters and Further Environmental Information), assesses that no significant effects were identified on population, health, tourism and recreation or land use. A significant economic effect from the development is predicted at a local level, along with emissions avoided, contributions to renewable energy policy and a beneficial contribution to energy supply security.

144. The development estimates a construction period of 12 months, 35 years of operation and six months of decommissioning. The estimated economic impacts of the seven turbine proposal, with an installed capacity of 33.6 Megawatts, are not disputed by the council. The impacts arising from construction are predicted to be significant at a local level within the Cromarty Firth area; although not significant at a Highland Council or national level.

145. The development is predicted to create between 34 to 53 FTE jobs in Highland, and between 102 to 158 FTE jobs in Scotland during construction. Thereafter, operation is expected to create between 3 to 15 FTE jobs in Highland per annum, and 4 to 21 FTE jobs in Scotland per annum. The same number of construction FTE jobs would be generated in six months of decommissioning. The proposal is estimated to generate up to around £2 million of operations and maintenance expenditure per annum throughout its life, 42% of which could be generated locally with the highland area. During construction, a range of between £4.7 million and £7.3 million could be spent locally and a range of between £14.1 million and £21.8 million spent within Scotland.

146. The appellant says that there are no known sensitive land uses or recreational activities undertaken on the site and there are no recreational routes which pass through the site. Core Paths and other designated walking routes would not be directly affected by construction activities (and I have assessed the visual impact on routes above). To ensure access is provided throughout the construction period and that enhanced recreational

access opportunities are provided during the operational phase, the council suggest a Recreational Access Management Plan. No objection or concern is raised by the council's access advisor.

147. The development is said by the applicant to have the potential to indirectly affect tourism and recreational activities through generating negative landscape and visual effects at tourism destinations and routes frequented by tourists. However, the assessment of tourist routes and destinations concludes that the effect on tourism receptors as a result of the development would not result in a likely significant environmental effect. The council has raised no concern on tourism apart from the consequence of visual impacts. The council's committee report concluded that effects on tourism are most likely to be within the service sector particularly during the construction phase when abnormal loads are being delivered to site.

148. I have considered visual effects on promoted routes earlier in my decision (including cumulatively), some of which would be subject to a level of significant visual impact. That may have a negative impact on the number of tourists that visit the area or their activity while in the area. However, there is no clear evidence to that effect.

149. Representations say that the development will results in negative economic effects. However, there is no evidence to support that either.

150. The applicant has also pledged to provide local community funding delivered during the operation of the wind farm. However, that is not material to my consideration of the case.

151. The Highland Wide Local Development Plan policy 67 requires a decision maker to consider a development's contribution towards meeting renewable energy generation targets. This proposal has a predicted capacity of 33.6 Megawatts. It would therefore make a positive contribution to Scottish Government climate change and renewable energy targets. Policy 67 also requires a consideration of positive or negative economic effects. The estimated employment and economic benefits that would arise are not disputed and are in favour of the development and could play a small part in economic recovery from the Covid-19 pandemic. However, as noted by the Ardross Community Council the scale of the economic benefits are not significant. In addition, I have no evidence that demonstrates that significant impacts would arise on the tourism sector.

Compliance with the development plan

152. In my assessments above, despite the existence of 'significant effects' in connection with landscape and visual impacts, including cumulatively, I have not identified any unacceptable conflict with the policy intentions of documents which comprise the development plan. Specifically, when taking into account the relevant factors (or balancing considerations) of the Highland Wide Local Development Plan policy 67 and its supporting supplementary guidance, I have not found that the predicted negative impacts are so severe that they should be regarded as significantly detrimental; including cumulatively.

153. The proposal would also make a positive economic impact and a valuable contribution to meeting renewable energy generation targets and emissions reduction. After carefully balancing the relevant considerations, I am of the view that the proposal is supported by renewable energy policy 67 of the local development plan (and also the other

policies I have identified earlier). As a consequence, I consider that the proposal is also compatible with policy 28 (sustainable design). However, this is all subject to the implementation of a range of planning conditions which are required and highlighted above. I go on to discuss conditions in more detail below.

Material considerations

Energy policy and climate change

154. It has been raised in representations that there is no need for more wind farms to be built. However, the Scottish Government 2017 Energy Strategy and Onshore Wind Policy Statement both support the ongoing deployment of onshore wind. The Scottish Government 'Scotland's Energy Strategy Position Statement' of March 2021 does not signal a change to that. It is said in that document that the Scottish Government is committed to supporting the increase of onshore wind in the right places to help meet the target of 'Net Zero'.

155. The capacity of the development is predicted to be 33.6 Megawatts (over 35 years). That would provide a contribution to national renewable energy targets and the Scottish Government 'Net Zero' legal targets for 2045 (and 2030 and 2040 interim targets). Such targets are all set out to address tackle climate change. No party argues against the need, in policy terms, for additional deployment of renewable energy generation to address climate change. The clear support for renewable energy and emissions reduction policies and legislation, as described by the appellant in their submissions (including in further written submissions), are factors which are important material considerations in favour of this development within a planning balance. However, I also consider that the appellant is correct to say that these factors are not overriding factors in the determination of a wind farm planning application.

National Planning Policy

156. National Planning Framework 3, albeit produced in light of energy related targets around in 2014 (which have now been superseded by more challenging targets), supports a renewable and low carbon economy whilst minimising adverse impacts on environmental assets. Further support for renewables and the prioritising of reducing emissions was signalled by the National Planning 4 Position Statement issued in December 2020.

157. On 10 November 2021 the Scottish Government published a consultative draft of Scotland 2045 – Our Fourth National Planning Framework. As a consequence I asked the council and the appellant to give me their views on the relevance of the draft National Planning Framework.

158. The council say that the document is going through consultation and therefore the weight that should be attached to it should be less than the current adopted policy. However, they say the draft does not introduce any change to the current policy framework which would alter the consideration of this proposal. The council also highlights that recent decisions of Ministers have indicated that the draft can only be given limited weight.

159. The appellant says that the draft policy does not diminish support for renewables and onshore wind, and that the support is increased, including support for this proposal. However, it is accepted by the appellant that limited weight should be given to the draft.

160. The development management planning policies of the draft do not offer a radically different policy approach for onshore wind. Strong policy support continues to be offered to onshore wind developments in appropriate locations. However, given its status as a consultative draft, I have concluded that I cannot give it a level of importance above the current Scottish Planning Policy in balancing the material considerations for this case.

161. Scottish Planning Policy (of 2014) gives general support to the development of renewables but specifically in paragraphs 152, 153, 154 and 156. The appellant argues that an increased weight should be given to the energy related benefits which this development would secure and its contribution to climate targets. However, that is not reflected in Scottish Planning Policy which remains the national planning policy context for determination of this scheme.

162. Table 1 of Scottish Planning Policy sets out a strategic spatial framework for onshore wind. As I have noted above, in spatial terms the appeal site is within a mix of Group 2 and Group 3. The Group 2 areas relate to carbon rich soils which I have concluded (above) would not give cause for concern. Group 3 areas are those 'Areas with Potential' for siting of wind farms. Scottish Planning Policy advises that wind farms in Group 3 areas are likely to be acceptable in principle subject to detailed consideration. Such a detailed consideration is reflected in policy 67 of the Highland Wide Local Development Plan.

163. Paragraph 169 of Scottish Planning Policy identifies a list of development management considerations. These have a degree of overlap with policy 67 of the Highland Wide Local Development Plan. I have addressed most of the considerations in my assessments above. With regard to the remaining considerations, the decommissioning and possible need for a planning obligation is addressed below. In addition, the proposal contains an opportunity for energy storage and this gains support from paragraph 169.

164. Scottish Planning Policy also contains sustainable development principles set out in its paragraph 29. Based on my assessments above, taking into account the mitigation offered through a range of planning conditions, I have not identified specific constraints in relation to the principles or outcomes sought in Scottish Planning Policy. I conclude that the development would be consistent with the principles. The presumption in favour of development that contributes to sustainable development is also a significant material consideration in this case as the local development plan is more than 5 years old; although the renewable energy policy within the development plan with its supplementary guidance is not particularly out-of-date. That said, paragraph 28 of Scottish Planning Policy is clear that the aim of the 'presumption' is still to achieve the right development in the right place; it is not to allow development at any cost. That is the planning balance that I must address in my conclusions.

165. My assessments above in relation to the development plan do not, in my mind, bring the proposal into conflict with any other policy consideration of Scottish Planning Policy, including natural and cultural heritage matters.

166. The lack of electricity connection details, raised by Ardross Community Council, is not a matter that Scottish Planning Policy expects to influence a planning decision on a wind farm. Paragraph 165 makes it clear that 'it is for wind farm developers to discuss connections to the grid with the relevant transmission network operator'.

Other considerations

167. The council and the appellant recognise that any proposed community benefit fund is not a material consideration. Based on my experience and my understanding of paragraph 173 of Scottish Planning Policy, I agree with that position in relation to any direct payments made.

168. Visualisations produced for the proposal have also been carried out to The Highland Council Visualisation Standards for Wind Energy Developments (produced in July 2016) and I found that to be helpful while carrying out my site inspections.

169. There are letters of support which highlight support for renewables and the positive impacts on climate change. I have however noted the relatively high numbers of objections, over 50 individuals or groups, many of which were from the local area. However, the scale of representation is not necessarily an indication the acceptability of a proposal.

170. I have considered many of the material points of objection elsewhere within my decision above. However, there are a number of objections that I have not considered elsewhere.

171. I agree with Ardross Community Council when they state that wind farms are to be regarded as if permanent for the purposes of making assessments (according to Scottish Planning Policy paragraph 170). There is no guarantee that other wind farms would be gradually decommissioned and removed as the appellant has suggested. However, that matter does not change my judgements made on this case.

172. I did not see any evidence to substantiate claims that there may be issues associated with emergency response times. The site would be no different to other relatively remote working locations that have been granted consent in Scotland.

173. Localised warming, said to be caused by turbines, is raised in representations. However, there is no evidence submitted which demonstrates this could be an issue for a development of this size or could cause significant adverse effects.

174. Comments have also made about the impact that turbines would have on an individual's freedom to enjoy their own home. I have already mentioned above that an individual property does not have a right to maintain an existing view into the countryside. In addition, I have considered the impact that the proposal would have on residential amenity having visited the Ardross area on a number of occasions as part of my site inspections.

175. A number of reports/complaints in connection with water based impacts of a wind farm in Shetland were submitted from those making representations. However, I do not consider that the quality of construction techniques and drainage systems from another wind farm are directly relevant to my considerations. That said, planning conditions below include elements to control rain water run-off and drainage for the proposal.

176. In addition, I consider that the following matters, which were raised in representations, are not be material to my planning judgements for this case:

- timing, level and nature of community consultation and engagement;
- impacts of Covid-19 restrictions on community interests to meet face to face;
- incremental amending of the proposal being seen as disingenuous;
- costs of the Environmental Impact Assessment documents;
- emotional attachments to land and local environments;
- impacts on private property values and housing market implications arising;
- the level of subsidies involved in wind farms;
- the electricity grid network and possible infrastructure required outwith the site;
- suggestions that enough energy is produced from existing turbines in the area;
- the distance from cities where large amounts of energy is consumed;
- perceptions of more efficient renewable technologies and alternative locations;
- preference for offshore wind farms;
- distribution of community benefit payments and level financial gain for communities;
- economic motives or origin of the developer, investors, project owners or landowner;
- the ability of the council to enforce roads conditions;
- no fall in local energy prices promised with previous developments;
- opportunities would be lost to 're-wild' the site at some time in the future;
- community demands that the decision of the council must be upheld; and,
- the equality of turbine distribution throughout the highland area.

177. I recognise, based on the nature of the letters of representations submitted to the council and to the Planning and Environmental Appeals Division, that these matters above are the feelings of a number of people within the local community. Nevertheless, I consider that they are not relevant land use planning matters and should not influence my judgement on the planning merits of the case.

178. As set out in schedule below, I consider that there have been opportunities for public participation in decision-making for the purposes of an Environmental Impact Assessment development. The council has not highlighted areas where consultation processes were flawed in terms of the relevant planning regulations. With regard to matters raised by the Ardross Community Council in relation to the Aarhus Convention, the appellant has indicated how the convention has been complied with in their 'comments on representations'. In light of that submission, which refers to the actions of the Aarhus Convention Compliance Committee during the pandemic, I cannot be clear that the consultation and engagement was or was not compliant with the Aarhus Convention during the difficult restrictions of the Covid-19 pandemic. In addition, by allowing the application to be validated and consulted upon during the pandemic does not in my mind show a clear contravention of the Aarhus Convention by the council during the pandemic. In any event, the nature of engagement is not a matter which should be directly material to my planning judgement in this case.

179. The decision to refuse the Glenmorie Wind Farm made by Scottish Ministers in 2014 is said to set a precedent for this case according to representations. This is in terms of negative impacts upon communities. I have read the Glenmorie decision and the associated report. I find that decision, although primarily related to landscape and visual effects, was a case where the Reporter found that the scheme would not give rise to significant visual effects on settlements, villages, A or B roads or gardens and designed landscapes. The impacts in the Glenmorie Wind Farm case were distinctly different to the Strathroy Wind Farm and I therefore consider that it has little relevance to my decision.

180. The council list the potential role of a Planning Monitoring Officer as a material consideration in its committee report. I deal with that matter in my discussion on planning conditions below.

Conclusion on material considerations

181. My overall conclusion on the matters which I regard as material in this case is that the balance is in support of the development. There are none which indicate to me that the development plan should be set aside or that the development should not be consented.

Appropriate assessment

182. The construction of the wind farm has been identified as giving rise to likely significant effects on the qualifying interest (Capercaillie) of the Morangie Forest Special Protection Area and Novar Special Protection Area either alone or in combination with other wind farms. As a consequence, under the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") and Conservation of Habitats and Species Regulations 2017 these likely significant effects require to be subject to an appropriate assessment (below) in view of the conservation objectives for their qualifying interests.

183. The view of NatureScot is that this proposal is likely to have a significant effect on Capercaillie in connection with the Morangie Forest Special Protection Area and Novar Special Protection Area through collision risk, obstruction of dispersal and/or disturbance. However, NatureScot advise that:

- The proposal is not likely to result in a collision risk, nor obstruct opportunities for dispersal between woodlands used by Capercaillie, based on the location of the Capercaillie records in the area, and the lack of records plus limited availability of suitable habitat in woods to the south and south west.
- The proposal is not likely to result in significant disturbance to Capercaillie. This is based on the distance between proposed site access routes and infrastructure and the woodland areas used by Capercaillie, and also the commitment that during the Capercaillie lekking season (March to May inclusive), no works will start before 09:00 and cease 2 hours before dusk across the site.

184. In the light of these matters, NatureScot has concluded that conservation objectives for both Special Protection Areas would be maintained and that the wind farm would not adversely affect the integrity of the sites.

185. Based on the advice of NatureScot and the further mitigation to be provided through a Habitat Management Plan and appointment of an ecological clerk of works, I conclude that the proposed Strathroy Wind Farm, subject to mitigation using planning conditions, would have no adverse effect on the integrity of the Morangie Forest Special Protection Area or the Novar Special Protection Area. This is either alone or in combination with other projects/plans in the area. On that basis I conclude that their conservation objectives would be met.

Overall conclusions

186. The Environmental Impact Assessment Report and subsequent Further Environmental Information predicts that there would be residual negative significant effects arising from landscape and visual effects. Following my consideration and assessment of the environmental information, I have not identified any additional significant effects. I conclude, that subject to mitigation controlled by means of planning conditions, there would be no other unacceptable residual impacts.

187. With regard to the significant landscape and visual effects, I have concluded that these, individually and collectively, would not amount to impacts that would render a development as unacceptable or significantly detrimental overall. This is due to the relatively limited scale and magnitude of these effects.

188. In addition, I am satisfied that my reasoned conclusions on the significant effects of the proposed development are up-to-date.

189. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. The material considerations in this case, including national energy and planning policy considerations, are all generally in support of granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Planning conditions

190. A written submissions process was followed to allow the council and the appellant to agree a set of finalised proposed planning conditions. Agreement was reached between the appellant and the council on most of the proposed 26 planning conditions. Subject to minor amendments to improve their clarity, I have adopted most of these agreed conditions with the exception of the matters below. Although I have changed the numbering of my final conditions (due to a number of the proposed conditions being removed after agreement between the appellant and the council), I refer to the original 'proposed' condition numbers in this section to allow cross referencing to the written submissions.

191. Neither the appellant nor the council have suggested that a planning obligation is necessary to make the development acceptable. It is also my view that planning conditions would be sufficient to ensure the implementation of an acceptable development and to secure decommissioning and restoration.

192. Proposed condition 3 was agreed by the developer and the council. It confirms that turbines would have internal transformers. I find no reason not to accept that condition as it would contribute to minimising overall visual impact.

193. Proposed condition 4 required further assessment work, carried out by suitably qualified and experienced people, to ensure that infrastructure is sensitively scaled, sited and designed. I do not consider that such further assessment should be the subject of a planning condition. While the council may require further supporting information to discharge the condition, I do not consider that specifying the nature of assessment work is necessary to achieve the aims of the condition.

194. I do not consider that proposed condition 12 is necessary as the traffic management requirements of the operational period would be dealt with by proposed condition 10.

195. Both the appellant and the council are in agreement that a planning condition covering mitigation for television signal is not required. Representations raise concerns about interference with recent internet and mobile phone infrastructure that they believe has not been taken into account. In those circumstances, I consider that a condition is necessary to address any potential interference.

196. I have noted that the council and the appellant have agreed wording for proposed condition 23 which deals with redundant turbines. However, I do not consider that the council's request for decommissioning of the scheme, if (the arbitrary figure of) 50% of turbines do not generate, to be a reasonable one. It is unreasonable due to the relatively small scale of the scheme overall and because of my findings on the landscape and visual impacts above. Based on my experience, I have also extended the time periods involved as I consider them to be too short in relation to the overall period of consent and in relation to completing any decommissioning work. The planning condition was also not precise as it introduced the council exercising discretion. This was vague and in my view did not provide the precision required by Circular 4/1998 (the use of conditions in planning permissions). I have therefore reworded the condition.

197. The council and the appellant have agreed a planning condition regarding the establishment and role of a Community Liaison Group. However, I consider that the wording of the condition is imprecise and therefore its enforceability is in question. I have preferred a scheme for community liaison to be submitted in order that the detail of the arrangements can be included in that scheme.

198. The appellant and the council do not fully agree on a number of the other proposed conditions. I now deal with each of these disputed conditions in turn.

199. In relation to proposed condition 10, I consider that the reference to movements on council maintained roads taking place outwith peak times, school travel times and avoid community events is too vague for the purposes of enforcing the condition. This is because the times and dates associated with these matters are not known or specified. Such details can however be contained within a detailed protocol (to be submitted and approved) as argued by the appellant. I have amended the condition accordingly and also the proposed condition regarding community liaison. The condition also refers to the need for a management plan for works around the Edderton War Memorial.

200. I agree with the appellant's position on items g) and h) within proposed condition 15. A Habitat Management Plan is to be approved and then implemented. The council's off-site requirements do not appear to be a specific mitigation requirement following on from the Environmental Impact Assessment Report. There is also no clear reasoning as to why the extra provisions are required by the council to mitigate the proposal. I am also aware that NatureScot has not made such specific requirements in relation to the Habitat Management Plan off-site.

201. The Royal Society for the Protection of Birds suggest turning off turbines on days of mass migration of Pink-footed Geese and in poor visibility. This does not appear to me to

be a practical condition or requirement. That conclusion is also reflected in the council's committee report.

202. The council's committee report noted that was important to ensure that planning conditions deliver a draft decommissioning and restoration plan for approval prior to the commencement of development and to ensure an appropriate financial bond is put in place. Based on my experience I agree with that. However, there are two areas of disagreement between the council and the appellant: the retention of access tracks and foundations once the development is decommissioned; and, the nature of the decommissioning and restoration guarantee.

203. I note that Ardross Community Council wish that tracks be removed during decommissioning. The council argue that all of the works should be removed at the decommissioning stage as the permission is temporary and the retention of the tracks would need planning permission. I see any future requirement for planning permission to retain tracks or any related enforcement as a separate matter to the decommissioning plan and it need not necessarily influence the content of a decommissioning plan. Based on my experience decommissioning planning conditions often do not require the ground level (and below) elements like access tracks, cabling and foundations to be removed in full. However, the details would need to be addressed through the preparation of an interim decommissioning plan and then a final decommissioning plan towards the end of the consent when the circumstances of current decommissioning practice would be clearer.

204. In relation to a decommissioning and restoration guarantee, I agree with the council that a mechanism to alter the value of the guarantee should be provided for in the planning condition. I consider that the council's form of words appears to deliver that.

205. A condition was proposed by the council for the employment of a Planning Monitoring Officer. I am aware that such a condition may have been accepted on a previous consent. However, the appellant in this instance is opposed to the proposed condition and paying for a consultant to undertake planning functions of the local authority. The appellant considers that the proposed condition is unreasonable. I agree that it is the council's responsibility to enforce the planning conditions. I also consider that monitoring reports could be submitted by amending another condition (concerning the Construction Environmental Management Plan). I have therefore amended the wording of that condition to reflect that.

206. Ardross Community Council consider that if consent is granted conditions should cover the following:

- tracks to be reinstated after the 35 year period;
- a Transport Community Liaison Group to liaise and input into the Transport Management Plan made up of Community Councils, the Highland Council and representative from the applicant before the Transport Management Plan is agreed;
- consultation during the Construction Phase over any issues;
- noise limits should be lower for this site as outlined in Adopted Onshore Wind Energy Supplementary Guidance 4.53 a) due to the lower level of background noise in the Highlands. Particular attention should be paid to what happens if the phenomenon of Amplitude Modulation becomes present during operation;

- raw noise data should be supplied to the Highland Council to establish noise baseline, before construction commencement; and
- automatic Fire Suppression systems should be fitted in turbines.

207. In response to Ardross Community Council, with regard to track reinstatement, I have considered that issue above. My condition 21 (below) deals with proposals for community liaison. Noise limits in condition 15 are at the lower end of the scale and accord with the council's supplementary guidance. Local background noise readings have already informed the Appellant's Environmental Impact Assessment Report. I have discussed Amplitude Modulation earlier in my decision and fire suppression within the turbines is not a matter that a planning decision need consider. Other work based health and safety regulations would likely govern that.

208. The planning conditions I attach to this decision also provide for monitoring measures where appropriate. In condition 9, I require that quarterly monitoring reports are provided to the council. I also require fisheries monitoring and advanced monitoring to inform a Breeding Bird Protection Plan. In condition 10, monitoring of road conditions is required. Through condition 12, I require the appointment of an Ecological Clerk of Works who would have responsibility for monitoring ecological mitigation measures relating to the proposed development. Condition 13 requires habitat monitoring through a Habitat Management Plan. I do not consider that the evidence suggests that any other monitoring measures are required.

Keith Bray

Reporter

Schedule 1: Conditions

Duration of planning permission

1. Planning Permission is granted for a period of 37 years from the date of Final Commissioning, comprising an operational period of up to 35 years from the date of Final Commissioning and a period of up to 2 years for decommissioning and site restoration to be completed in accordance with a scheme to be approved under Condition 18 of this permission. Written confirmation of the Date of Final Commissioning must be provided to the Planning Authority no later than one month after the event.

Reason: To clarify the terms of the permission as the permission sought is temporary and to define the duration of the consent.

Accordance with the provisions of the application

2. The development shall be constructed and operated in accordance with the provisions of the Application, the Environmental Impact Assessment Report, Further Environmental Information I, and Further Environmental Information II, except in so far as amended by the terms of this consent.

Reason: To clarify the terms of the permission.

Design and operation of turbines

3. No turbines shall be erected until details of the proposed wind turbines have been submitted to, and approved in writing by, the Planning Authority. These details shall include:

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

Thereafter, development shall progress in accordance with these approved details and, with reference to part (b) 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.

Reason: To ensure that all elements of the development accord with the parameters set out in the description of development as described in this consent and set out in Chapter 3 of Environmental Impact Assessment Report and as amended by the Further Environmental Information II and to ensure that all elements are acceptable in terms of visual, landscape, noise and other environmental impact considerations.

Design of ancillary infrastructure

4. No development shall commence on the control building, substation or ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas including electric vehicle charging provision, battery storage, as well as any external lighting, fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with these approved details.

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

Battery storage

5. No development shall commence on the battery storage facility until final details of specific pollution prevention measures been submitted to, and approved in writing by, the Planning Authority, in consultation with SEPA.

Reason: In the interest of pollution prevention and protection of the water environment.

Advertisement on infrastructure

6. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings / enclosures, ancillary buildings or above ground fixed

plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority.

Reason: To in the interests of the visual amenity of the area.

Micro-siting

7. All wind turbines, buildings, borrow pits, areas of hardstanding and tracks shall be constructed in the location shown in Figure F3.1 – Further Environmental Information II Site Layout Plan and as per the turbine coordinates set out in Table 3.2: Individual Turbine Details of the Further Environmental Information II. Wind turbines, buildings, borrow pits, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and NatureScot), micro-siting is subject to the following restrictions:

- a) no wind turbine or related hardstanding, access track, water crossing, borrow pit or temporary construction compound shall be moved more than 50m from the original position shown;
- b) no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (AOD), than the original position shown;
- c) No micro-siting shall take place with the result that infrastructure (excluding floating access tracks) is located within areas of peat of greater depth than the original position shown;
- d) No micro-siting shall take place within areas hosting highly dependent Ground Water Dependent Terrestrial Ecosystems, watercourses and other sensitivities;
- e) With the exception of water-crossings, no element of the proposed development shall be positioned closer than 50m from the top of the bank of any watercourse, unless a detailed assessment is provided to demonstrate the additional measures and monitoring that will be put in place to reduce the risk of pollution of the watercourse, including as a result of instability; and,
- f) All micro-siting permissible under this condition must be approved in writing by the Environmental Clerk of Works (ECoW).

No later than one month after the date of Final Commissioning, an updated Site Layout Plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's written approval, as applicable.

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

Borrow pit

8. There shall be no Commencement of Development until a site specific scheme for the working and restoration of any borrow pit forming part of the development has been

submitted to, and approved in writing by, the Planning Authority, in consultation with SEPA. The scheme shall include:

- a) a map showing the location, size, depths and dimensions of any borrow pit;
- b) a map showing in relation to each proposed excavation, stocks of rock, overburden, soils and temporary and permanent infrastructure including tracks, buildings, oil storage, pipes and drainage, overlain with all lochs or watercourses to a distance of 250m from working areas;
- c) a site-specific buffer drawn around each loch or watercourse proportionate to the depth of excavations and at least 10m from access tracks. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse, and drawings of what is proposed in terms of engineering works;
- d) a ground investigation report giving existing seasonally highest water table including sections showing the maximum area, depth and profile of working in relation to the water table;
- e) site map showing cut-off drains, silt management devices and settlement lagoons to manage surface water and dewatering discharge. Cut-off drains must be installed to maximise diversion of water from entering quarry works;
- f) a site map showing proposed water abstractions with details of the volumes and timings of abstractions;
- g) a detailed working method statement based on site survey information and ground investigations;
- h) a site map showing the location of pollution prevention measures such as spill kits, oil interceptors, drainage associated with welfare facilities, recycling and bin storage and vehicle washing areas. The drawing notes should include a commitment to check these daily;
- i) a site map showing where soils and overburden will be stored including details of the heights and dimensions of each store, how long the material will be stored for and how soils will be kept fit for restoration purposes;
- j) sections and plans detailing how restoration will be progressed including the phasing, profiles depths and types of material to be used;
- k) details of how the rock will be processed in order to produce a grade of rock that will not cause siltation problems during its end use on tracks, trenches and other hardstanding;
- l) a programme of implementation of the works described in the scheme; and,
- m) full details of the reinstatement, restoration and aftercare of the borrow pits at the end of the construction period, to include topographic surveys of pre-

construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

The approved scheme shall thereafter be implemented in full.

Reason: To ensure that excavation of materials from the borrow pits is carried out in a safe manner, minimises environmental and visual impacts, and to secure the restoration of borrow pits at the end of the construction period.

Construction Environmental Management Plan

9. There shall be no Commencement of Development until a finalised Construction Environmental Management Plan (CEMP) is submitted to and agreed in writing by the Planning Authority, in consultation with SEPA. The document shall include provision for:

- a) an updated Schedule of Mitigation (SM); highlighting mitigation set out within each chapter of the Environmental Impact Assessment Report (EIAR), within the EIAR Further Environmental Information II, and the conditions of this consent;
- b) processes to control / action changes from the agreed SM; and,
- c) the following specific details:
 - i. a Construction Method Statement which shall cover:
 - hard surfaces and access tracks, including details of floating track, with the provision of cross section drawings;
 - site compound and substation, detailing the storage of materials and machinery, including the areas designated for offices, welfare facilities; fuel storage, battery storage and car parking;
 - crane pads, turbine foundations and cable trenches;
 - erection of the wind turbines;
 - emergency event contingencies; and,
 - measures to ensure construction vehicle adherence to the routing of the access tracks.
 - ii. finalised Peat Management Plan, building upon the outline Peat Management Plan provided at Appendix 12.2 of the Environmental Impact Assessment Report (EIAR); to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and NatureScot; this should:
 - highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage;
 - measures to avoid bare peat being left to dry out and provision of a drawing detailing the placement of removed turves over top of the stored peat to protect it from drying out as well as providing the turves a surrogate site so that the vegetation is maintained during storage; and,
 - avoid peat slide risk in accordance with the mitigation measures set out within a finalised Peat Landslide Hazard and Risk Assessment, building upon the outline assessment provided at Appendix 12.1 of the EIAR.

iii. a finalised Water Construction Management Plan (WCMP); this shall include details of:

- development and storage of material buffers (50m minimum) from water features, unless otherwise agreed in writing by Planning Authority, in consultation with SEPA;
- watercourse crossings designed to accommodate the 1 in 200 year flood risk event plus 20% for climate change with crossing WX03 to be a single span bridge (refer to EIAR Further Environmental Information II Figure 12.2a: Local Hydrology, January 2021) and other crossings designed as oversized bottomless culverts or traditional style bridges;
- surface water drainage provision which accords with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time. Site specific maps shall be provided showing (1) cut off ditches to prevent clean surface water entering the construction site; and (2) proposed locations of SuDS features (lagoons, cut off drains, discharges to vegetated buffers, check dams etc.), demonstrating where polluted water will be directed and treated and where clean water will be redirected. These plans must clearly show how polluted surface water is kept away from the water environment. All surface water drainage provision shall be completed in a timely manner and installed concurrently with the construction of any track or hard surface;
- construction related maintenance regimes;
- a surface and ground water (quantity and quality) baseline survey construction and operational monitoring programme, highlighting any necessary public and private water supply protection measures; and,
- a fisheries monitoring plan, to be prepared by the applicant in consultation with SEPA and local fishing interest groups (including the Cromarty Firth Fishery Board (CFFB) and the Cromarty Firth District Salmon Fishery Board (CFBSFB)), to: establish the characteristics of the baseline conditions prior to construction; monitor the performance of the mitigation measures set out within the WCMP; and identify triggers for any remedial action by applicant to maintain water quality and potential fish passages.

iv. measures to mitigate construction impacts on wetland habitats as set out within the Habitat Management Plan under Condition 13;

v. a Site Waste Management Plan;

vi. a Pollution Prevention Plan;

vii. Construction Noise and Vibration Mitigation Plan;

viii. An Archaeological Management Plan (AMP) setting out:

- the recording of structures;
- the physical marking out on the ground and erection of a visible protective barrier around known features, with extractive operations to avoid these features;

- watching briefs; and,
- a procedure to be followed should any unexpected features be identified during construction. Where it is not possible to avoid impact on any of the above sites, archaeological mitigation (excavation) in advance of development may be undertaken providing it has been approved in advance in writing by the Planning Authority.

ix. a Breeding Bird Protection Plan (BBPP) and Species Protection Plans, with associated survey and monitoring requirements to be agreed by the Planning Authority, in consultation with NatureScot. This must be informed by a further pre-construction ecological survey for legally protected species which must be carried out at an appropriate time of year for the species, at a maximum of 12 months preceding commencement of construction, and a watching brief must then be implemented by the Ecological Clerk of Works (ECoW) during construction. The species that should be surveyed for include, but are not limited to, breeding birds, otter, pine marten, water vole, badger, red squirrel, and wildcat. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs. A communication plan must be provided to ensure all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection. This plan must detail a notification and stop the job commitment requirements.

x. a site Construction Decommissioning Restoration Plan (CDRP), highlighting restoration/ reinstatement of the working areas not required during the operation of the development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas.

xi. Details for the submission of a quarterly report summarising work under taken at the site and compliance with the planning conditions during the period of construction and post construction re-instatement.

Unless otherwise agreed in writing by the Planning Authority the development shall then proceed in accordance with the approved CEMP.

Reason: To secure the final detailed information on the delivery of all on-site mitigation and to protect the environment from the construction of the development.

Traffic Management Plan

10. There shall be no Commencement of Development until a Traffic Management Plan (TMP) has been submitted to, and approved by, the Planning Authority, in consultation with the Roads Authority and Transport Scotland. The TMP, which shall be implemented as approved during all periods of construction, wind farm operation and decommissioning, must include:

- a) a description of all measures to be implemented by the developer in order to manage traffic during the construction phase (incl. routing strategies), with any

additional or temporary signage and traffic control undertaken by a recognised Quality Assured traffic management consultant;

b) Provision for Community Liaison in line with the scheme agreed under condition 21;

c) the identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities. This shall include the following:

- i. the site access being via the B9176 only;
- ii. a detailed review of the routes to site for general construction traffic with any delivery route from Invergordon harbour to the A9 to be via the B817 coast road, U4242 Industrial Estate Distributor Road and C1063 Academy Road, joining the A9 at Tomich junction;
- iii. details of all mitigation / improvement works for general construction traffic and abnormal load movements;
- iv. a route assessment report for abnormal loads and construction traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary
- v. an initial assessment of the capacity of existing bridges, culverts and other structures along the construction access routes to cater for all construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;
- vi. a videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks notice of this trial run must be made to the local Roads Authority and Transport Scotland, with the local Roads Authority in attendance unless agreed in writing;
- vii. no deliveries by abnormal indivisible loads shall take place until a final assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the Planning Authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the Planning Authority; thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

d) a risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;

e) details of any upgrading works and an associated construction and reinstatement management plan for any works required at the Edderton junction affecting the Edderton War Memorial;

f) details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage measures, improved

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

g) wheel washing measures with all vehicles transporting construction material to be sheeted to ensure water and debris are prevented from discharging from the site onto the public road;

h) details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period;

i) measures to ensure that construction traffic adheres to agreed routes on the road network;

j) a detailed protocol for the delivery of abnormal loads/vehicles shall be submitted to and approved by the Planning Authority. The protocol shall identify any requirements for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. The protocol shall identify any times that loads/vehicles would avoid;

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

l) a detailed delivery programme for abnormal load movements, which shall be made available to the Planning Authority;

m) a procedure, including a survey of relevant roads before the commencement of development, for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods; and,

n) appropriate reinstatement works shall be carried out, as required by the Planning Authority, at the end of the turbine delivery and erection period.

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

Recreational Access Management Plan

11. There shall be no Commencement of Development until a Recreational Access Management Plan has been submitted to, and agreed in writing by, the Planning Authority. The plan should ensure that public access is retained in the vicinity of the development during construction, and thereafter that suitable public access is provided during the operational phase of the wind farm. The plan as agreed shall be implemented in full, unless otherwise approved in writing with the Planning Authority.

Reason: In the interests of securing and enhancing public access rights.

Ecological Clerk of Works

12. There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the applicant of an independent Ecological Clerk of Works (ECoW), in consultation with NatureScot and SEPA. The terms of appointment shall:

- a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Impact Assessment Report, Further Environmental Information, and other information lodged in support of the application including but not limited to the Construction and Environmental Management Plan (CEMP) under Condition 9 and the Habitat Management Plan (HMP) under Condition 13 (“the ECoW Works”);
- b) require the ECoW to report to the applicant’s nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity;
- c) require the ECoW to submit a report every two months to the Planning Authority, or monthly at the further written request of the Planning Authority, summarising progress with the development and environmental works undertaken on site;
- d) have power to stop to the job / activities being undertaken within the development site when ecological interests dictate and / or when a breach or potential breach of environmental legislation occurs to allow for a briefing of the concern to the applicant’s nominated construction project manager; and,
- e) require the ECoW to report to the Planning Authority any incidences of non - compliance with the ECoW Works at the earliest practical opportunity.

The EcoW shall be appointed on the approved terms prior to Commencement of Development, throughout the period of construction, post-construction and then the period of decommissioning and restoration.

No later than 12 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the applicant shall submit details of the terms of appointment by the applicant of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval, in consultation with NatureScot and SEPA. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

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

Habitat management

13. There shall be no Commencement of Development until a Habitat Management Plan (HMP) in accordance with the Outline HMP included in the EIAR has been submitted to and approved in writing by the Planning Authority, in consultation with SEPA and NatureScot.

The HMP shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, and restoration of the site. It shall include:

- a) measures for the assessment of, restoration and habitat management works for blanket bog, including measures to reduce Sitka spruce regeneration;
- b) restoration measures for the most sensitive habitats, peatland restoration proposals, provide enhancement of Annex 1 habitats, habitats for protected species and mitigation measures in relation to capercaillie and black grouse during lekking;
- c) provision of an appropriate buffer distance from finalised turbine locations to watercourses and tree lines of high bat activity, applying the formula set out below and at Environmental Impact Assessment Report Paragraph 9.145 which accounts for the finalised blade length, hub height and feature height, or alternative suitable mitigation measures subject to the prior written approval of the Planning Authority, in consultation with NatureScot:

$$b = \sqrt{(50 - bl)^2 - (hh - fh)^2}$$
- d) measures to manage habitats within 150m of each turbine rotor sweep to and avoid shrub encroachment to mitigate bat activity;
- e) all site fencing to be marked to minimise black grouse and capercaillie collision risk;
- f) provision for regular surveys, monitoring and reporting in relation to:
 - ground conditions within HMP area from the period from Commencement of Development until the date of completion of post construction restoration; and,
 - bird and bat populations (collision and breeding monitoring), including flight paths within and adjacent to the wind farm site from the period from Commencement of Development until the date of completion of post construction restoration with the provision of a before and after control impact study.

The approved HMP shall be implemented in full, unless otherwise agreed in advance in writing by Planning Authority.

Reason: In the interests of good land management and the protection of species and enhancement of habitats.

Construction hours

14. Construction and decommissioning work or development associated with the proposed development shall only take place between the following hours:

- a) 07:00 to 19:00 Mondays to Fridays and from 07:00 to 13:00 hours on Saturdays with no work on Sundays or a Bank Holiday in Scotland, unless otherwise agreed in advance in writing by the Planning Authority; and subject to,

b) during the capercaillie lekking season (March to May inclusive), no works will start before 09:00 hours and all works shall cease 2 hours before dusk across the site.

Reason: In the interest of protected species and local amenity.

Operational noise

15. The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed 35dB LA90 at any noise sensitive location existing at the time of consent and in addition:

a) prior to the First Export Date, the wind farm operator shall submit to the Highland Council (THC) 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 THC;

b) within 21 days from receipt of a written request of THC, 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 THC to assess the level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with THC) in accordance with the procedures described in the attached Guidance Notes. The written request from THC shall set out at least the date, time, conditions and location that the complaint relates to. Within 14 days of receipt of the written request of THC made under this paragraph (b), the wind farm operator shall provide the information relevant to the complaint to the 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 THC for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainants property (to improve the signal to noise ratio), then the operators submission shall include a method to calculate the noise level from the wind turbines at the complainants property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by THC prior to the commencement of any measurements. Measurements to assess compliance with the noise limits of this condition shall be undertaken at the measurement location approved in writing by THC;

d) 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 THC 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; and 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 of THC 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 THC and the attached Guidance Notes;

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

g) the wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine 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) of the attached Guidance Notes to the Local Authority on its request within 14 days of receipt in writing of such a request;

h) where it is proposed to operate any turbine in a reduced running mode in order to meet the limits, no turbine shall be erected until a curtailment plan for the turbines has been submitted and approved in writing by THC. The curtailment plan shall demonstrate how the limits will be complied with and shall include the following:

- i. definition of each noise reduced running mode including sound power data;
- ii. the wind conditions (speed & direction) at which any noise reduced running mode will be implemented; and
- iii. details of the manner in which the running modes will be defined in the SCADA data or how the implementation of the curtailment plan can be otherwise monitored and evidenced; The Curtailment Plan shall be implemented in accordance with the approved details;

i) prior to the date of First Commissioning, the wind farm operator shall submit to THC for written approval, a scheme of mitigation to be implemented in the event that the rating level, after adjustment for background noise contribution and any

tonal penalty, is found to exceed the conditioned limits. The scheme shall define any reduced noise running modes to be used in the mitigation together with sound power levels in these modes and the manner in which the running modes will be defined in the SCADA data; and,

j) the scheme referred to in paragraph (i) above should include a framework of immediate and long term mitigation measures. The immediate mitigation measures must ensure the rating level will comply with the conditioned limits and must be implemented within seven days of the further assessment described in paragraph (f) above being received by THC. These measures must remain in place, except during field trials to optimise mitigation, until a long term mitigation strategy is ready to be implemented.

Reason: In the interest of the residential amenity of nearby properties.

Aviation safety

16. No turbine shall be erected until the applicant has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre, Civil Aviation Authority, Highlands and Islands Airports Limited, and National Air Traffic Services with the following information, and has provided evidence to the Planning Authority of having done so:

- a) the date of the expected commencement of each stage of construction and the expected end date;
- b) the height above ground level of the tallest structure forming part of the development;
- c) the maximum extension height of any construction equipment; and,
- d) the position of the turbines and masts in latitude and longitude.

Reason: In the interests of aviation safety.

Aviation lighting

17. There shall be no Commencement of Development until the applicant has submitted a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. For the avoidance of doubt the scheme shall include details of infrared aviation lighting to be applied which shall be invisible to the naked eye and no visible aviation lighting will be permitted. No lighting other than that described in the scheme may be applied at the site. The development shall thereafter be operated fully in accordance with the approved scheme.

Reason: In the interests of aviation safety, landscape and visual amenity.

Decommissioning and Restoration Plan

18. No development (excluding preliminary ground investigation which shall be permitted) shall commence until an Interim Decommissioning and Restoration Plan (IDRP)

for the site has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA, NatureScot and the Roads Authorities. Thereafter:

- a) the IDRP shall be reviewed by the applicant within five years of the Commencement of Development and every five years thereafter until such time as the wind farm is decommissioned and the site restored. Each review shall ensure that the IRDP reflects best practice in decommissioning prevailing at the time and ensures that site specific conditions, identified during construction of the site, and subsequent operation and monitoring of the development are given due consideration. A copy shall be submitted to the Planning Authority for its written approval, in consultation with NatureScot and SEPA;
- b) not later than 12 months prior to the decommissioning of the development, a detailed Decommissioning and Restoration Plan (DRP), based upon the principles of the approved interim plan, shall be submitted to, and approved in writing by, the Planning Authority, in consultation with NatureScot and SEPA; and c) the DRP shall be implemented in full as approved. In the event that the final DPR is not approved by the Planning Authority in advance of the decommissioning, the Interim DRP (IDRP) shall be implemented in full, unless otherwise agreed by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority and in accordance with legislative requirements and published best practice at time of decommissioning, the IDRP and subsequent DRP shall include details about the method of removal of the elements of the development including where necessary details of:
- i) justification for retention of any relevant elements of the development;
 - ii) the treatment of disturbed ground surfaces;
 - iii) management and timing of the works;
 - iv) environmental management provisions; and,
 - v) a traffic management plan to address any traffic impact issues during the decommissioning period.

Reason: To ensure that all wind turbines and associated development are removed.

Redundant turbines

19. The Wind Farm Operator shall, at all times after the date of Final Commissioning, record information regarding the monthly supply of electricity to the national grid from the site as a whole and electricity generated by each individual turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the Planning Authority within one month of any request by them.

In the event that any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period exceeding 12 months, then unless otherwise agreed, the wind turbine(s), along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within nine months of the end of the said continuous 12 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition.

This shall not apply if such outages are out with the operator's control or as a consequence of any emergency or requirement of National Grid. In these instances the Planning

Authority shall be informed of the turbine shutdowns, reasons for the turbine shut downs and timescales for the outages within five working days of the turbines being switched off.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved Decommissioning and Restoration Statement (DRS), or the Interim DRS (IDRS) should the DRS not have been approved at that stage.

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

Decommissioning and restoration guarantee

20. There shall be no Commencement of Development until:

a) full details of a guarantee, bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan (DRP) approved under condition 18 of this permission have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the bond must be able to be called upon by The Highland Council and be enforceable against the operator and landowner and / or leaseholder;

b) confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the Planning Authority; and,

c) documentary evidence that the guarantee, bond or other financial provision approved under part (b) above is in place has been submitted to, and confirmation in writing that the financial provision is satisfactory has been issued by, the Planning Authority.

Thereafter:

1. the guarantee, bond or other financial provision shall be maintained throughout the duration of this permission; and,

2. the bond or other financial provision shall be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the site restored.

Each review shall be:

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

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

Reason: To ensure financial security for the cost of the restoration of the site to the satisfaction of the Planning Authority.

Community liaison

21. Prior to the Commencement of Development, a scheme setting out arrangements for establishing community liaison and to inform the community about the arrangements for the delivery of all road and construction traffic mitigation measures required for the development shall be submitted to and approved by the Planning Authority. This scheme should include, but not be limited to, construction and decommissioning traffic management arrangements, the operation of local roads during the transportation of abnormal loads and identification of contact arrangements during the construction of the development. The scheme shall be implemented as approved.

Reason: To minimise the impact of the development on local roads and the on local community.

Telecommunications

22. Within 12 months of the first export date, any claim by any individual person regarding television or telecommunications 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 of services be attributable to the development, the developer shall remedy such impairment within 3 months.

Reason: To mitigate the potential effect of telecommunications interference on the development.

Definitions

Dwelling is a building within Use Class Schedule 1 Paragraph 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

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

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

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best -fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU - R -97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

(a) Values of the LA90,10 -minute noise statistic should be measured at the complainant’s property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672 -1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

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

(c) The LA90,10 -minute measurements should be synchronised with measurements of the 10 -minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine, arithmetic mean power generated by each turbine and any data necessary to define the running mode as set out in the Curtailment Plan, all in successive 10 -minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed,

averaged across all operating wind turbines, shall be used as the basis for the analysis. Each 10 minute arithmetic average mean wind speed data as measured at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU - R - 97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10 -minute periods shall commence on the hour and in 10 -minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the Local Authority shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Local Authority.

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10 -minute periods synchronised with the periods of data recorded in accordance with Note 1(d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Local Authority prior to the commencement of measurements.

Note 2

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

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Authority but excluding any periods of rainfall measured in accordance with Note 1(f). (c) Values of the LA90,10 -minute noise measurements and corresponding values of the 10 -minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y -axis and wind speed on the Xaxis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

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

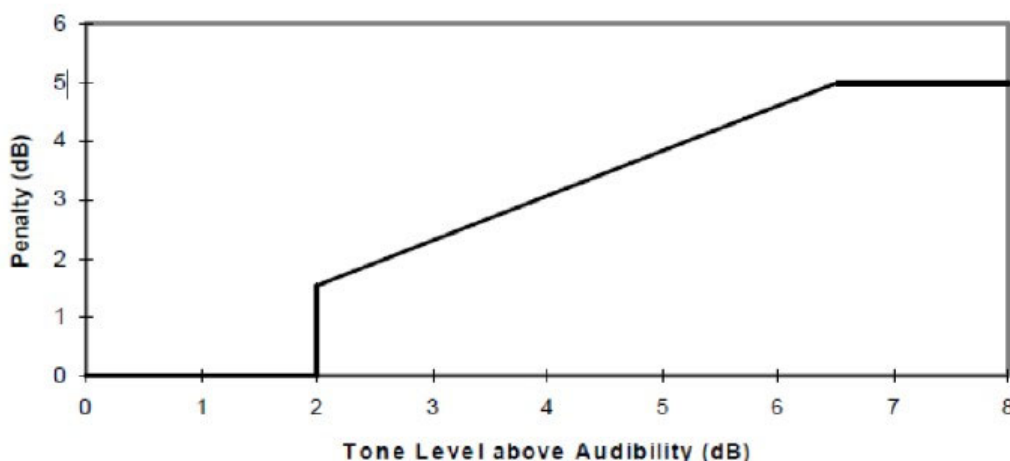
(b) For each 10 -minute interval for which LA90,10 -minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2 - minute periods should be spaced at 10 -minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 - minute period out of the affected overall 10 -minute period shall be selected. Any such deviations from the standard procedure shall be reported.

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

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

(e) A least squares “best fit” linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol.

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

(c) If the rating level lies at or below the noise limits approved by the Local Authority then no further action is necessary. In the event that the rating level is above the noise limits, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol.
- ii. The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be recalculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty lies at or below the noise limits approved by the Local Authority then no further action is necessary. If the rating level at any integer wind speed exceeds the noise limits approved by the Local Authority then the development fails to comply with the conditions.

Schedule 2: Advisory Notes

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

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

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

4. Right to challenge this decision: This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

5. Notification of this decision by the planning authority: The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating the in locality of the proposed development or by other reasonable means and (b) to make a copy of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

Schedule 3: Application drawings

Site Location (Figure EIAR Figure 1.1)

Site Layout (EIAR FEI II Figure F3.1)

Schedule 4: Opportunities for public participation in decision-making

There is the following evidence before me of opportunities the public had to take part in decision-making procedures on the application before I was appointed to this appeal:

- the appellant has provided a report on pre-application consultation dated January 2020. This indicates that a the appellant served notice on Community Councils within the zone of theoretical visibility area who may have theoretical visibility of the proposal and Elected Members;
- contact was made with Ardross Community Council prior to the application entering the scoping stage;
- three public exhibitions were held, one pre-scoping event, one at the scoping stage and one further exhibition in advance of the planning submission. These fell into two distinct rounds held 22 August and 30 October 2019 in Ardross Community Hall, and a round 2 event held on 9 January 2020 at Ardross Community Hall - to discuss how feedback received during the process had been considered;
- the newspaper advertisements for the consultation events were placed in the Ross-shire Journal;
- posters were also produced advertising the consultation events;
- an advertisement of the planning application was made in the local press (Ross-shire Journal and Edinburgh Gazette) on 3 April 2020, 25 September 2020 and on 12 February 2021. It advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying Environmental Impact Assessment Report and Further Environmental Information;
- responses were received from Kilmuir and Logie Easter Community Council, Ardross Community Council and Strathpeffer Community Council; and,
- the Planning Authority received over 50 public representations in respect of the application. The main points raised in those representations are summarised throughout this decision notice.

Representations can be made to the DPEA and over 30 representations were made from the public during the appeal process.