

Telephone: 0131 244 6938

E-mail: Laura.Walker@gov.scot

Ms G Pearson
Highland Council
Sent By E-mail

Our ref: PPA-270-2237
Planning Authority ref: 19/04826/FUL

16 February 2022

Dear Ms Pearson

PLANNING PERMISSION APPEAL: LAND 1645M SOUTH OF 43 FARLARY ROGART IV28

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](#).

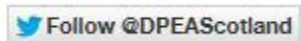
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I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

Laura Walker

LAURA WALKER
Case Officer
Planning And Environmental Appeals Division





Decision by Andrew Fleming, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2237
- Site address: land 1,645 metres south of 43 Farlary, Rogart, Sutherland, IV28
- Appeal by South Kilbraur Wind Farm Limited against the decision by The Highland Council
- Application for planning permission 19/04826/FUL dated 30 October 2019 refused by notice dated 4 September 2020
- The development proposed: installation of up to 7 wind turbines of up to 149.9 metres tip height and ancillary infrastructure
- Date of site visit by Reporter: 10, 11 and 12 May 2021

Date of appeal decision: 16 February 2022

Decision

I dismiss the appeal and refuse planning permission. Attention is drawn to the 2 advisory notes at the end of the notice.

Preliminary matter

During my consideration of the appeal, a consultative draft version of the Scottish Government's Onshore Wind Policy Statement and the Draft National Planning Framework 4 were published. I invited the appellant and the council to provide comments on these documents which they considered to be relevant to the assessment of the case. I have considered the respective responses as part of my reasoning below.

Environmental impact assessment

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

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

- the EIA report submitted on 30 October 2019;
- consultation responses from Rogart Community Council, the council's environmental health, transport planning, forestry, historic environment and access functions, Scottish Environment Protection Agency, Scottish Natural Heritage (Nature Scot),



Historic Environment Scotland, National Air Traffic Service Safeguarding and Highlands and Islands Airports Limited;

- representations submitted to the council from members of the public and others; and
- representations submitted to Planning and Environmental Appeals Division by members of the public and others.

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

Reasoning

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

The development plan

2. The development plan consists of the Highland Wide Local Development Plan (2012), the Caithness and Sutherland Local Development Plan (2018) and adopted Supplementary Guidance. The Caithness and Sutherland Local Development Plan does not contain any site-specific policies covering the site. However, it provides details of the boundaries for designated Special Landscape Areas including the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, within which a small section of the site falls.

3. Whilst the Highland Wide Local Development Plan is more than five years old, the relevant provisions of the plan, with respect to this proposal, are not particularly out-of-date. Policy 67 of the Highland Wide Local Development Plan is concerned with renewable energy developments. It supports proposals that are located, sited and designed in such a way that they will not be significantly detrimental overall, either individually or cumulatively with other developments and having regard to eleven specific criteria. Such matters include landscape and visual impacts and impacts upon natural, built and cultural heritage features. The policy requires the decision maker to consider the contribution a proposal makes to meeting renewable energy targets and any likely positive or negative economic effects at local and national level. Whilst there are other policies which have relevance to the proposal, they supplement policy 67 for considering wind farm proposals. Therefore, although I consider other policies, policy 67 is the primary policy for considering the proposal.

4. The Onshore Wind Energy Supplementary Guidance (2016) provides additional guidance on the principles set out in policy 67. The supplementary guidance includes a Spatial Framework for onshore wind energy which accords with Table 1 of Scottish Planning Policy. According to the Spatial Framework, the majority of the site is identified as a Group 2 Area (an area of significant protection), due to being located within an area of carbon rich soils and priority peatlands. In such areas, the applicant needs to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

5. The supplementary guidance provides a methodology for a judgement to be made on the likely impact of a development on assessed “thresholds” in order to assist the application of policy 67. The 10 criteria contained within the guidance are useful in considering landscape and visual impacts, including cumulative impacts.

Landscape and visual impacts

Landscape impacts

6. The EIA report considers the impact of the proposal on landscape within a 40 kilometres radius of the site. Land use in the study area is heavily influenced by the topography and elevation of the land. Uses within the study area include settlement, crofting, intensive farming, forestry and extensive moorland. Each of these land uses responds to the topography and elevation with settled and farmed areas along the low-lying straths and lower slopes of the glens and rough grazing on the upland fringes as well as open moorland areas.

Landscape character and designations

7. Three landscape character types cover the site including Sweeping Moorland, Rounded Hills and Strath. The majority of the site falls within the Sweeping Moorland character type. I agree with the appellant that this landscape character type has a medium sensitivity, given the existing human influence through development but also given the sense of exposure largely due to long-range views to mountain skylines to the north and west. The ZTV drawings indicate that a large proportion of the landscape character type would be affected by the proposal. Notably, from within 15 km, the proposal has the potential to alter the character of the landscape character type when experienced in settled areas to the west (such as Knockarthur and East Langwell) but also from undulating upland areas to the north and northwest which are typically not settled.

8. The appellant judges the magnitude of change to be medium which would result in moderate (significant) landscape effects at the local level. I also consider that there would be moderate (significant) adverse landscape effects on this character type. However, I disagree with the appellant’s assertion that the change in character would be limited to the immediate surroundings, as a result of the site being contained by the enclosing rounded hills of the coastal ridge to the east, including Ben Lunndaidh and Cnoc na Gamhna. Whilst I accept that these rounded hills provide some enclosure, the turbines protrude out into the Sweeping Moorland character area and are visible to the north and northwest. They would therefore result in a noticeable deterioration in the environment. I return to this matter below.

9. The appellant considers that the Rounded Hills character type overall has a medium sensitivity and considers that there would be moderate (significant) adverse landscape effects on this character area. This character type includes areas with a strong sense of wildness and remoteness with largely uninhabited interiors. As a result, I consider that this character type has a higher sensitivity to development such as that proposed, than other character types. Given the character type includes natural landmarks such as Ben Horn and Ben Lunndaidh (which reflect the uninhabited interiors and to an extent the sense of wildness) and that three of the proposed turbines would be located in proximity to these within this character type, I consider that the magnitude of change would be substantial. In

light of this, I consider that there would be major (significant) adverse landscape effects on this character area.

10. The Strath character type occurs as valleys leading inland from coastal locations through rounded hills and to the interior moorland. Units forming part of this character type include Dunrobin Glen and Strath Fleet, both of which are within 5 kilometres of the proposal. Whilst Strath Fleet and Dunrobin Glen both include parts of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, the majority of the character type is undesignated and I concur with the appellant that the character type has a medium sensitivity. However, as acknowledged by the appellant, there is no existing influence from wind energy development on the Dunrobin Glen unit of the character type. I consider that the introduction of the proposal would therefore alter the character of this area with the magnitude of change considered to be substantial (locally). In light of the sensitivity of this landscape and given the magnitude of change, I am satisfied that there would be major (significant) adverse landscape effects on the Dunrobin Glen unit of this character area. This would represent a substantial deterioration to the existing environment.

11. I acknowledge that wind energy development has an influence on the Strath Fleet unit to an extent and this would be extended with the introduction of the proposal, resulting in a medium magnitude of change for this area of the unit of the landscape character type. Taking account of the landscape sensitivity and magnitude of change for this unit, I concur with the appellant that there would be moderate (significant) adverse landscape effects on the Strath Fleet unit of this character area.

12. The eastern edge of the site falls within the boundary of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area (SLA), albeit no turbines are proposed within the SLA boundary itself. This landscape designation comprises an area of rolling moorland hills, punctuated by a series of south-east orientated glens, straths and lochs, and edged to a narrow strip of farmed coastal shelf running along the shoreline. The special qualities of the SLA include an integrated combination of landforms and accessible yet secluded glens and lochs. The area's special qualities are derived in part from there being a strong contrast between the expansive open forms of the moorland hills, the narrow, enclosed and intimate forms of the glens and straths and the linear coastal fringe.

13. The appellant acknowledges that the proposal would be visible from the SLA. Despite this, the appellant considers that it would not diminish the special qualities to a notable degree, given that it would not be visible from the majority of the SLA. The appellant also considers that where it would be visible, the effect would be similar to that arising from the existing wind farm. On this basis, the appellant concludes that the proposal would not undermine the integrity of the SLA designation and that there would be no significant landscape effects on the SLA.

14. Whilst the interior of the SLA is largely screened by the edge of the hill landform, occasional views are obtained where glens intersect with the coastal shelf. Dunrobin Glen is one area within the SLA which demonstrates this quality. Dunrobin Glen also illustrates other special qualities. This glen is readily accessible yet is sheltered, offering a sense of seclusion, tranquillity and intimacy in contrast with the busier coastal fringe. The proposal, sited at the western edge of the glen, would radically alter this.

15. Given the blade tip height of the proposed wind turbines and their siting, immediately west of the ridge of hills which form part of the SLA, I consider that the proposal would

diminish the perceived scale of these hills. Cnoc na Gamhna at 371 metres AOD, is one of the higher hills in closest proximity to the proposal and the proposed blade tip heights and proposed siting of the turbines would diminish its scale by the introduction of a cluster of turbines to its west. I consider that the proposal would also diminish the hills qualities of wildness and tranquillity, as referred to above.

16. Therefore, whilst I acknowledge that the proposal has been designed to physically avoid direct effects on the SLA, I consider that the proposal would nonetheless have an adverse impact on the characteristics and special qualities of that part of the SLA in proximity to the site which it would not be possible to mitigate. A large number of representations have expressed concern about the impact of the proposal on the SLA.

Visual impacts

17. There are several rural settlements within 5 kilometres of the proposal including Knockarthur, Achvoan/ Achork, Farlary and East Langwell and West Langwell at just over 7 kilometres from the nearest proposed turbine. From these rural settlements, the proposal would be visible in the same view as the existing Kilbraur wind farm albeit this is partially screened by topography. The Gordonbush wind farm extension beyond Kilbraur to the northeast would also be visible in the same view from these rural settlements (with the exception of Farlary), at a greater distance and also with some screening due to topography. The appellant identifies major (significant) adverse visual effects on Knockarthur and Farlary and moderate (significant) adverse visual effects for all the other rural settlements above.

18. Having visited the rural settlements above and based on the material before me, I consider that turbines would become visually prominent when viewed from these rural settlements, given their general orientation. Whilst I accept that the proposal would not, in combination with other existing developments, surround these settlements on all sides, I do consider that the proposal in combination with the existing developments would, due to visual prominence, change the nature of the landscape to one characterised by wind farm development and this would erode the rural character of the area. This, to all intents and purposes, has the same effect as if the settlements were surrounded on all sides by wind farm development. I do not disagree with the appellant on the level of visual effects they have identified for the various settlements above. However, these lead me to conclude that there would be significant visual effects upon these settlements, some of which would be major and which I consider would cause significant harm for those local residents affected.

19. The road access through Dunrobin Glen provides an important function connecting the rural settlements of the interior including East and West Langwell and Knockarthur with Golspie and the coastal fringe to the east. The road is used by residents traversing the area for work and social purposes. The proposal is in close proximity to the road, the nearest proposed turbine being only 1.13 kilometres from the road at its nearest point. The proposal would therefore introduce large scale turbines at short distance to this road. Road users would experience the Kilbraur wind farm to the north of the Dunrobin Glen road and the proposal, a short distance to the south. This would change the nature of the landscape for road users moving from being one of a rural nature to one heavily influenced by wind farm development.

20. Although this experience would be most acutely felt near to Viewpoint 2 and whilst this view might be considered exceptional, this does not negate the fact that there would be

numerous views of the proposal and existing wind farm development (Kilbraur) as one traversed the area by road, changing the nature of the rural area to one of wind farm development. This is illustrated in numerous viewpoints including 1 (Glen House), 2 (Farlary), 4 (Knockarthur), 8 (East Langwell) and 21 (Inchcomie). The appellant has identified major (significant) adverse visual effects for road users at viewpoints 1, 2 and 4 and moderate (significant) adverse visual effects for viewpoints 8 and 21. I also consider that these viewpoints would experience significant adverse visual effects, some of which would be major and result in a substantial deterioration to the existing environment for those road users.

21. The EIA report includes visualisations from a number of local hilltops including Ben Lunndaigh (Viewpoint 5), Ben Horn (Viewpoint 7), Princess Cairn (Viewpoint 10) and Meall Mor (Viewpoint 11). Viewpoint 7 is located at the summit of Ben Horn and is within the Loch Fleet, Loch Brora and Glen Loth SLA. Ben Horn is a distinctive natural landmark which is readily identifiable over a wide area. This viewpoint is representative of the views that would be experienced by recreational users including hikers. From this viewpoint, one is aware of turbines to the west and northwest associated with the Kilbraur wind farm. The proposal would introduce large scale turbines into the short-range views available from this local hilltop with the visualisations showing turbines immediately beyond Loch Horn which is in the foreground. I noted during my site inspection that whilst this viewpoint offers a wider panorama, the proposal would introduce a new dominant focus into the view which would have a significant impact on the receptor from what is part of a largely uninhabited interior which enjoys a sense of wildness.

22. The appellant has identified moderate (significant) adverse visual effects for recreational users from viewpoint 7. However, as this is within the SLA and given Ben Horn is highly recognisable as a distinctive landmark, visible over an extensive area, with panoramic views across the SLA and beyond, I consider that the magnitude of effect would be substantial. I draw this conclusion as it would be a major alteration to a key feature which would be fundamentally changed by the proposal (despite the presence of existing turbines to the west/ northwest). On this basis, I consider that there would be major (significant) adverse visual effects. I consider that the proposal, given its siting, layout and design, would diminish the prominence of this natural landmark. The setting to this natural landmark is provided by the moorland and lower slopes of the rounded hills. The proposal would radically alter the hill's setting, the impact of which would be widely experienced by receptors when viewed from settlements and transport routes to the west of the ridgeline of hills of which this landmark forms part. I therefore consider that the proposal would cause significant harm to this local landmark, causing substantial deterioration to the environment at this location but also when viewed from the wider area. The impact on this viewpoint is exacerbated by the 'stacking effect' of turbines, due to site layout.

23. Viewpoint 11, located on a core path (SU20.01) running immediately north of Meall Mor, is elevated with expansive views across the landscape to the north. The view towards the site shows the distinctive skyline of the coastal ridge, including Ben Horn and Ben Lunndaigh rising from the undulating moorland to its west. This viewpoint also demonstrates the impact of the proposal on the setting of Ben Horn and the wider hill range, east of the proposal, as referred to above. The appellant identified a moderate (significant) adverse visual effect from this viewpoint. However, given my observations above about the hill tops forming distinctive landmarks viewed over a wide area, I consider that the proposal would have a major (significant) adverse visual effect resulting in a substantial deterioration to the existing environment experienced by recreational users.

24. The impacts from the viewpoints referred to above are representative of the harm caused by the proposal on those rural settlements, local access roads and areas for recreational purposes within relative proximity to the site. In light of the above, I consider that the proposal would cause significant harm to the visual amenity of the area.

Cumulative landscape and visual impacts

25. An assessment has been undertaken of the potential cumulative impacts arising from the operation of the proposal in conjunction with existing (built) wind farms, consented (not yet constructed) wind farms and those at planning application stage (proposed). The baseline for the landscape and visual impact assessment in support of the proposal considered existing wind farms present in the landscape at the time that the assessment was undertaken. This included Kilbraur wind farm and its extension and Gordonbush wind farm to the northeast of the proposal. The Gordonbush extension, located immediately south of the Gordonbush wind farm, was not included in this assessment as it was only consented at that time. The Gordonbush extension was considered as part of the cumulative assessment by the appellants.

26. I noted during my site inspection that the Gordonbush extension is now built. I consider that the greatest cumulative impacts are likely to arise due to the concentration of wind farm development to the northeast of the proposal (Kilbraur and extension and Gordonbush and extension) with relatively small separation distances between these wind farm developments and the proposal. This is in contrast to the relatively greater separation between the proposal and other built, consented and proposed wind farms in other parts of the study area.

27. With regards to landscape receptors, the proposal would span the Sweeping Moorland and Rounded Hills landscape character types as would the closest existing wind farms to the proposal including Kilbraur and its extension and Gordonbush and its extension. I consider that there would be significant cumulative landscape effects due to the presence of wind farm developments across several areas of these character types and given the relatively small separation distances between the proposal and existing wind farm development.

28. From the majority of the viewpoints used as part of the cumulative visual assessment, the main turbines visible are those of the existing Kilbraur wind farm and extension, Gordonbush and its extension (albeit more distant) and the proposal. The key cumulative interaction is between the proposal and Kilbraur wind farm and its extension due to their proximity to each other as opposed to further consented or proposed developments. Due to the concentration of wind farm development to the northeast of the proposal and given the proximity and interaction between the proposal and Kilbraur and its extension, I consider that there would be significant cumulative visual effects as a result of this proposal. The proposal and Kilbraur wind farm and extension would be seen in combination from various visual receptors, particularly from rural settlements, local access roads and areas for recreational use. The cumulative effects would be exacerbated given that the proposal's turbines, at 149.5 metres (blade tip height), are noticeably larger in scale, particularly in respect of the different rotor diameter.

Conclusions on landscape and visual impacts

29. I acknowledge the appellant's efforts to minimise the proposal's landscape and visual impacts. Mitigation measures have been incorporated in the design process involving the removal of turbines from the original proposed layout. However, I consider that there would be significant residual landscape and visual effects, including cumulative landscape and visual effects, which would result in significant harm that it would not be possible to mitigate.

Other impacts

30. The EIA report assesses a wide range of other impacts: wild land; ecology; ornithology; hydrology, geology and hydrogeology; noise; cultural heritage; transport and access; socio-economics; health and safety; infrastructure; aviation; telecommunications and shadow flicker. The council did not base its refusal on any of these impacts and I note in this regard that there are no outstanding concerns on the part of any key agencies, subject to the imposition of appropriate conditions.

31. The closest Wild Land Area (WLA 35 Ben Klibreck – Armine Forest) is approximately 8 kilometres from the proposal. The EIA report concludes that there would be a negligible change to the perceived scale of the WLA landform, emptiness or peatland extent and that there would be a negligible change to the perceived solitude, sanctuary or evidence of contemporary human activity beyond the Wild Land Area. The EIA report concludes that there would not be a significant impact on Wild Land Area 35 and this is accepted by SNH and the council.

32. Nature conservation interests (both habitats and non-avian animal species) are considered in Chapter 6 of the EIA report. There are no statutory or non-statutory nature conservation sites designated for non-avian ecological features on or within 2 kilometres of the proposed development. Whilst there would be some habitat loss as a result of the proposal, such loss is considered proportionately small and not significant. Impacts on fauna, specifically otter, water vole and bats are assessed as not significant. This is on the basis of mitigation measures including the avoidance of sensitive receptors as part of the design process, the production of a Construction Environmental Management Plan (CEMP) for the construction phase and the provision of an Ecological Clerk of Works (EcoW) to oversee construction and decommissioning as well as an Outline Habitat Management Plan (OHMP) to protect and enhance habitats in the locale. I am satisfied that natural heritage resources (excluding peat which I discuss separately below) would not be impacted further.

33. Potential effects on birds are considered in Chapter 7 of the EIA report. SNH agree with the assessment contained in the EIA report that the proposal has no connectivity to any Special Protection Area (SPA) (areas protected due to bird interest) within 20 kilometres of the proposed development. SNH conclude therefore that there will be no significant effect on any SPA qualifying interests either directly or indirectly. With regards to species present, despite the removal of habitat as part of the proposed construction, the species either have minimal use of the proposal site and/ or the habitat removal is not so substantial that its removal would impact on the species present. I note that mitigation measures including the production of a Habitat Management Plan (HMP) would help to improve the biodiversity and as a result there would be no significant adverse effects. I also note the EIA report's conclusion in respect of collision risk modelling. This concludes that

all species are within acceptable limits of collision risk and no significant effect is anticipated as a result of the proposal.

34. Chapter 8 of the EIA report considers impacts on hydrology, geology and hydrogeology. Approximately one third of the site has no peat cover with one third having peat between 0.5 and one metre in thickness. The remaining third of the site has peat cover over one metre in thickness. There has been extensive historic and active peat cutting with up to 61 turbaries identified. Initial concerns of SEPA and SNH have been addressed following clarifications by the appellant, the provision of revised material, adjustments to the scheme design and subject to the imposition of certain conditions should permission be granted.

35. The EIA report provides estimates of the volumes of excavated peat and the re-use proposals (the primary requirement being to reinstate the infrastructure on peatland areas followed by the reinstatement of borrow pits). I note that SEPA is satisfied that all excavated peat would be appropriately re-used on site including for the infill of peat turbaries. The imposition of a finalised Peat Management Plan, secured by condition, would provide that excavated peat was reused to restore parts of the peat body within the site. SNH accepts that, due to grazing, tracking and drainage impacts on the site, there is scope for activities to improve its condition and compensate for peat loss. Chapter 8 of the EIA report advises that no designated sites or private water supplies would be affected by the proposal. The EIA report also advises that there would be no increased risk of flooding as a result of the proposal and that all proposed infrastructure would be located in areas of low to negligible peat slide risk.

36. The appellant submitted a noise assessment as part of the EIA report which concluded that no significant effects would be expected relating to noise from the construction, operation or decommissioning stages of the proposal. The council's environmental health officer has no objection to the proposal subject to a condition on noise limits.

37. Whilst there are no cultural heritage designations within or adjacent to the site, there are archaeological sites within the site. The council archaeologist agrees with the proposed mitigation set out in the EIA report including marking out and fencing off sensitive areas to provide protection during construction and also a watching brief during groundworks. The council archaeologist suggests a condition to excavate a feature in advance of the construction phase and a condition ensuring that on-site interpretation is provided. Historic Environment Scotland do not object and advise that the proposal would not have direct physical effects on any assets within their remit.

38. Transport and access issues are considered in Chapter 11 of the EIA report. The EIA report identifies impacts on the local road network as a result of the type and volume of traffic that would be generated by the proposal, primarily during the construction period. The council and the appellant are in agreement that such impacts could be addressed through appropriate mitigation measures including the submission and implementation of a Construction Traffic Management Plan and there is nothing before me to lead me to reach a different conclusion. The council would also require the conclusion of a planning obligations agreement in order to ensure the costs of any damage to the public roads could be recovered. The provision of a Recreational Access Management Plan, secured by condition, would ensure amongst other things that the core paths in the vicinity

of the site would remain open at all times. As a result, no significant public access issues would arise.

39. Socio-economic effects are considered in Chapter 12 of the EIA report. The EIA report estimates that there could be within the region of £3 million construction costs sourced locally (Caithness and Sutherland) and that this would result in 5.6 jobs created in Scotland during construction and 1.6 jobs, locally. During the 25 years operational life of the proposal, it is estimated that this would support 3.6 full time equivalent jobs in Scotland of which 1.4 jobs would be based in Caithness and Sutherland. Based on these estimates and with nothing before me to contradict them, I am satisfied that the proposal would have positive socio-economic impacts, although these would be minor, relatively short term and localised. In light of the above, I consider that the proposal would result in a minor positive improvement to the economy although I do not consider that this would have a significant effect.

40. Whilst concerns have been expressed by objectors about the impact that the proposal would have on tourism, there is nothing before me that proves that the proposal would have a significant impact on tourism. The most recent study on the impact of wind farms and tourism (BIGGAR, 2017) would suggest that the majority of general tourists would not be adversely affected by such a proposal whilst acknowledging the potential for some reduction in visitor amenity value. In light of the report findings and the material before me, I consider that impacts on tourism would not be significant.

41. Aviation and telecommunication interests are considered in Chapter 13 of the EIA report. No concern has been noted by aviation authorities. The council advises that, in the event that consent was granted for the proposal, there would be a requirement for infra-red aviation lighting. I am satisfied that this matter could be dealt with by planning condition. The appellant has confirmed that following consultation throughout the EIA process, the proposal is not expected to affect telecommunications. The potential for negative effects on domestic television reception is considered to be particularly low given the digital switchover across the UK which was completed in 2012. Chapter 13 of the EIA report also considers the topic of shadow flicker. According to the EIA report, whilst some properties would experience shadow flicker as a result of the proposal, the accepted industry limit in respect of shadow flicker would not be exceeded at any property. There is nothing before me to suggest otherwise and I agree with this assessment.

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

Other matters

43. The proposal would have a total generating capacity of 28 MW of renewable energy. The proposal would therefore contribute an additional 28 MW of renewable energy to Scottish Government targets for renewable energy and would contribute to reducing carbon emissions. I am therefore satisfied that the proposal would make a positive contribution to the generation of renewable energy, a factor to which significant weight should be attached. As referred to above, the proposal would also provide economic benefits at a national and local level including job creation and investment during construction.

44. Scottish Planning Policy (SPP) (2014) is supportive of renewable energy development provided that the detailed impacts of the proposal are considered to be acceptable. SPP (paragraph 169) identifies the likely considerations in assessing renewable energy proposals. These include, amongst other things, net economic impact, the scale of contribution to renewable energy generation targets, landscape and visual impacts and cumulative impacts.
45. SPP has a presumption in favour of development that contributes to sustainable development. The proposal clearly exhibits some of the key principles that contribute to sustainable development including, as above, the delivery of electricity by renewable means and economic benefits associated with the construction and operation of the proposal. However, SPP (paragraph 28) makes it clear that in order to enable sustainable development, the planning system should aim to achieve the right development in the right place and not simply to allow development at any cost.
46. National Planning Framework 3 (NPF3) is, similarly, supportive of renewable energy development but is also concerned with supporting development in justified locations. Scottish Government publications relating to national energy policy, including Scottish Energy Strategy: the future of energy in Scotland (2017) and the On-shore Wind Policy Statement (2017), do not deviate substantially in policy terms.
47. In November 2021, the Scottish Government published a consultative draft of 'Scotland 2045 – Our Fourth National Planning Framework'. The parties, in their responses to the procedure notice, clearly have opposing views on the weight that should be attached to this document. Regardless of these responses, the development management planning policies of the draft NPF4 do not provide a radically different policy approach with regards to onshore wind developments. As with existing national policy, there is strong support offered for onshore wind developments in appropriate locations. I am mindful that this document is subject to parliamentary scrutiny and public consultation and may be subject to change prior to its formal approval. As it is a consultative draft document, the weight that I attach to it is limited and certainly cannot be given greater weight than extant Scottish Government policy, specifically SPP.
48. The Scottish Government's 'Onshore Wind Policy Statement Refresh 2021: Consultative Draft', published in October 2021, reaffirms support for onshore wind developments that are considered vital to the future energy mix and that additional onshore wind energy developments are required in moving towards a net zero target. This is not, however, at any cost and there is a clear recognition that this move to net zero needs to be taken forward whilst protecting natural heritage, native flora and fauna. Given that the document is a consultative draft, I attach limited weight to it.
49. Many of the issues raised by those making representations are dealt with in my assessment of topics above. In addition, those in support of the proposal have referred to the existing Kilbraur wind farm in terms of the construction phase, the lack of noise pollution and the establishment of the Kilbraur wind farm co-operative. Those in support of the proposal also refer to the opportunity for crofters to diversify their income.
50. Several representations have expressed concern regarding the overlap between the agent and the appellant with both companies having the same directors. This is not something I can concern myself with.

Conclusions

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

52. The proposal would clearly make a contribution towards renewable energy generation and have positive socio-economic impacts. However, I consider that it is a relatively modest proposal in terms of its generation of renewable energy and socio-economic impacts and that it would cause substantial and disproportionate harm. Based on my assessment of the proposal, I consider that it would have significant landscape and visual impacts, including cumulative impacts, which it would not be possible to mitigate.

53. The benefits would be outweighed by the harm caused by the proposal on those rural settlements, local access roads and areas for recreational purposes within relative proximity to the site. I therefore consider that the proposal does not accord overall with policy 67 of the Highland Wide Local Development Plan or the Onshore Wind Energy Supplementary Guidance. Similarly, for the reasons I set out above regarding site layout and design and amenity, I consider that the proposal does not accord with policy 28 of the Highland Wide Local Development Plan. I have considered the other policies of the local development plan but as these supplement policy 67 on wind energy development, I consider that it is policy 67 which has primacy in the consideration of this proposal. I am satisfied that there are no other policies which would override this position.

54. Given that I consider that the adverse landscape and visual impacts and cumulative landscape and visual impacts are not outweighed by the proposed benefits in terms of renewable energy production and economic benefits, I also find that the proposal is not consistent with the considerations set out in paragraph 169 of SPP.

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

Andrew Fleming

Reporter

Advisory notes

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

2. **Notification of this decision by the planning authority:** The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating in the locality of the proposed development or by other reasonable means and (b) to make a copy

of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

Schedule 1: Opportunities for public participation in decision-making

There is 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. This indicates that two public exhibitions were held, at Rogart and Golspie during March 2019 and the public had an opportunity to comment to the appellant on the proposed development;
- the application was advertised on 22 November 2019 and on 6 December 2019 and each of these advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report;
- the planning authority received 50 public representations in respect of the application;
- those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal; and
- following submission of the appeal, 68 representations were submitted to Planning and Environmental Appeals Division.