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4 March 2022

Dear Ms Batchelor,

REFUSAL OF THE APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF GLENSHERO WIND FARM IN THE HIGHLANDS.

Application

I refer to the application made on 28 September 2018 (“the Application”) submitted by Renewable Energy Systems Limited on behalf of SIMEC Wind One Ltd (“the Company”) incorporated under the Companies Act with the company number 10060100 having its registered office at Birdport, Corporation Road, Newport, South Wales, NP19 4RE, for consent under Section 36 of the Electricity Act 1989 (“the Act”) for the construction and operation of Glenshero Wind Farm located near Laggan in Inverness-shire, Highland.

The Application proposed a wind powered electricity generating station with an expected installed generating capacity over 50 megawatts (expected to be around 168 megawatts) comprising of 39 wind turbines with a ground to blade tip height of up to 135 metres.

This letter contains the Scottish Ministers’ decision to refuse the Application.

Consultation

On 28 September 2018, in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 Regulations”) the Company submitted an Environmental Impact Assessment Report (“EIA report”)



describing the proposed Development and giving an analysis of its environmental effects alongside supporting documents including a Non-Technical Summary of the EIA report, a planning statement, Socio-Economic Assessment, Design and Access Statement, and a Pre-Application Consultation Report.

Under paragraph 2(1) of Schedule 8 to the Act, the Electricity (Applications for Consent) Regulations 1990 (“the Consents Regulations”), and the 2017 Regulations, the relevant planning authority is required to be notified in respect of a section 36 consent application. In terms of the 2017 Regulations, notifications were sent to the Highland Council (the “Planning Authority”) as the relevant planning authority, NatureScot (formally known as Scottish Natural Heritage “SNH”), Scottish Environment Protection Agency (“SEPA”) and Historic Environment Scotland (“HES”). A wide range of relevant organisations were also consulted as bodies likely to be affected by the proposed Development.

Additional Information (“AI”)

Following the formal consultation, in order to address issues raised by consultees and other stakeholders, the Company submitted AI on 5 June 2019 which formed an assessment of effects of the proposed Development on the Cairngorms National Park.

The Company advertised the AI in the local and national press providing another opportunity for the public and interested parties to make representations if they so wished.

The Scottish Ministers are satisfied that the EIA report and the AI have been produced in accordance with the 2017 Regulations. Having had regard to the requirements regarding publicity and consultation laid down in relevant Regulations the Scottish Ministers are satisfied that the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representations on the proposed Development.

Summary of Consultation Responses

A summary of all consultation responses is provided below. The full consultation responses are available on the Energy Consents Unit website www.energyconsents.gov.scot

Statutory Consultees

The Planning Authority object to the proposed Development.

Their objection is on the basis that they consider the proposal will:

- have significantly detrimental visual impacts on recreational users of the outdoors;
- undo previously secured mitigation associated with adjacent wind farms;
- have significantly detrimental cumulative impacts;
- be detrimental to wild land area (“WLA”) 19 (Braeroy, Glenshirra, Creag Meagaidh); and,

- not preserve the natural beauty of the area surrounding the Application site.

The Planning Authority concluded, as a consequence of the above, that the proposed Development does not accord with the Highland wide Local Development Plan (“LDP”), the Onshore Wind Energy Supplementary Guidance and Scottish Planning Policy (“SPP”).

NatureScot object to the proposed Development.

Their objection is on the basis of significant adverse effects on the Special Landscape Qualities (“SLQ”)’s of the Cairngorms National Park (the “Park”) and on WLA 19 (Braeroy, Glenshirra, Creag Meagaidh).

In regard to impacts on the SLQ’s of the Park, NatureScot concluded that the proposed Development would have adverse effects of national significance from a combination of significant effects across three broad areas - from the Glen Shirra and the Upper Spey area, from more distant locations across the upper reaches of Glen Truim and the Southern Hills and from limited locations along the Park boundary within the South Monadhliath.

In regard to impacts on WLA 19, NatureScot concluded that the proposed Development would result in significant adverse effects on 4 of the 5 qualities of WLA 19 and those effects could not be readily mitigated.

SEPA do not object subject to the application of conditions set out in detail in their response to Scottish Ministers.

HES do not object. They advise that the proposed Development is unlikely to have any significant adverse impacts on the nationally important heritage assets located in proximity to the site.

Consultees who object

Cairngorms National Park Authority object to the proposed Development.

Their objection is on the basis that the proposed Development is contrary to Policy 3.3 of the Cairngorms National Park Partnership Plan 2017 – 2022 due to the significant adverse effects on the SLQs of the Cairngorms National Park.

Royal Society for the Protection of Birds (RSPB) object to the proposed Development.

Their objection is on the basis of unacceptable collision risk to golden eagle and significant adverse effects on regional populations of golden plover and dunlin. RSPB consider that the ornithological survey and assessment work does not fully accord with relevant NatureScot guidance and is therefore inadequate.

Fort Augustus and Glenmoriston Community Council object to the proposed Development.

Their objection is on the basis that the proposed transport route for the movement of the turbine components through the village of Fort Augustus is not suitable and that serious traffic disruption and delays within the village will occur.

Stratherrick and Foyers Community Council object to the proposed Development.

Their objection is on the basis that the proposed Development will generate major traffic disruption as well as negative visual, wildlife and ecology impacts.

John Muir Trust object to the proposed Development.

Their objection is on the basis that in addition to the operational Stronelairg Wind Farm, the proposed Development will significantly increase turbine visibility in all directions but particularly to the west, south and east, impacting significantly on wild land areas and the Cairngorms National Park. They further consider that the economic benefits purported by the Company do not outweigh the negative impacts.

Mountaineering Scotland object to the proposed Development.

Their objection is on the basis that the proposed Development would have major adverse visual impacts and a consequential negative impact on recreational and tourist visitation. Mountaineering Scotland consider, that it would contravene the basis set out by Scottish Ministers for consenting and limiting the Stronelairg Wind Farm.

Scotways object to the proposed Development.

Their objection is on the basis that unacceptable direct and cumulative impacts on public access and recreational amenity, and on the setting of historic rights of way will occur.

Consultees who do not object

The following consultees have no objection to the proposed Development or have no objection subject to appropriately worded planning conditions:

- Laggan Community Council;
- Scottish Water;
- Fisheries Management Scotland;
- VisitScotland;
- Joint Radio Company;
- BT- Openreach UK;
- Highland and Islands Airport Limited;
- Defence Infrastructure Organisation;
- Civil Aviation Authority;

- National Air Traffic Systems;
- Crown Estates; and,
- The British Horse Society.

Scottish Government Internal Advisors

Ironside Farrar (Scottish Government advisor on peat landslide matters) advise that the Peat Landslide Hazard Risk Assessment requires revisions and clarifications.

Marine Scotland advise that conditions are required to secure an integrated water quality and fish population monitoring programme before, during and after construction.

Transport Scotland advise that conditions are required to secure a traffic management plan; details of abnormal loads; a trial-run for abnormal loads; and additional signage and traffic control during delivery of construction materials.

Public Representations

Representations made to Scottish Ministers in respect of the proposed Development are available to view in full on the Energy Consents Unit website www.energyconsents.gov.scot

A total of 24 representations have been made, 17 in support and 7 objections.

Key issues raised in objections included the following:

- conflict with development plan and planning policy;
- conflict with National Park aims and objectives;
- landscape and visual impact (including undoing of previously secured mitigation associated with Stronelairg Wind Farm);
- effect on peatland and blanket bog;
- impact on recreational users of the outdoors;
- impact on ornithological interests;
- impact on tourism; and
- noise impact on residents.

Some objections raised issues around the undoing of previously secured mitigation associated with Stronelairg Wind Farm, meaning that the proposed Development would result in further turbines in an area which in the case of Stronelairg Wind Farm were not considered acceptable.

The proposed Development is located in proximity to Stronelairg Wind Farm which was consented by Scottish Ministers in 2014. Scottish Ministers in reaching their decision on Stronelairg Wind Farm had regard to the landscape and visual impacts of the development. The Scottish Ministers' decision to approve the Stronelairg Wind Farm was contingent on the removal of 16 turbines, the repositioning of two anemometer masts, the reduction in height of 10 turbines and the repositioning and

lowering of a further turbine to address landscape and visual impact concerns raised by the Highland Council in their response to the Stronelairg Wind Farm application.

Scottish Ministers considered that the reductions in the overall scale of Stronelairg Wind Farm satisfactorily mitigated the landscape and visual impacts to bring them to an acceptable level, recognising that significant landscape and visual impacts remained.

The Scottish Ministers note that although the proposed Development would be sited in an area adjacent to Stronelairg Wind Farm, its design does not replicate the wind turbines which were deleted from proposed Stronelairg Wind Farm. The landscape and visual effects of the proposed Development must therefore be considered on their own merits taking into account the cumulative effects with the operational Stronelairg Wind Farm and other surrounding wind farm developments.

Key matters raised in letters of support of the proposed Development indicated the following benefits:

- economic benefit;
- sustainable development;
- green steel strategy;
- no impact on designated sites;
- no impact on settlements; and
- use of existing infrastructure (including access).

All consultation responses and representations sent to Scottish Ministers have been taken into account in the determination of the Application.

Public Inquiry

In terms of paragraph 2 of Schedule 8 to the Act if the relevant planning authority makes an objection, and that objection is not withdrawn, the Scottish Ministers must cause a public inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the relevant planning authority.

The Planning Authority objected to the Application on 21 October 2019. The Scottish Ministers did not consider it possible to accede to the Application subject to modifications or conditions as to give effect to the Planning Authority's objection, and consequently caused a public inquiry to be held.

The Reporter conducted a public inquiry in accordance with his minute of appointment dated 11 February 2020. He undertook unaccompanied site inspections on 13, 14 and 16 August 2020, and 17, 18 and 20 September 2020 and an accompanied site inspection took place on 27 October 2020.

The inquiry sessions were held on 10 November through to 13 November 2020 and hearing sessions were held on 17 and 18 November 2020.

Additional information was requested by the Reporter for the purposes of the inquiry (“AI2”). More detailed information on this request is included in paragraphs 1.8 – 1.10 of the Public Inquiry Report.

The AI2 comprised an update to the Peatslide Risk Assessment, an updated Cumulative Landscape and Visual Impact Assessment to reflect the up-to-date baseline, and further updated Landscape and Visual Impact Assessment information demonstrating the effects of the removal of 4 wind turbines from the proposed Development (“Scheme B”).

Scheme B

Scheme B was offered by the Company in response to concerns raised by NatureScot and the Planning Authority in respect of landscape and visual/perceptual effects experienced at low-lying receptor locations within Glen Roy and the Corrieyairack Pass. Scheme B reflects the removal of four turbines from the western cluster, namely turbines 6, 7, 9, and 10. Information included in the AI2 in respect of Scheme B submitted by the Company comprised:

- a summary of the findings of the Landscape and Visual Impact Assessment (LVIA) in Chapter 4 of the EIA report in respect of Scheme B; and
- a discussion of the implications of the Scheme B for the landscape and visual effects identified in the EIA report. Specifically, what qualitative improvements may be expected, and whether such improvements would alter the findings of the EIA report.

Two late pieces of correspondence were also submitted during the inquiry. One jointly submitted by John Muir Trust/Wildland Limited (12 April 2021, 18 May 2021) and one by the Company (20 May 2021) concerning the ability of the Company to deliver the integrated package of asserted national level economic benefits. The Reporter considered there was no need to instigate further procedure at that late stage.

The Scottish Ministers having taken account of the Application, the EIA Report, the AI, AI2, consultation responses and public representations alongside the Reporter’s considerations and subsequent conclusions, agree that there would be moderate direct economic benefits arising from the proposed Development during the construction, operational and decommissioning phases, which would in turn lend some support to Covid 19 recovery plans, but that the scale of these benefits do not constitute economic benefits of national importance. Ministers therefore agree with the Reporter that no further information is required in respect of the Company’s ability to deliver economic benefits outwith those which would arise directly from the proposed Development.

Public Inquiry Report (“the Report”)

The Reporter’s Report and its recommendation was submitted to the Scottish Ministers on 2 June 2021.

In each chapter of the Report, the Reporter summarises the case for each party, taking account of the precognitions, hearing statements, hearing sessions, the discussion at the inquiry and the closing submissions.

The Reporter also takes into account the environmental information included in the EIA report, AI and AI2 as well as the written representations and all of the other information supplied for the inquiry and hearing sessions. The Report includes a Summary Report and Preamble and the following chapters:

- Chapter 1 Background, consultations and representations;
- Chapter 2 Legislative and policy context;
- Chapter 3 Landscape and visual impacts;
- Chapter 4 Economic matters;
- Chapter 5 Other Matters;
- Chapter 6 Proposed conditions; and
- Chapter 7 Overall conclusions and recommendations.

In Chapter 7, Paragraph 7.80 the Reporter recommends that Scottish Ministers **refuse** consent under section 36 of the Electricity Act 1989.

Environmental Matters

The Scottish Ministers are satisfied that the EIA report, AI and AI2 have been produced in accordance 2017 Regulations and that the applicable procedures regarding publicity and consultation requirements, laid down in 2017 Regulations, have been followed.

The Scottish Ministers have considered fully and carefully the Application, including the EIA report, the AI, AI2, consultation responses, representations, the findings, conclusions and recommendation of the Report and all other relevant information and, are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

In accordance with paragraph 3 of Schedule 9 to the Act the Scottish Ministers have also had regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. The Scottish Ministers have also had regard to the extent to which the Company has done what it reasonably can to mitigate any effect the proposed Development would have on those matters.

The Scottish Ministers Considerations

Main Determining Issues

Having considered the Application, the EIA report, AI, AI2, responses from consultees and third parties, the Report and all other relevant information, the Scottish Ministers consider that the main determining issues are:

- The significance of the proposed Development's landscape and visual impacts, (including those affecting Cairngorms National Park and WLAs);
- The benefits of the proposed Development, including the potential economic benefits and contribution to energy policy objectives; and
- The extent to which the proposed Development accords with Scottish Government planning policy, the local development plan and other relevant plans and guidance.

Assessment of the Determining Issues

Landscape and Visual Impacts

At Chapter 3 of the Report, the Reporter considers the landscape and visual impacts of the proposed Development. The Reporter's findings are set out under the following subheadings: "Landscape character impacts", "visual amenity", "SLAs", "National Park", "WLAs", and "Stronelaig Wind Farm 'mitigation'". The Reporter takes account of the consultation responses from the Highland Council, NatureScot, Cairngorms National Park, John Muir Trust and the Mountaineering Council of Scotland as well as representations from other parties who raised objections and concerns in respect of the landscape and visual impacts of the proposed Development on the area around the Application site, on wild land areas and on Cairngorm National Park. A summary of the overall conclusions of the Reporter on the proposed Development's landscape and visual impacts is set out at paragraphs 3.139 – 3.148 of the Report.

Landscape Character Impacts

The Scottish Ministers agree with the Reporter that the most significant landscape character effects (including cumulatively) would be evident to the south of Stronelaig Wind Farm, and that although the siting of the proposed Development would not create a "wind farm landscape", there would be detrimental and significant impacts on the transitional nature of the landscape when viewed from the south.

Visual Impacts

The Scottish Ministers also agree with the Reporter, in terms of impacts on visual amenity, noting the appraisal of effects undertaken by the Reporter in addition to the difference of opinion amongst the interested parties in respect of the significance of effects from certain viewpoints, that there would be significant visual impacts experienced from 15 out of the 22 viewpoints from distances up to 23 kilometres.

Impacts on Cairngorms National Park ("the Park")

The nearest turbine of the proposed Development is located 1.2 kilometres outwith the western boundary of the Park. In respect of impacts on the SLQs of the Park it is noted by Scottish Ministers the conflicting views presented to the Reporter regarding

the level of significance to be attributed to the visibility of the proposed Development and the consequential impact on the SLQs of the Park.

The Reporter sets out his experience and understanding of the effects following his appraisal of each of the viewpoints within the Park, at paragraphs 3.68 to 3.86 of the Report, before concluding that the significance of effects on two separate geographical areas of the Park, although relatively localised, results in impacts that compromise the overall integrity of the Park.

The Scottish Ministers, having considered the landscape and visual impact assessment (LVIA) provided in the EIA Report (including the associated technical appendices) as well as the AI and the AI2 in addition to the appraisal of viewpoints within the Park undertaken by the Reporter set out at paragraphs 3.68 to 3.86, agree that the strength of expression of the SLQs in the areas of the Park affected in this case are such that the impacts compromise the overall integrity of the Park.

Impacts on wild land area (“WLA”) 19 (Braeroy, Glenshirra, Creag Meagaidh)

The Scottish Ministers note, in the agreed matters between parties in respect of the proposed Development’s impacts on Wild Land Areas set out at paragraph 3.98 of the Report, that no part of the proposed Development is located within a wild land area and that only WLA19 required detailed consideration at the inquiry. Having taken account of the Reporter’s assessment of the effects, the Scottish Ministers accept that the wildness qualities of WLA19 would be substantially affected across an extensive portion of its area; including its core central low lying and remote area. The Scottish Ministers acknowledge that this takes account of the presence of Stronelairg Wind Farm and other man made infrastructure.

Scheme B

At paragraph 3.147 of the Report, the Reporter considers the effects of Scheme B and acknowledges that the removal of 4 turbines would reduce the significant effects (as identified above) to a small degree, specifically with regard to WLA19, but that this does not change his overall conclusions on landscape and visual effects.

The Scottish Ministers, having taken account of the Application, the EIA Report, the AI, AI2, consultation responses and public representations alongside the Reporter’s considerations and subsequent conclusions on the landscape and visual impacts of the proposed Development find, in agreement with the Reporter, that although the proposed Development would be located outwith the boundaries of the Park, wild land areas and Special Landscape Areas;

- there would be localised but significant landscape character impacts arising from the proposed Development intruding into a sensitive landscape transition when seen from the south at higher elevations;
- there would be extensive significant visual amenity impacts over a considerable distance and on a receptor (hill walkers) regarded as being highly sensitive to such a change;

- the overall integrity of Cairngorms National Park would be undermined and compromised due to existence of a number of significant effects on the Special Landscape Qualities; and
- qualities of WLA19 would be substantially affected across an extensive portion of its area; including its core central low lying and remote area.

Benefits of the Proposed Development

The benefits of the proposed Development in terms of its economic contribution and renewable energy contribution are set out in chapter 4 and chapter 7 of the Report respectively.

Economic Benefits

SPP advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms where these are relevant. Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include, as well as a number of other considerations, net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs.

Consideration of the direct and indirect economic benefits of the proposed Development are considered at length in chapter 4 of the Report with the Reporter's conclusions set out at paragraphs 4.47 to 4.50 of the Report. The Scottish Ministers having taken account of the Application, the EIA Report, the AI, AI2, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, and agree that there would be moderate direct economic benefits arising from the proposed Development through employment during the construction, operational and decommissioning phases, which would in turn lend some support to Covid 19 recovery plans, but that the scale of these benefits do not constitute economic benefits of national importance.

Contribution to Renewable Energy Policy Objectives

National Planning Framework 3 ("NPF3") is clear that planning must facilitate the transition to a low carbon economy, and help to deliver the aims of the Scottish Government. Our spatial strategy facilitates the development of generation technologies that will help to reduce greenhouse gas emissions from the energy sector. Scotland has significant renewable energy resources, both onshore and offshore. The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the "2019 Act") sets a target for Scotland to be carbon-neutral, meaning net-zero CO₂, by 2045 at the latest. Additionally the 2019 Act sets out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

Consideration is given by the Reporter to the proposed Development's contribution to international, UK and Scottish energy policy objectives in chapter 7 of the Report, where the Reporter is clear that there is strong policy support for increasing renewable energy production; including onshore wind in Scotland. This aligns with Scottish Government's ambition to increase deployment of onshore wind, to combat climate change and to drive economic recovery post Covid 19. The Scottish Ministers having taken account of the Application, the EIA Report, the AI, AI2, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, agree that the proposed Development, which is capable of generating 168 megawatts of renewable energy, would make an important contribution in support of emission reduction targets and would help tackle climate change.

Accordance with Scottish Government Planning Policies and Local Development Plan

The Scottish Ministers note that, prior to and during the inquiry, Scottish Planning Policy (SPP) was set out in a 2020 revision to the original 2014 version. After the Report was submitted to Scottish Ministers, following a legal challenge, SPP reverted back to the 2014 version which includes again the policy principle for a "presumption in favour of development that contributes to sustainable development".

Paragraph 33 of SPP sets out that where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in SPP.

As the Highland-wide Local Development Plan is more than five years old, Ministers are applying the principle set out in paragraph 33 of SPP and regard the presumption in favour of development that contributes to sustainable development as a significant consideration in this case.

NPF3, SPP, Scotland's Energy Strategy and the Onshore Wind Policy Statement make it clear that renewable energy deployment is a priority of the Scottish Government. Scotland's Energy Strategy and Onshore Wind Policy Statement ("OWPS") sets out targets for the increase in the supply of renewable energy. The aforementioned NPF3 sets out Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology. In Scotland there has been significant progress towards low carbon objectives whilst continuing to protect our special places from significant adverse impacts.

SPP contains guidance in respect of the granting of consent for wind farm development and is to be read and applied as a whole. It sets out overarching principal policies to be applied to all development and subject policies which set out guidance in respect of development management. An overarching principle of SPP, set out at paragraph 28, is that the planning system should support economically,

environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term.

The aim is to achieve the correct development in the right place, it is not to allow development at any cost. This means that decisions and policies should be guided by certain principles including, among others, giving due weight to net economic benefit; supporting the delivery of infrastructure; supporting climate change mitigation and protecting natural heritage. The aims of these policies require to be considered and balanced when reaching decisions on applications for wind energy development.

Paragraph 212 of SPP requires that where development affects a National Park, it should only be permitted where:

- the objectives of the designation and the overall integrity of the area will not be compromised; or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

Chapter 2 of the Report sets out the policy context against which the proposed Development should be considered and chapter 7 of the Report sets out the Reporter's consideration and assessment of the proposed Development in the context of relevant national planning policy and other relevant local planning policy and guidance.

At Chapter 7 of the Report the Reporter has taken account of the proposed Development against the provisions of SPP where he considers at paragraph 7.49 that the proposed Development is not fully supported by SPP as a consequence of its detrimental impacts on the Park, on WLA19 and its visual disruption of distinctive landscape characteristics for hill walkers at an extensive range of popular viewpoints and routes.

The Reporter also considers at paragraph 7.57 of the Report that the proposed Development is not fully supported by the relevant policies of the Highland Wide Local Development Plan as a consequence of its significantly negative landscape and visual impacts and its impacts on the overall integrity of Cairngorms National Park.

The Scottish Ministers having taken account of the Application, the EIA Report, the AI, AI2, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, agree that the proposed Development is not fully supported by relevant national or local planning policies.

Emerging Policy

Scotland 2045: Our Fourth National Planning Framework Draft ("Draft NPF4") was laid in Parliament on 10 November 2021. The Draft NPF4 sets out the spatial strategy with a shared vision that is to guide future development in a way which reflects the overarching spatial principles: sustainable places, liveable places, productive places and distinctive places. Relevant policies in Draft NPF4 strengthen the support afforded to renewable energy development proposals which are not sited in National

Scenic Areas or National Parks, setting out that renewable energy proposals should be supported in principle unless the impacts identified are unacceptable.

Onshore Wind Policy Statement Refresh 2021: Consultative Draft was published in October 2021. This sets out that additional onshore wind will be vital to Scotland's future energy mix and in meeting net zero targets.

The Scottish Ministers have considered both Draft NPF4 and Onshore Wind Policy Statement Refresh 2021: Consultative Draft. Taking account that both are at the consultative draft stage the Scottish Ministers have afforded them limited weight.

The Scottish Ministers' Determination

As set out above, the seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the "2019 Act") sets a target for Scotland to be carbon-neutral, meaning net-zero CO₂, by 2045 at the latest. Additionally the 2019 Act sets out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

Scotland's renewable energy and climate change targets, energy policies and planning policies are all relevant considerations when weighing up the proposed Development. NPF3, SPP, Scotland's Energy Strategy and the Onshore Wind Policy Statement make it clear that renewable energy deployment remains a priority of the Scottish Government. It remains clear from Draft NPF4, as well as the Onshore Wind - Policy Statement refresh 2021: consultative draft, that this is a matter which should be afforded significant weight in favour of the proposed Development.

The Scottish Ministers consider that the proposed Development, if deployed, would create net economic benefits and deliver significant renewable energy benefits that would support climate change mitigation and are wholly in accordance with Scottish Government's climate change ambitions. In those respects, the proposed Development would contribute to sustainable development and this has been taken into account when reaching a decision. These benefits however must be considered carefully in the context of the negative impacts on the natural environment that would result and whether or not, on balance, they are acceptable.

The Scottish Ministers, having considered the Application, the EIA Report, the AI, AI2, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, agree with the Reporter's findings, reasoning and conclusions in respect of the detrimental impacts of the proposed Development on the integrity of Cairngorms National Park, its detrimental impact on the transitional nature of the landscape when viewed from the south and the significant visual impacts that would be experienced from 15 out of the 22 viewpoints from distances up to 23 kilometres as well the significant impacts on the wild land qualities of WLA19 which would be substantially affected across an extensive portion of its area; including its core central low lying and remote area.

Even when taking into account the presumption in favour of development that contributes to sustainable development as a significant consideration in favour of the proposed Development and applying the tilted balance, Ministers consider that the proposed Development would not in overall terms, be a sustainable development, and would not represent “the right development in the right place” as expected by paragraph 28 of SPP. Ministers consider the combination of adverse impacts of the proposed development, as identified above, significantly and demonstrably outweigh the renewable energy and economic benefits that would arise if the proposed Development were deployed, despite the presumption in favour of development that contributes to sustainable development.

The Scottish Ministers therefore consider the Application for consent under Section 36 of the Electricity Act 1989 for the construction and operation of Glenshero Wind Farm located approximately 8km west of Laggan village, wholly within the planning authority area of the Highland Council, should be refused.

In accordance with regulation 23(4) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise their determination on a website maintained for the purpose of making information publicly available, in the Edinburgh Gazette and in a newspaper circulating in the locality in which the land to which the Application relates is situated.

Copies of this letter have been sent to the public bodies consulted on the application including the Planning Authority, NatureScot, SEPA and HES. This letter has also been published on the Scottish Government Energy Consents website at www.energyconsents.scot

The Scottish Ministers’ decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts – [Court of Session Rules \(scotcourts.gov.uk\)](http://scotcourts.gov.uk)

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

Yours faithfully

William Black
A member of the staff of the Scottish Ministers