

Agenda Item	7.3
Report No	PLN/028/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 26 April 2022

Report Title: 22/00462/S42 : Cogle Moss Renewables LLP

Land 477M NE Of Blackpark, Watten

Report By: Area Planning Manager North

Purpose/Executive Summary

Description: Application for Non-Compliance with Condition 1 (Commencement of Development) and Condition 13 (Archaeology) of Planning Permission 15/02769/FUL

Ward: 03 - Wick And East Caithness

Development category: Major Development

Reason referred to Committee: Section 42 application for non-compliance with conditions related to a major development

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

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

1.1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 (As Amended) and relates to Conditions 1 (Commencement of Development) and Condition 13 (Archaeology) attached to planning permission 15/02769/FUL which was granted planning permission on appeal by Scottish Ministers on 29 August 2017 in respect of the Cogle Moss Wind Farm and associated infrastructure. The appeal decision notice is attached as Appendix 2 to this report.

1.2 The development comprises:

- 12 wind turbines (maximum tip height of 100 metres) with a generating capacity of 36 megawatts;
- approximately 5 kilometres of access tracks;
- crane pads for each turbine;
- underground electrical and communication cables;
- control building and substation;
- temporary construction compound with storage and welfare facilities

1.3 This application is related to the conditions attached to the planning permission for the wind farm and requests the rewording of Condition 1 (Commencement of Development). This condition states:

This planning permission shall expire after a period of 30 years from the date of final commissioning. Upon the expiration of a period of 25 years from final commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 18 of this permission. Confirmation of the date of first commissioning and final commissioning shall be submitted in writing to the planning authority no later than one calendar month after each date.

Reason: wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced or removed. The 30 year cessation date allows for a 5 year period to complete decommissioning and site restoration works.

1.4 It is also related to Condition 13 (Archaeology). This condition states:

No development shall commence until the planning authority has approved the terms of a programme of archaeological works to be observed during construction of the development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved. This is expected to involve: -

I. a walkover survey in advance of development,

II. a survey of the township remains on the West Garty Bur; and

III. a targeted watching brief in areas considered most sensitive.

The approved scheme of archaeological works shall thereafter be implemented in full.

Reason: to ensure the protection or recording of archaeological features on the site.

- 1.5 The application is supported by a statement which outlines the reason why both conditions should be modified.
- 1.6 On receipt of the application the development only sought modification of condition 13 but the applicant subsequently sought modification of condition 1 as well.
- 1.7 The applicant had not sought pre-application advice.

2. SITE DESCRIPTION

- 2.1 The proposed development is located on Cogle Moss situated 9km west of Wick approximately 3km north east of Watten village which lies to either side of the A882 Wick to Thurso road. The site extends to a total area of 162.3ha, although the actual footprint of development within the site impacts on approximately 4ha of ground. The site boundary lies close to the B874 road to the south, the Moss of Killimster to the east, and farmland to the west. Land to the south west of the site is managed as commercial forestry and extends eastwards to the Loch of Winless. To the south side of the development site and parallel with the B874 Mains of Watten – Sibster road runs the main north railway line into Wick, with the River Wick further south again.
- 2.2 The land form is mainly peatland in nature including blanket bog, mire and heath and principally used as open grazings associated with nearby crofts and farm units. In landscape terms the site is regarded as sweeping moorland, and is open and relatively flat being set between 10–25m contours above ordnance datum. The ground rises in a gentle and progressive manner from southeast to northwest. Whilst the majority of the proposed wind farm infrastructure lies on peat depths less than 1m, parts lie on deeper peat exceeding 2m.

3. PLANNING HISTORY

- 3.1 23.08.2013 13/03242/PAN - Erection of 12 x 2.3MW wind turbines, up to 100m to tip with associated infrastructure (Cogle Moss Wind Farm) Case Closed
- 3.2 18.04.2014 13/00786/SCOP - Erection of 12 2300kW wind turbines with max height to tip of 100m (Cogle Moss wind farm) EIA Scoping Opinion Issued
- 3.3 29.08.2017 15/02769/FUL - Erection of a wind farm comprising 12 turbines (each 3MW) and associated infrastructure. Permission Granted on appeal

4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 and Unknown Neighbour
Date Advertised: 18.02.2022 in John o' Groats Journal
Representation deadline: 4 March 2022

Timeous representations: 0

Late representations: 0

5. CONSULTATIONS

5.1 **Watten Community Council** did not respond to the consultation.

5.2 **Sinclair Bay Community Council** did not respond to the consultation

5.3 **Historic Environment Team** do not object to the application. It has set out that there is no requirement to survey the township as it lies outwith the development site. It considers the amended wording suggested by the applicant is appropriate,

5.4 **Historic Environment Scotland** do not have any comments on the variation to the wording of the condition. It is content that any changes would not alter impacts on interests within its remit.

5.5 **NatureScot** do not have any comments on the variation to the wording of the condition. It is content that any changes would not alter impacts on interests within its remit.

5.6 **Scottish Environment Protection Agency** do not have any comments on the variation to the wording of the condition.

5.7 **Scottish Water** do not object to the application.

5.8 **Transport Scotland** do not advise against the application.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design

29 - Design Quality & Place-making

30 - Physical Constraints

31 - Developer Contributions

51 - Trees and Development

53 - Minerals

54 - Mineral Wastes

55 - Peat and Soils

56 - Travel

57 - Natural, Built & Cultural Heritage

- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 63 - Water Environment
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 67 - Renewable Energy Developments:
- 68 - "Community" Renewable Energy Developments
- 69 - Electricity Transmission Infrastructure
- 72 - Pollution
- 73 - Air Quality
- 77 - Public Access

Caithness and Sutherland Local Development Plan 2018

- 6.2 No policies or allocations relevant to the proposal are included in the adopted Local Development Plan. It does however confirm the boundaries of Special Landscape Areas within the plan's boundary.

Supplementary Guidance

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

- Developer Contributions (Nov 2018)
- Flood Risk & Drainage Impact Assessment (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (Mar 2013)
- Managing Waste in New Developments (Mar 2013)
- Physical Constraints (Mar 2013)
- Special Landscape Area Citations (Jun 2011)
- Standards for Archaeological Work (Mar 2012)

Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

National Planning Framework 3 (2014)

Scottish Planning Policy (2014)

PAN 50 - Controlling the Effects of Surface Mineral Workings (1996)

PAN 51 - Planning, Environmental Protection and Regulation (2006)

PAN 60 - Planning for Natural Heritage (2000)

PAN 63 - Waste Management Planning (2002)
PAN 64 - Reclamation of Surface Mineral Workings (2002)
PAN 79 - Water and Drainage (2006)
PAN 1/2011 - Planning and Nosie (2011)
PAN 2/2011 - Planning and Archaeology (2011)
Draft National Planning Framework 4 (2021)

8. PLANNING APPRAISAL

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

Determining Issues

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

Planning Considerations

- 8.3 The principle of the development has been established through the planning permission granted on appeal. This is an application to modify conditions. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

Development plan/other planning policy

- 8.4 Development Plan policy has changed since the time of the determination of the original application for the construction of the wind farm and the subsequent appeal. The Highland-wide Local Development Plan (2012) remains in force however the Caithness Local Plan is no longer in force and has been superseded by the Caithness and Sutherland Local Development Plan. However, given the type of development, there are no implications for this development arising from this update to the Development Plan.
- 8.5 While national planning policy has not changed since the decision of the original application, The Scottish Government has published a position statement in relation to National Planning Framework 4. This gives an indication of the direction of future national policy on a range of different development types including mineral developments. The Position Statement holds little weight in the decision making process and makes it clear that until National Planning Framework 4 is published, Scottish Planning Policy and National Planning Framework 3 remain the current national policy documents against which development should be assessed. With that said, the Position Statement indicates that terrestrial and marine planning come together with NPF4 aligning with Scotland's National Marine Plan and renewable energy developments will continue to be supported, including the re-powering and extension of existing wind farms. Further, the Position Statement includes a proposal for a "Plan for

Net-Zero Emissions". It is of note that the Scottish Government expects that the Global Climate Emergency should be a material consideration in considering applications for appropriately located renewable energy developments (page 9). This continues to support the aim of the presumption in favour of sustainable development set out in para 28 of SPP 2020 of achieving the right development in the right place; not allowing development at any cost.

8.6 While national planning policy has not changed since the decision of the original application, Draft National Planning Framework 4 was published in November 2021. It comprises four parts which are summarised below:

- Part 1 – sets out an overarching spatial strategy for Scotland in the future. This includes priorities, spatial principles and action areas.
- Part 2 – sets out proposed national developments that support the spatial strategy.
- Part 3 – sets out policies for the development and use of land which are to be applied in the preparation of local development plans; local place plans; masterplans and briefs; and for determining the range of planning consents. It is clear that this part of the document should be taken as a whole, and all relevant policies should be applied to each application.
- Part 4 – provides an outline of how Scottish Government will implement the strategy set out in the document.

8.7 The Spatial Strategy sets out that we must embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, build a wellbeing economy and create great places. It makes it clear that new development and infrastructure will be required to meet the net zero targets by 2045. To facilitate this, it sets out that we must rebalance our planning system so that climate change and nature recovery are the primary guiding principles for all our decisions. It sets out that significant weight should be given to the global climate emergency when considering development proposals. The draft sets out that the planning system should support all forms of renewable energy development in principle. Specific to this proposal, it states that development proposals to repower, extend and expand existing wind farms and for the extension of life to existing windfarms should be supported unless the impacts identified (including cumulative effects) are unacceptable. It continues to highlight a range of considerations for renewable energy applications, similar to the existing provisions of Scottish Planning Policy.

8.8 This document is at the preliminary stages of the parliamentary process and consultation therefore it can only be given limited weight in the process of determining applications. It is also noted that since the publication of draft NPF4 Scottish Ministers have determined a number of proposals for onshore wind energy developments including those for Stranoch 2 Wind Farm, Douglas West Wind Farm Extension, Arecleoch Wind Farm Extension, Whitelaw Brae Wind

Farm Variation, Strathy South Wind Farm Variation and Cumberhead West Wind Farm. In each of the decision letters Scottish Ministers set out that limited weight can be afforded to draft NPF4 at this time.

8.9 A number of statements relating to national energy policy and climate change have been made by the Scottish Government since publication of SPP and NPF3. To date none have indicated a distinct policy change relevant to this proposal only directions of travel for changes to future policy. None of the documents suggest less protection should be given to the environment in favour of delivering onshore wind energy development. Most relevant to this application are:

- Scottish Energy Strategy: The future of energy in Scotland, December 2017;
- Onshore Wind Policy Statement, December 2017;
- Onshore wind – Policy Statement Refresh 2021: Consultative Draft, October 2021;
- Scottish Government, Securing a Green Recovery on a Path to Net Zero: Climate Change Plan 2018–2032 – update, December 2020;
- Committee on Climate Change, The Sixth Carbon Budget, The UK’s Path to Net Zero. (including Policy and Methodology) December 2020;
- National Audit Office, Net Zero Report, December 2020;
- HM Government, Energy White Paper, Powering our Net Zero Future, December 2020;
- A Fairer, Greener Scotland: Programme for Government 2021-22, September 2021;
- UK Government’s Net Zero Strategy: Build Back Greener, October 2021.

The statements of continued strong support relating to on-shore wind contained within these documents are acknowledged. Support for onshore wind is anticipated to meet with the continued aspiration to decarbonise the electricity network, enable communities to benefit more directly in their deployment and to support the renewables industry and wider supply chain.

8.10 The key issue therefore is whether the rewording of Condition 1 (Commencement of Development) and Condition 13 (Archaeology) applied for would result in the development being incompatible with the Development Plan. The remainder of this report will consider the modifications proposed and assess the compatibility with the Development Plan.

Modification of Condition 1 (Commencement of Development)

8.11 The applicant has requested that condition 1 which stipulates the timescale for commencement of development for the planning permission is modified to give a further 2 years for the implementation of the planning permission. While the planning permission will remain extant until 31 March 2023, the applicant has sought to extend the period for implementation until 29 August 2024 to allow time

to satisfy conditions and complete other pre-commencement procedures and procurement. While the Council did not support the application when submitted, the site has been considered to be an appropriate site for wind energy development by Scottish Minister's and the principle of a wind farm development in this location is established. Consented sites have an important contribution to make toward the net zero target, and this short extension of time for implementation is considered appropriate.

- 8.12 The modification of the condition will not conflict with any provisions of the Development Plan as the remaining conditions attached to the consent ensure appropriate mitigation is in place through the construction, operation and decommissioning of the development.

Modification of Condition 13 (Archaeology)

- 8.13 Based upon review of correspondence on the appeal and the applicant's supporting statement an error has been made in the final wording of the condition included in the decision which requires an archaeological investigation of a site approximately 48km to the south west of the site. Having consulted colleagues in Historic Environment Team and Historic Environment Scotland, they are content with the rewording of the condition to retain the requirement for archaeological investigation and watching brief on the application site but not longer requiring investigation of the former township at West Garty Bur. Given the investigation proposed has no connection to the development of the wind farm it is not considered that the modification to the condition would conflict with provisions of the development plan.

Other material considerations

- 8.14 It is worth highlighting that an application submitted under S42 of the Planning Act provides the Planning Authority with an opportunity, as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed.

Matters to be secured by Section 75 Agreement

- 8.15 Restoration of the site and associated financial guarantees can be secured by condition therefore a legal agreement is not required.

9. CONCLUSION

- 9.1 The Development Plan is supportive of onshore wind energy development subject to it being appropriately sited, designed and the effects of the development not being significantly detrimental overall. Through consideration of the appeal for the development, the Reporter appointed by Scottish Ministers considered that this was an appropriate site for this type of development in allowing the appeal and granting planning permission. The proposed modification to conditions 1 and 13 are not considered to conflict with the Development Plan.

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

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: The development will generate

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers N

Conclusion of Section 75 N
Obligation

Revocation of previous permission N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons

1. Commencement of development

This planning permission will lapse on 29 August 2024, unless the development has been started prior to that date.

Reason: in accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997.

2. Period of the consent

This planning permission shall expire after a period of 30 years from the date of final commissioning. Upon the expiration of a period of 25 years from final commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 18 of this permission. Confirmation of the date of first commissioning and final commissioning shall be submitted in writing to the planning authority no later than one calendar month after each date.

Reason: Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced or removed. The 30 year cessation date allows for a 5 year period to complete decommissioning and site restoration works

3. Design and operation of turbines

No turbines shall be erected until the following details have been submitted to, and approved in writing by, the planning authority. These details shall include:

i. the make, model, design, power rating and sound power levels of the turbines to be used;

and

ii. the external colour and/or finish of the turbines to be used (including towers, nacelles and blades) which should be non-reflective pale grey semi-matt.

The turbines shall have internal transformers.

Thereafter, development shall progress in accordance with these approved details and, with reference to part ii above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

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

4. Advertisements

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 protect the interests of the visual amenity of the area and compliance with Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

5. Design of sub-station and ancillary development

No development shall commence on the control building, substation and / or ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas, 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. For the avoidance of

doubt, details relating to the control building and substation buildings shall include additional architectural design, landscape and visual impact assessment and other relevant assessment work, carried out by suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

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

6.

Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on Figure 5.2. Wind turbines, buildings, masts, 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, micro-siting is subject to the following restrictions:

- a. no wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (AOD), than is the height at the position for that turbine that is shown in figure 5.2;
- b. no wind turbine, building, mast or hardstanding shall be moved more than 50 metres from the position shown on the original approved plans;
- c. no access track shall be moved more than 50 metres from the position shown on the original approved plans;
- d. no micro-siting shall take place within areas of peat of greater depth than the original location;
- e. no micro-siting shall encroach upon recognised environmental buffer zones including setback from watercourses, ditches and treelines;
- f. no micro-siting shall take place within the areas hosting Ground Water Dependent Terrestrial Ecosystems as indicated within Figure 10.4 of the ES;
- g. all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW - See Condition 8).

No later than one month after the date of first commissioning, an updated site 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 approval, as applicable.

Reason: To control environmental impacts (e.g. water environments, deep peat, areas of interests to bats, etc) while taking account of local ground conditions

7

Planning Monitoring Officer

No development shall commence until the planning authority has approved in writing the terms of appointment by the developer of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO").

The terms of appointment shall:

- a. impose a duty to monitor compliance with the terms of the planning permission and its conditions;
- b. require the PMO to submit a monthly report to the planning authority summarising works undertaken on site; and
- c. require the PMO to report to the planning authority any incidences of non-compliance with the terms of the planning permission and its conditions at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works.

Reason: Reason: to enable the development to be suitably monitored to ensure compliance with the permission issued.

8

Ecological Clerk of Works (ECoW)

No development shall commence until the planning authority has approved in writing the terms of appointment by the developer of an independent Ecological Clerk of Works (ECoW). The terms of appointment shall:

- a. impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application and the approved finalised Construction and Environmental Management Document at Condition 9 (the ECoW works);
- b. require the ECoW to report to the developer'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 monthly report to the planning authority summarising works undertaken on site; and
- d. 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 throughout the period from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 18.

For the avoidance of any doubt the ECoW is to be given the power to stop to activities being undertaken within the development site when ecological interests dictate to allow for a briefing of the concern to the developer's nominated construction project manager.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the developer shall submit details of the terms of appointment by the developer of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval.

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.

9

Construction and Environmental Management Document

No development (excluding site survey information and ground investigations, which shall be permitted) shall commence until a finalised Construction Environmental Management Document ("the CEMD") is submitted to and agreed in writing by the planning authority.

The CEMD shall include provision for:

- A. An updated Schedule of Mitigation (SM).
- B. Processes to control / action changes from the agreed Schedule of Mitigation.
- C. The following specific Construction and Environmental Management Plans (CEMPs):
 - I. details of the construction works, construction methods and surface treatment for all hard surfaces and tracks;
 - II. method of construction of the crane pads;
 - III. method of construction of the turbine foundations;
 - IV. method of working cable trenches;
 - V. method of construction and erection of the wind turbines and meteorological masts;

VI. details of the temporary site compounds, for the storage of materials and machinery,

including the areas designated for offices, welfare facilities; fuel storage and car

parking;

VII. Peat Management Plan - to include details of all peat stripping, excavation, storage

and reuse of material in accordance with best practice advice published by SEPA and

SNH. This should also highlight how sensitive peat areas are to be marked out on-site

to prevent any vehicle causing inadvertent damage;

VIII. Water Quality Management Plan - highlighting drainage provisions including

monitoring / maintenance regimes, deployment of water crossings using bottomless

culverts; surface water drainage management (SuDS) and development buffers (50

metres and 100 metres minimum from water features), unless otherwise agreed in

writing by the planning authority;

IX. Pollution Prevention Plan;

X. Site Waste Management Plan;

XI. Construction Noise Mitigation Plan;

XII. Species Protection Plan(s): -

A pre-construction survey for legally protected species shall 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 shall 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, wild cat, otter and water vole. 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 shall be prepared prior to development commencing to ensure that all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection;

The notification and a stop the activity commitment requirements set out below:

Should an otter holt be found during construction, all works within 250 metres of the holt shall stop immediately and the SNH Dingwall office be notified and asked for advice.

Should a wild cat den be found during construction, all works within 200 metres of the den shall stop immediately and the SNH Dingwall office be notified and asked for advice.

Should any water vole activity be found during construction, all works within 10 metres of the nearest burrow shall stop. Work may progress if it is in excess of 10 metres of the nearest burrow, otherwise work shall stop immediately and the SNH Dingwall office be notified and asked for advice.

XIII. Site Construction Decommissioning Method Statement 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, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.

Unless otherwise agreed in writing by the planning authority the development shall then proceed in accordance with the approved CEMD.

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

10

No development shall commence until a finalised Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the planning authority. The CTMP, which shall be implemented as approved during all periods of construction and decommissioning, shall include:

i. 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 suitably qualified traffic management consultant;

ii. the identification and delivery of all upgrades to the public road network 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 written satisfaction of the planning authority, incorporating, as required:

- an initial 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;

- an assessment of the capacity of existing bridges and other structures along the construction access routes to cater for all construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;
- 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 who must be in attendance;
- 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.

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

iv. 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;

v. a procedure for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods;

vi. a detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement 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. All such movements on Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events;

vii. a detailed delivery programme for abnormal load movements, which shall be made available to Highland Council and community representatives;

viii. 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;

ix. details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of the planning authority.

x. wheel cleaning measures to ensure water and debris are prevented from discharging from the site onto the public road;

xi. appropriate reinstatement works shall be carried out, as required by the planning authority, at the end of the turbine delivery and erection period;

xii. A concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the developer, to the satisfaction of the planning authority. It will also require the submission of an appropriate financial bond acceptable to the Council in respect of the risk of any road reconstruction works.

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.

11 Community liaison group

No development shall commence unless and until a Community Liaison Plan has been approved in writing by the planning authority after consultation with the relevant local community councils. The plan shall include the arrangements establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the developer. The terms and conditions of these arrangements must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures and keep under review the timing of all transport related mitigation measures and keep under review the timing of the delivery of turbine components. The terms and conditions should also set out how the Community Liaison Group will ensure that local events and tourist seasons are considered and appropriate measures are taken to co-ordinate deliveries and work with these and other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events | seasons | developments, and detail the continuation of the Community Liaison Group until the wind farm has been completed and is fully operational. The approved Community Liaison Plan shall be implemented in full.

Reason: to assist project implementation, ensuring community dialogue and the delivery of appropriate mitigation measures for example to minimise potential hazards to road users, including pedestrians, travelling on the road networks.

12 Outdoor Access Management Plan

No development shall commence until an Access Management Plan, has been submitted to, and agreed in writing by, the planning authority. The plan shall 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 on land impacted by the development.

13. Programme of Archaeological Works

No development shall commence until the planning authority has approved the terms of a programme of archaeological works to be observed during construction of the development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved. This is expected to involve: -

- I. a walkover survey in advance of development, and
- II. a targeted watching brief in areas considered most sensitive.

The approved scheme of archaeological works shall thereafter be implemented in full.

Reason: to ensure the protection or recording of archaeological features on the site.

14. No development shall commence until a Television and Radio Reception Mitigation Plan has been submitted to, and approved in writing by, the planning authority. The Television and Radio Reception Mitigation Plan shall provide for a baseline reception survey to be carried out prior to the installation of any turbine forming part of the development, the results of which shall be submitted to the planning authority.

The mitigation plan must ensure that there is a published scheme in a local newspaper before any turbine erection and within one month post construction for parties to make contact with the operator of the wind farm in connection with television and radio interference problems.

The developer must investigate any claims within one month and thereafter implement the necessary mitigation where valid concerns have been confirmed.

Reports, no less than quarterly, on received complaints and action taken should be made to the local liaison group and the planning authority during the construction period and to the planning authority only in the first 18 months of operation from the date of final commissioning.

The approved Television and Radio Reception Mitigation Plan shall thereafter be implemented in full.

Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the development to the date falling twelve months after the date of final commissioning, shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the planning authority. Should any impairment to the television signal be attributable to the development, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: to ensure local television services are sustained during the construction and operation of this development.

15 Redundant turbines

The developer shall, at all times after the date of first 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:

i. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, then unless otherwise agreed with the planning authority, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and within 6 months removed from the site and the land surrounding the turbine so removed shall be fully reinstated in accordance with this condition; or

ii. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the wind farm operator must notify the planning authority in writing immediately. Thereafter, the planning authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition.

For the avoidance of doubt, in making a direction under this condition, the planning authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the wind farm operator and such other parties as it considers appropriate.

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

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

16 No development shall commence until the developer has provided the planning authority, Highland and Islands Airport Limited, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the planning authority of having done so:

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

Reason: in the interests of aviation safety.

17 Aviation Lighting

Prior to the erection of the first wind turbine, the developer shall submit a scheme for aviation lighting for the development to the planning authority for written approval. The scheme is expected to provide for: -

- i. perimeter turbines to be fitted with infrared lighting with an optimised flash pattern of 60 flashes per minute of 200 millisecond to 500 millisecond duration at the highest practicable point, and
- ii. turbines 1, 7, 10 and 12 to be fitted with 25 candela omnidirectional red lighting with an optimised flash pattern of 60 flashes per minute of 200 millisecond to 500 millisecond duration at the highest practicable point).

No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority.

No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme.

Reason: in the interests of aviation safety.

18 Site Decommissioning, Restoration and Aftercare

No development or works (excluding site survey information and 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. Thereafter:

i. not later than 3 years prior to the decommissioning of the development, the IDRP shall be reviewed by the operator, to ensure that the IDRP 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; and

ii. 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.

The IDRP and subsequent DRP shall include, unless otherwise agreed in writing with the planning authority and in accordance with legislative requirements and published best practice at the time of decommissioning, details of the removal of all elements of the development, relevant access tracks and all cabling, including where necessary details of

(a) justification for retention of any relevant elements of the development;

(b) the treatment of disturbed ground surfaces;

(c) management and timing of the works;

(d) environmental management provisions; and

(e) a traffic management plan to address any traffic impact issues during the decommissioning period.

The DRP shall be implemented as approved. In the event that the Final DRP is not approved by the planning authority in advance of the decommissioning, unless otherwise agreed by the planning authority the Interim IDRP shall be implemented.

Reason: to ensure that all wind turbines and associated development are removed from site should the wind farm become largely redundant; in the interests of safety, amenity and environmental protection.

19

Financial Guarantee

No development shall commence until:

i. Full details of a 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 approved under condition 18 of this permission have been submitted to, and approved in writing by, the planning authority; and

ii. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above 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

iii. Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the bond or other financial provision is satisfactory has been issued by, the planning authority. Thereafter, the wind farm operator shall:

i. ensure that the bond or other financial provision is maintained throughout the duration of this permission; and

ii. pay for the bond or other financial provision to 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:

a) conducted by a suitably qualified independent professional; and

b) 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

c) 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 its reasonable satisfaction.

Where a review approved under part (c) 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 wind farm operator shall do

so 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

20 Noise

Noise arising from the wind turbines shall not exceed a LA90, 10 min of 35 dB daytime and a LA90, 10 min of 38 dB night-time or 5 dB above the background noise level figures as presented within the submitted Environmental Statement Noise Assessment at any noise sensitive premises within Highland Council. The condition shall apply to all dwellings or other noise sensitive premises existing or the subject of full planning permission at the date of submission of this application (vacant or occupied).

(A) Prior to the date of first commissioning, the wind farm operator shall submit to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

(B) No development shall commence until a Noise Measurement and Mitigation Scheme has been submitted to, and approved in writing by, the planning authority. The scheme shall include:

- A framework for the measurement and calculation of the rating level of noise immissions from the wind farm (including the identification of any tonal component) to be undertaken in the event of a complaint in accordance with ETSU-R-97 and its associated Good Practice Guide and Supplementary Guidance Notes.
- Options for long term mitigation measures to be enacted, along with a timetable(s) for implementation in the event that the agreed noise limits are exceeded.
- Details of the short term mitigation measures to be implemented within one week of identifying that the agreed noise limits are exceeded which will ensure that those limits are complied with.

(C) Within 21 days from receipt of a written request of the planning authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the rating level of noise immissions from the wind farm at the complainant's property in accordance with the approved Noise Measurement & Mitigation Scheme. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as

to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component. Within 14 days of receipt of a written request from the planning authority, the wind farm operator shall provide the planning authority with the information relevant to the complaint logged in accordance with paragraph (G) of this condition. The independent consultant's assessment must be undertaken in accordance with the approved Noise Measurement & Mitigation Scheme and must relate to the range of conditions which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the planning authority and such other conditions as the independent consultant considers necessary to fully assess the noise at the complainant's property.

(D) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the planning authority, unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on the request of the planning authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with Good Practice Guide Guidance Note 1 (a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

(E) Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment to the planning authority unless the time limit for the submission of the further assessment has been extended in writing by the planning authority.

(F) Within one week of the planning authority receiving an assessment which identifies that the wind farm noise levels are exceeding the limit attached to this condition, the wind farm operator will implement mitigation measures which will ensure that the limit is complied with. These measures will remain in place until a long-term mitigation strategy is submitted to and approved by the planning authority.

(G) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Good Practice Guide Guidance Note 1 (d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Good Practice Guide Guidance Note 1 (e) to the planning authority on its request, within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition, a "dwelling" is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

REASON FOR DECISION

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

INFORMATIVES

Initiation and Completion Notices

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

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

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

Flood Risk

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

Scottish Water

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

Septic Tanks & Soakaways

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

Local Roads Authority Consent

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

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

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

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

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

Mud & Debris on Road

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

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

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

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

Protected Species – Halting of Work

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

Designation: Area Planning Manager - North
Author: Simon Hindson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Site Layout Plan

Appendix – Letters of Representation

None.



Decision by David Buylla, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2166
- Site address: land 477 metres north of Blackpark, Watten, Wick, KW1 5UL
- Appeal by Cogle Moss Renewables LLP against the decision by The Highland Council
- Application for planning permission 15/02769/FUL dated 7 July 2015 refused by notice dated 10 January 2017
- The development proposed: erection of 12 wind turbines up to 100 metres blade tip height and associated infrastructure
- Application drawings: listed in schedule at the end of this notice
- Date of site visit by Reporter: 12 May 2017

Date of appeal decision: 29 August 2017

Decision

I allow the appeal and grant planning permission subject to the 20 conditions listed at the end of the decision notice. Attention is drawn to the three advisory notes at the end of the notice.

Preliminary matter

On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 Regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. I have therefore determined this appeal in accordance with the 2011 regulations as they applied before 16 May 2017.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the Highland Wide Local Development Plan 2012 (the LDP) and the adopted supplementary guidance that accompanies the LDP, of particular relevance being that entitled *Onshore Wind Energy* 2016. This sets out a spatial framework for wind energy.



2. Parts of the Caithness Local Plan 2002 retain development plan status until replaced by the Caithness and Sutherland Local Development Plan (referred to below). However, the planning authority has confirmed that there are no extant local plan policies of relevance to this proposal.

3. The proposed Caithness and Sutherland Local Development Plan has been submitted for examination, but that process has yet to conclude. The provisions of a proposed plan are potentially relevant to any planning decision, as they set out the authority's settled view. However, in this instance, no party has identified any part of the proposed plan that would be relevant to my consideration of this proposal.

4. Having regard to the development plan, I agree with the planning authority that the main issues in this appeal are the effects of the proposal on landscape character, its effect on visual amenity, and any cumulative landscape or visual effects it may introduce when considered with other wind energy development that has either been built, consented or is proposed. I am satisfied that subject to appropriate planning conditions, all other effects of the proposal, which were assessed in detail in an environmental statement and further environmental information, could be adequately resolved.

5. The appeal site lies approximately nine kilometres to the west of Wick and approximately three kilometres north east of the village of Watten. The total site area is approximately 162 hectares although only a very small proportion of the site would be built upon.

6. It is proposed to carry out the following development:

- erect 12 turbines (maximum tip height of 100 metres) with a generating capacity of 36 megawatts;
- construct approximately 5 kilometres of access tracks;
- construct crane pads for each turbine;
- lay underground electrical and communication cables;
- construct a control building and substation;
- form a temporary construction compound with storage and welfare facilities

Landscape character effects including cumulative effects

7. The planning authority's reasons for refusal refer to the site being at a point of landscape transition between moorland and agricultural landscapes. The authority also considers that the proposal would relate poorly to a number of other existing wind energy developments and therefore have unacceptable cumulative effects on landscape character.

8. The character of the landscape in this area is described in Scottish Natural Heritage's (SNH's) *Caithness and Sutherland Landscape Character Assessment 1998*. This divides the landscape into a number of landscape character areas, each being of a particular landscape character type (LCT).

9. The appellant's landscape and visual impact assessment (LVIA) predicts that none of the LCTs would be significantly affected overall, but that, close to the site, landscape character within three LCTs would be significantly affected.

10. The proposed turbines would be erected on land that is described as Sweeping Moorland. Where the access is proposed (to the west of the turbines) is categorised as Mixed Agriculture and Settlement. To the south east of the site, the landscape is of the Open Intensive Farmland LCT. I have focussed on these three landscape types, as I agree with the parties that significant effects on other landscape types are unlikely.

11. The Sweeping Moorland LCT is a simple landscape that is common in this part of the Highlands, where it occurs in units of various sizes amongst other LCTs. The landscape is generally uninhabited and is either flat or very gently sloping. The application site lies at the edge of a relatively small unit of this LCT.

12. The Mixed Agriculture and Settlement and Open Intensive Farmland LCTs are also widely found across this part of the Highlands. They also have a gently sloping landform, but contain a far greater variety of landscape features that are both positive and negative contributors to its character. These include a multitude of historic features as well as modern agricultural buildings and some abandoned buildings and land. They are very clearly working landscapes.

13. The landscape within and around the application site is of pleasant, but unexceptional, character. It has no landscape designation and is not identified as Wild Land. The planning authority is satisfied (and I agree) that the five special landscape areas (SLAs) and one wild land area (WLA) within the appellant's 35 kilometre LVIA study area are far enough away from the proposed development not to be significantly affected by it.

14. In the planning authority's spatial framework, the site and its immediate surroundings lie partly within group 3 (where wind farm development is likely to be acceptable) and partly within group 2 (where significant protection may be required). However, inclusion within group 2 is on account of the presence of deep peat, which is not an issue of concern for the authority in this instance and which I agree is not problematic.

15. As with all commercial-scale wind energy developments, the proposal would introduce significant changes to the character of the landscape within and close to the appeal site. However, given the characteristics of the local landscape that I have outlined above, I do not regard this as a location where such changes are likely to be unacceptable. The draft *Caithness Landscape Sensitivity Appraisal 2016* (the draft LSA) regards the limited extent of this unit of the Sweeping Moorlands LCT as a factor that heightens its sensitivity to change. I agree with the principle of that conclusion. However, I do not regard the scale of what is now proposed to be inconsistent with that of the relatively small area of moorland on which it would be built.

16. The flat topography means the proposed development would be visible from a significant distance - probably as far as 14 kilometres in clear conditions. However, I predict that in more distant views, the proposed turbines would appear as distant features on the horizon (and part of the well-established pattern of turbine development in the area) rather than as prominent and character-changing additions to the landscape. I am satisfied therefore, that the significant landscape character effects that would be experienced in close proximity to the site would not extend beyond a radius of approximately three kilometres.

17. One of the planning authority's principal concerns is with the location of the site being at a point of landscape character transition between moorland and farming landscapes. I agree that, where a landscape acts as a backdrop or foreground to a very different landscape, its sensitivity can be increased. However, for the reasons set out below, I do not consider that this is a significant concern in this instance.

18. At this point of landscape transition there is not a dramatic change in landscape character between the adjacent moorland and agricultural landscapes. They share a number of characteristics including their flat topography, their large scale and the dominance of the sky. The most significant difference is in the nature of the ground cover. However, even in that regard, there is quite a gradual transition from the heather and gorse covered moorland to poorly drained agricultural land before moving into better drained and more productive fields.

19. A key factor in reducing the significance of what appears, on paper, to be a clear landscape character transition, is (as is recognised in the draft LSA) the relatively small extent of this unit of Sweeping Moorland LCT. The planning authority regards this as a reason to resist the proposal – on the basis that the smaller extent of the unit makes it less able to accommodate this scale of development. However, my conclusion is that the limited extent of this unit of moorland makes the proposal easier to accommodate within the landscape as a whole, because it allows clear views of buildings and trees within the surrounding agricultural landscape from within the moorland. This means that, although there are no buildings and few trees within this unit of the Sweeping Moorland LCT, those that lie within the adjacent agricultural land have an influence over its character. Effectively therefore, the moorland and agricultural landscapes are less obviously distinct on account of (among other factors) the small size of the moorland parcel.

20. Overall, the strong impression I obtained from my inspection of the site and its surroundings was that this moorland landscape unit is part of (albeit not an actively farmed part of) the wider agricultural landscape. Therefore, I do not share the planning authority's concern that this location has increased sensitivity to change due to there being a strong sense of landscape transition at this location.

21. The draft LSA places the site access for the proposed development within LCA CT9 North Caithness, where limited scope is identified for large-scale development. The proposed turbines would be situated within LCA CT6 Black Hill Mosses, where no capacity for commercial-scale development is identified and even domestic scale development is predicted to be problematic. Therefore, the proposal is clearly contrary to the draft LSA.

22. In assessing the significance of this conflict, I have borne in mind that a landscape sensitivity appraisal, while providing helpful indicators of factors that require to be taken into account, can never substitute for a site- and proposal-specific assessment, because it cannot take fully into account the specific circumstances of an individual development proposal and how it would fit into the landscape. This is recognised in the *Onshore Wind* Energy supplementary guidance where it notes that such studies are intended to provide additional strategic considerations that identify sensitivities and potential capacity rather than to impose any additional constraints beyond those set out in the spatial framework. I

have also had regard to the draft status of the appraisal when considering the weight it should be given.

23. Turning to cumulative effects, the authority's concern is principally with the Stroupster wind farm to the north, the Wathegar / Camster wind farms to the south east, and the Halsary, Bad a Cheo and Causeymire wind farms to the south. In the draft SLA, these wind farms are referred to as potential development constraints for a number of landscape character areas including CT6 Black Hill Mosses, where this proposal would be built.

24. The flat topography would allow views of all of these developments in combination with the turbines that are now proposed. However, following my site inspection I am satisfied that the separation distances between them (between three and 15 kilometres) would ensure that effects on landscape character would not be amplified significantly by any visual interaction between the proposed development and any other.

25. At present, the landscape character of all LCTs across the study area is influenced to some extent by wind energy development. In some locations, particularly to the south of the A882, the influence of multiple developments has a greater effect on the character of the landscape, but, having regard to other developments, I am satisfied that the landscape in and around the appeal site has the capacity to accommodate what is now proposed without unacceptable harm to its character. I am also satisfied that the overall scale of the proposal and of the turbines themselves is consistent with the existing pattern of such development across the study area.

Visual effects

26. The appellant analysed effects on views from 19 locations. It concluded that from only three would the proposal have a significant effect on visual amenity. The planning authority's view, that there would be a high level of visibility from 16 of the viewpoints, is confirmed in the appellant's ZTV drawings and my inspection of the viewpoint locations. However, that does not necessarily equate to a significant visual amenity effect in all of those locations.

27. Middle to long distance views of turbine development are already available across most of the study area and are an important element in the visual experience of residents of, and visitors to, the area. Inevitably, in locations that are closer to existing turbine development, the visual effect is greater, as the machines appear more dominant. When seen from further away, the visual effect is reduced, as the development appears to have a smaller scale in the context of wider views within a large-scale landscape.

28. Viewpoint (VP) 2 from Black Hill represents the effect on residents and on travellers using the B876, which links Wick with Castletown. It is about 2.9 kilometres from the nearest proposed turbine. VP 4 at Reiss is on the same road, but further to the east, approximately four kilometres away. Receptor sensitivity would be high. However, I do not agree with the authority that the proposal would introduce an unacceptable visual effect, either alone or in combination with operational and consented wind energy developments, up to 15 of which would also be visible from this road. The proposed turbines would be the closest and therefore the most prominent in such views, but would be in scale with the

large-scale landscape and sufficiently far from the viewpoints to avoid unacceptable visual dominance. Other developments would appear more distant elements in the view, well separated from what is now proposed.

29. From VP3 at the livestock market, the nearest proposed turbine would be approximately 1.4 kilometres away. This is the closest of the appellant's viewpoints to the site and is where effects on visual amenity would be the greatest. However, the utilitarian context within which the development would be seen, which includes a number of large modern agricultural sheds at the viewpoint itself, would ensure that the development, although prominent, would not unacceptably detract from visual amenity. From this location, 11 other wind energy developments would potentially be visible. However, all are distant from the appeal site and would tend to reduce rather than increase the visual effect by providing an established backdrop of wind energy development.

30. The planning authority and applicant agree that there would be significant effects on views from VP5 at Bylibster, which is on the A882, about one kilometre east of Watten. The proposed turbines would be seen across fields to the north of the road, at a distance of approximately 2.4 kilometres. I agree with the authority and SNH that the site would be particularly visible from this important route, from other parallel roads in the locality and from the railway line. The appellant contends that these roads do not attract significant numbers of tourists and should therefore be regarded as having lower receptor sensitivity. However, as this is an area that attracts tourists, I consider it appropriate to assume that these routes will be used by those who have a particular interest in their surroundings and I have assumed that receptor sensitivity would be high.

31. In such views, the proposal would stand apart from other large-scale wind farms in a location where such development is absent. However, the flatness and openness of this landscape means that travellers would typically have the opportunity to first experience the proposed development from afar, before seeing it gradually getting closer. In this way, the significant visual impact of the proposed development from nearby would be anticipated and would not have the surprise effect that can occur in a landscape that offers greater screening of longer-distance views. Views of the proposed turbines would intermittently be obstructed by buildings and roadside vegetation and travellers would also experience numerous other wind farm developments (albeit from further away), in the context of which, the proposed development would not be out of place.

32. I understand the authority's and SNH's concern that repeated exposure to turbine development as a viewer travels through the landscape can lead to significant sequential cumulative effects. The proposed turbines would increase the significance of such effects by increasing the coverage of turbine development across the landscape and adding to the occasions when travellers would experience it at close range. However, I do not agree that the addition of this proposal to the existing and consented turbine baseline would lead to the sequential cumulative visual effect becoming unacceptable. My conclusion is that sufficient space would be retained between the various developments that such development would not overwhelm or otherwise significantly detract from key transport routes.

33. The planning authority contends that for a small number of properties to the east side of Watten and in the area to the north of the appeal site, the development would

impact on residents' visual amenity to an extent that it could be considered to make the houses less pleasant places in which to live.

34. The *Onshore Wind Energy* supplementary guidance seeks to protect the amenity of all residential properties and effectively gives residential buildings that are not within settlements the same status as those that are. While I agree that all residential receptors have high sensitivity to this form of development, Scottish Planning Policy makes a clear distinction between locations where there is a concentration of such properties (settlements identified in the development plan) and other locations where residential properties may be present. This reflects the fact that adverse effects on a large number of properties are likely to carry greater weight than those affecting only a few.

35. I appreciate that, unlike for travellers through the landscape, local residents would experience views of the proposed machines on a continuous basis. I also accept that for a small number of properties, views of the proposed turbines from close range could detract to a degree from residents' enjoyment of their properties. This is a disbenefit of the scheme that requires to be weighed in the planning balance. However, I am satisfied that none of the properties is close enough to the appeal site for the proposed development to have an overbearing presence.

36. Due to the separation from other developments I do not accept that there would be a sense of encirclement by turbines when at the appeal site. I am also satisfied that there is no sense that the road forms a logical landscape boundary, beyond which turbine development would inevitably appear incongruous. As the scale of the proposed machines would be consistent with others in the area, there is no reason to predict any interference with perceptions of landscape scale and distance.

37. From the other studied viewpoints, which are all further away from the site, I find that the proposal would be seen as a distant middle-distance or horizon element in a landscape of considerable scale. Consequently, I agree with the appellant that both individual and cumulative visual effects would be insignificant.

38. I note that the authority is concerned that the small extent of this parcel of moorland is such that (unlike existing wind farms on moorland to the south) there would be inadequate separation from residential properties and from smaller-scale buildings and other landscape features, such that there could be a greater degree of visual intrusion than is the case with those other wind farms. I do not share such fears as I am satisfied that there is sufficient separation between the proposed turbines and any landscape feature with which a viewer of the proposed development might experience an awkward scale comparison.

39. The response to this proposal from Highlands and Islands Airports suggests that, for aircraft safety reasons, visible (rather than infra-red) turbine illumination may be necessary on some of the turbines. That would prevent those turbines disappearing at night and would therefore add to their visual impact as a whole. However, in the context within which they would be seen, where man-made influences are seldom far away, I am satisfied that this would not increase the level of visual amenity harm to a point where it became unacceptable. A planning condition could control the final form of illumination.

40. By increasing the coverage of turbines across the area, the proposal would add to the existing impression that this is a location where such development is commonplace. However, I am satisfied that the addition of the proposed turbines would not take the cumulative visual impact of such development beyond the point of acceptable visual effect.

Other matters

41. The appellant predicts that the development would offer socio-economic benefits including the construction cost investment of approximately £36 million, of which it is estimated that £9.3 million would be spent in the Highland region. During the construction phase it is predicted that the development could support the equivalent of 76 full-time jobs within Highland and 40.4 full-time jobs elsewhere in Scotland. These are significant potential benefits to which some positive weight should be given when assessing the planning balance.

42. Set against such benefits is the potential that the development could impact adversely on tourism due to potential visitors to the area being discouraged by the presence of additional turbines and, during the construction period, by construction-related disruption. The appellant analysed these potential effects. It acknowledged the importance of tourism to the local economy but pointed out that studies of this issue have revealed no correlation between turbines and a discouragement of tourism.

43. My conclusion is that, even if it were demonstrated that turbine development could have a significant effect on visitors numbers (and I agree with the appellant that this is not supported by the evidence that is before me), it is clear that the extensive coverage of turbines within this part of the country has not discouraged existing tourists. I conclude that the limited landscape and visual effects of the proposal are unlikely to change this.

44. Some objectors to the proposal are concerned that it could pose a risk to birds. However, no evidence has been provided to support such fears, which are not shared by agencies that have formal responsibility for avian protection. Similarly, concern has been expressed over potential interference with television reception. This concern is not supported by any technical analysis and a planning condition could ensure that, in the unlikely event of a problem arising, the appellant was obliged to resolve it. There should be no significant effect on common grazing of the site, due to the very limited footprint of the proposed works and the ability of grazing to continue once the turbines have been erected.

Policy assessment

45. The most relevant development plan policy is LDP Policy 67, which offers support to renewable energy proposals that would not have unacceptable adverse effects. The policy recognises the need to take into account a proposal's contribution to meeting renewable energy generation targets and its likely local and national economic effects. For the reasons set out above, I am satisfied that the proposal would not have unacceptable effects, would contribute to renewable energy targets and would have a positive economic effect. It is therefore supported by this policy.

46. LDP Policy 61 requires development to respect the qualities of the landscape that are identified in the landscape character assessment of the area in which they would be

located. To the extent that this is possible for a development of this kind, I am satisfied that this policy requirement would be met.

47. This location is considered in the draft LSA to have no capacity for wind energy development. However, even when that document is adopted, conflict with its findings would not, in itself necessarily be a reason to refuse planning permission. All development proposals must be assessed on their own merits and, as set out above, I conclude that, notwithstanding the negative stance towards wind energy development in this location in the draft LSA, the specific circumstances of this proposal are such that the development could be accommodated without unacceptable landscape or visual harm.

Conclusions

48. The proposal complies with all relevant provisions of the development plan. It is also strongly supported by national policy encouragement of renewable energy and of development that would assist in reducing greenhouse gas emissions. It is likely that the proposal would give a modest but welcome boost to the local and wider economy.

49. As is typical of this type of proposal, there would be localised significant harm to the character of the landscape and to certain views from close range including from a small number of residential properties. However, the extent of such harm would be limited and the effect on residential properties would not reach a level where they could reasonably be described as being dominated by the proposed machines.

50. I am satisfied that any adverse consequences of the proposal would be more than compensated for by the proposal's likely benefits. Consequently, I conclude that, subject to appropriate conditions, the proposal should be supported.

51. Subject to minor amendments to improve their clarity, I have adopted all of the conditions that were requested by the planning authority with the exception of the requirement for the developer to provide a bond to address any interference with television reception. I am satisfied that the planning condition I have attached would provide adequate control over this issue. I have also attached a condition requiring development to commence within five years of the date of this notice. This is required because the planning permission is granted on a temporary basis. I have specified a five year commencement period to reflect the relatively large scale of the development.

David Buylła

Reporter

Conditions

1. Commencement of development

This planning permission will lapse on the expiration of a period of five years from the date of this decision notice, unless the development has been started within that period.

(Reason: in accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997.)

2. Period of the consent

This planning permission shall expire after a period of 30 years from the date of final commissioning. Upon the expiration of a period of 25 years from final commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 18 of this permission. Confirmation of the date of first commissioning and final commissioning shall be submitted in writing to the planning authority no later than one calendar month after each date.

(Reason: wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced or removed. The 30 year cessation date allows for a 5 year period to complete decommissioning and site restoration works.)

3. Design and operation of turbines

No turbines shall be erected until the following details have been submitted to, and approved in writing by, the planning authority. These details shall include:

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

The turbines shall have internal transformers.

Thereafter, development shall progress in accordance with these approved details and, with reference to part ii above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

(Reason: to ensure that only the turbines as approved are used in the development and are acceptable in terms of visual, landscape, noise and environmental impact considerations.)

4. Advertisements

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 protect the interests of the visual amenity of the area and compliance with Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.)

5. Design of sub-station and ancillary development

No development shall commence on the control building, substation and / or ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas, 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. For the avoidance of doubt, details relating to the control building and substation buildings shall include additional architectural design, landscape and visual impact assessment and other relevant assessment work, carried out by suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

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

6. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on Figure 5.2. Wind turbines, buildings, masts, 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, micro-siting is subject to the following restrictions:

- a. no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (AOD), than is the height at the position for that turbine that is shown in figure 5.2;
- b. no wind turbine, building, mast or hardstanding shall be moved more than 50 metres from the position shown on the original approved plans;
- c. no access track shall be moved more than 50 metres from the position shown on the original approved plans;
- d. no micro-siting shall take place within areas of peat of greater depth than the original location;
- e. no micro-siting shall encroach upon recognised environmental buffer zones including set-back from watercourses, ditches and treelines;
- f. no micro-siting shall take place within the areas hosting Ground Water Dependent Terrestrial Ecosystems as indicated within Figure 10.4 of the ES;
- g. all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW - See Condition 8).

No later than one month after the date of first commissioning, an updated site 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 approval, as applicable.

(Reason: to control environmental impacts (e.g. water environments, deep peat, areas of interests to bats, etc) while taking account of local ground conditions.)

7. Planning Monitoring Officer

No development shall commence until the planning authority has approved in writing the terms of appointment by the developer of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO"). The terms of appointment shall:

- a. impose a duty to monitor compliance with the terms of the planning permission and its conditions;
- b. require the PMO to submit a monthly report to the planning authority summarising works undertaken on site; and
- c. require the PMO to report to the planning authority any incidences of non-compliance with the terms of the planning permission and its conditions at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works. (Reason: to enable the development to be suitably monitored to ensure compliance with the permission issued.)

8. Ecological Clerk of Works (ECoW)

No development shall commence until the planning authority has approved in writing the terms of appointment by the developer of an independent Ecological Clerk of Works (ECoW). The terms of appointment shall:

- a. impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application and the approved finalised Construction and Environmental Management Document at Condition 9 (the ECoW works);
- b. require the ECoW to report to the developer'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 monthly report to the planning authority summarising works undertaken on site; and
- d. 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 throughout the period from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 18. For the avoidance of any doubt the ECoW is to be given the power to stop to activities being undertaken within the development site when ecological interests dictate to allow for a briefing of the concern to the developer's nominated construction project manager.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the developer shall submit details of the terms of appointment by the developer of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval.

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.)

9. Construction and Environmental Management Document

No development (excluding site survey information and ground investigations, which shall be permitted) shall commence until a finalised Construction Environmental Management Document ("the CEMD") is submitted to and agreed in writing by the planning authority. The CEMD shall include provision for:

- A. An updated Schedule of Mitigation (SM).
- B. Processes to control / action changes from the agreed Schedule of Mitigation.
- C. The following specific Construction and Environmental Management Plans (CEMPs):
 - I. details of the construction works, construction methods and surface treatment for all hard surfaces and tracks;
 - II. method of construction of the crane pads;
 - III. method of construction of the turbine foundations;
 - IV. method of working cable trenches;
 - V. method of construction and erection of the wind turbines and meteorological masts;
 - VI. details of the temporary site compounds, for the storage of materials and machinery, including the areas designated for offices, welfare facilities; fuel storage and car parking;
 - VII. Peat Management Plan - to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and SNH. This should also highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage;
 - VIII. Water Quality Management Plan - highlighting drainage provisions including monitoring / maintenance regimes, deployment of water crossings using bottomless culverts; surface water drainage management (SuDS) and development buffers (50 metres and 100 metres minimum from water features), unless otherwise agreed in writing by the planning authority;

- IX. Pollution Prevention Plan;
- X. Site Waste Management Plan;
- XI. Construction Noise Mitigation Plan;
- XII. Species Protection Plan(s): -

A pre-construction survey for legally protected species shall 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 shall 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, wild cat, otter and water vole. 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 shall be prepared prior to development commencing to ensure that all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection;

The notification and a stop the activity commitment requirements set out below:

Should an otter holt be found during construction, all works within 250 metres of the holt shall stop immediately and the SNH Dingwall office be notified and asked for advice.

Should a wild cat den be found during construction, all works within 200 metres of the den shall stop immediately and the SNH Dingwall office be notified and asked for advice.

Should any water vole activity be found during construction, all works within 10 metres of the nearest burrow shall stop. Work may progress if it is in excess of 10 metres of the nearest burrow, otherwise work shall stop immediately and the SNH Dingwall office be notified and asked for advice.

XIII. Site Construction Decommissioning Method Statement 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, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.

Unless otherwise agreed in writing by the planning authority the development shall then proceed in accordance with the approved CEMD.

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

10. Traffic Management Plan

No development shall commence until a finalised Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the planning authority. The CTMP, which shall be implemented as approved during all periods of construction and decommissioning, shall include:

- i. 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 suitably qualified traffic management consultant;
- ii. the identification and delivery of all upgrades to the public road network 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 written satisfaction of the planning authority, incorporating, as required:
 - an initial 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;
 - an assessment of the capacity of existing bridges and other structures along the construction access routes to cater for all construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;
 - 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 who must be in attendance;
 - 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.
- iii. a risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- iv. 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;
- v. a procedure for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods;

- vi. a detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement 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. All such movements on Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events;
- vii. a detailed delivery programme for abnormal load movements, which shall be made available to Highland Council and community representatives;
- viii. 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;
- ix. details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of the planning authority.
- x. wheel cleaning measures to ensure water and debris are prevented from discharging from the site onto the public road;
- xi. appropriate reinstatement works shall be carried out, as required by the planning authority, at the end of the turbine delivery and erection period;
- xii. A concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the developer, to the satisfaction of the planning authority. It will also require the submission of an appropriate financial bond acceptable to the Council in respect of the risk of any road reconstruction works.
(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.)

11. Community liaison group

No development shall commence unless and until a Community Liaison Plan has been approved in writing by the planning authority after consultation with the relevant local community councils. The plan shall include the arrangements establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the developer. The terms and conditions of these arrangements must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures and keep under review the timing of all transport-related mitigation measures and keep under review the timing of the delivery of turbine components. The terms and conditions should also set out how the Community Liaison

Group will ensure that local events and tourist seasons are considered and appropriate measures are taken to co-ordinate deliveries and work with these and other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments, and detail the continuation of the Community Liaison Group until the wind farm has been completed and is fully operational. The approved Community Liaison Plan shall be implemented in full.

(Reason: to assist project implementation, ensuring community dialogue and the delivery of appropriate mitigation measures for example to minimise potential hazards to road users, including pedestrians, travelling on the road networks.)

12. Outdoor Access Management Plan

No development shall commence until an Access Management Plan, has been submitted to, and agreed in writing by, the planning authority. The plan shall 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 on land impacted by the development.)

13. Programme of Archaeological Works

No development shall commence until the planning authority has approved the terms of a programme of archaeological works to be observed during construction of the development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved. This is expected to involve: -

- I. a walkover survey in advance of development,
- II. a survey of the township remains on the West Garty Bur; and
- III. a targeted watching brief in areas considered most sensitive.

The approved scheme of archaeological works shall thereafter be implemented in full. (Reason: to ensure the protection or recording of archaeological features on the site.)

14. Television and Radio Reception

No development shall commence until a Television and Radio Reception Mitigation Plan has been submitted to, and approved in writing by, the planning authority. The Television and Radio Reception Mitigation Plan shall provide for a baseline reception survey to be carried out prior to the installation of any turbine forming part of the development, the results of which shall be submitted to the planning authority.

The mitigation plan must ensure that there is a published scheme in a local newspaper before any turbine erection and within one month post construction for parties to make

contact with the operator of the wind farm in connection with television and radio interference problems.

The developer must investigate any claims within one month and thereafter implement the necessary mitigation where valid concerns have been confirmed.

Reports, no less than quarterly, on received complaints and action taken should be made to the local liaison group and the planning authority during the construction period and to the planning authority only in the first 18 months of operation from the date of final commissioning.

The approved Television and Radio Reception Mitigation Plan shall thereafter be implemented in full.

Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the development to the date falling twelve months after the date of final commissioning, shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the planning authority. Should any impairment to the television signal be attributable to the development, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

(Reason: to ensure local television services are sustained during the construction and operation of this development.)

15. Redundant turbines

The developer shall, at all times after the date of first 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:

- i. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, then unless otherwise agreed with the planning authority, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and within 6 months removed from the site and the land surrounding the turbine so removed shall be fully reinstated in accordance with this condition; or
- ii. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the wind farm operator must notify the planning authority in writing immediately. Thereafter, the planning authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition.

For the avoidance of doubt, in making a direction under this condition, the planning authority shall have due regard to the circumstances surrounding the failure to generate

and shall only do so following discussion with the wind farm operator and such other parties as it considers appropriate.

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

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

16. Aviation Safety

No development shall commence until the developer has provided the planning authority, Highland and Islands Airport Limited, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the planning authority of having done so:

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

(Reason: in the interests of aviation safety.)

17. Aviation Lighting

Prior to the erection of the first wind turbine, the developer shall submit a scheme for aviation lighting for the development to the planning authority for written approval. The scheme is expected to provide for: -

- i. perimeter turbines to be fitted with infrared lighting with an optimised flash pattern of 60 flashes per minute of 200 millisecond to 500 millisecond duration at the highest practicable point, and
- ii. turbines 1, 7, 10 and 12 to be fitted with 25 candela omnidirectional red lighting with an optimised flash pattern of 60 flashes per minute of 200 millisecond to 500 millisecond duration at the highest practicable point).

No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority.

No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme. (Reason: in the interests of aviation safety.)

18. Site Decommissioning, Restoration and Aftercare

No development or works (excluding site survey information and 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. Thereafter:

- i. not later than 3 years prior to the decommissioning of the development, the IDRP shall be reviewed by the operator, to ensure that the IDRP 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; and
- ii. 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.

The IDRP and subsequent DRP shall include, unless otherwise agreed in writing with the planning authority and in accordance with legislative requirements and published best practice at the time of decommissioning, details of the removal of all elements of the development, relevant access tracks and all cabling, including where necessary details of

- (a) justification for retention of any relevant elements of the development;
- (b) the treatment of disturbed ground surfaces;
- (c) management and timing of the works;
- (d) environmental management provisions; and
- (e) a traffic management plan to address any traffic impact issues during the decommissioning period.

The DRP shall be implemented as approved. In the event that the Final DPR is not approved by the planning authority in advance of the decommissioning, unless otherwise agreed by the planning authority the Interim IDRP shall be implemented.

(Reason: to ensure that all wind turbines and associated development are removed from site should the wind farm become largely redundant; in the interests of safety, amenity and environmental protection.)

19. Financial Guarantee

No development shall commence until:

- i. Full details of a 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 approved under condition 18 of this permission have been submitted to, and approved in writing by, the planning authority; and

ii. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above 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

iii. Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the bond or other financial provision is satisfactory has been issued by, the planning authority.

Thereafter, the wind farm operator shall:

i. ensure that the bond or other financial provision is maintained throughout the duration of this permission; and

ii. pay for the bond or other financial provision to 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:

a) conducted by a suitably qualified independent professional; and

b) 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

c) 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 its reasonable satisfaction.

Where a review approved under part (c) 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 wind farm operator shall do so 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.)

20. Noise

Noise arising from the wind turbines shall not exceed a LA90, 10 min of 35 dB daytime and a LA90, 10 min of 38 dB night-time or 5 dB above the background noise level figures as presented within the submitted Environmental Statement Noise Assessment at any noise sensitive premises within Highland Council. The condition shall apply to all dwellings or other noise sensitive premises existing or the subject of full planning permission at the date of submission of this application (vacant or occupied).

(A) Prior to the date of first commissioning, the wind farm operator shall submit to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

(B) No development shall commence until a Noise Measurement and Mitigation Scheme has been submitted to, and approved in writing by, the planning authority.

The scheme shall include:

- A framework for the measurement and calculation of the rating level of noise immissions from the wind farm (including the identification of any tonal component) to be undertaken in the event of a complaint in accordance with ETSU-R-97 and its associated Good Practice Guide and Supplementary Guidance Notes.
- Options for long term mitigation measures to be enacted, along with a timetable(s) for implementation in the event that the agreed noise limits are exceeded.
- Details of the short term mitigation measures to be implemented within one week of identifying that the agreed noise limits are exceeded which will ensure that those limits are complied with.

(C) Within 21 days from receipt of a written request of the planning authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the rating level of noise immissions from the wind farm at the complainant's property in accordance with the approved Noise Measurement & Mitigation Scheme. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

Within 14 days of receipt of a written request from the planning authority, the wind farm operator shall provide the planning authority with the information relevant to the complaint logged in accordance with paragraph (G) of this condition.

The independent consultant's assessment must be undertaken in accordance with the approved Noise Measurement & Mitigation Scheme and must relate to the range of conditions which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the planning authority and such other conditions as the independent consultant considers necessary to fully assess the noise at the complainant's property.

(D) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the planning authority, unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on the request of the

planning authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with Good Practice Guide Guidance Note 1 (a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

(E) Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment to the planning authority unless the time limit for the submission of the further assessment has been extended in writing by the planning authority.

(F) Within one week of the planning authority receiving an assessment which identifies that the wind farm noise levels are exceeding the limit attached to this condition, the wind farm operator will implement mitigation measures which will ensure that the limit is complied with. These measures will remain in place until a long-term mitigation strategy is submitted to and approved by the planning authority.

(G) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Good Practice Guide Guidance Note 1 (d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Good Practice Guide Guidance Note 1 (e) to the planning authority on its request, within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition, a "dwelling" is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

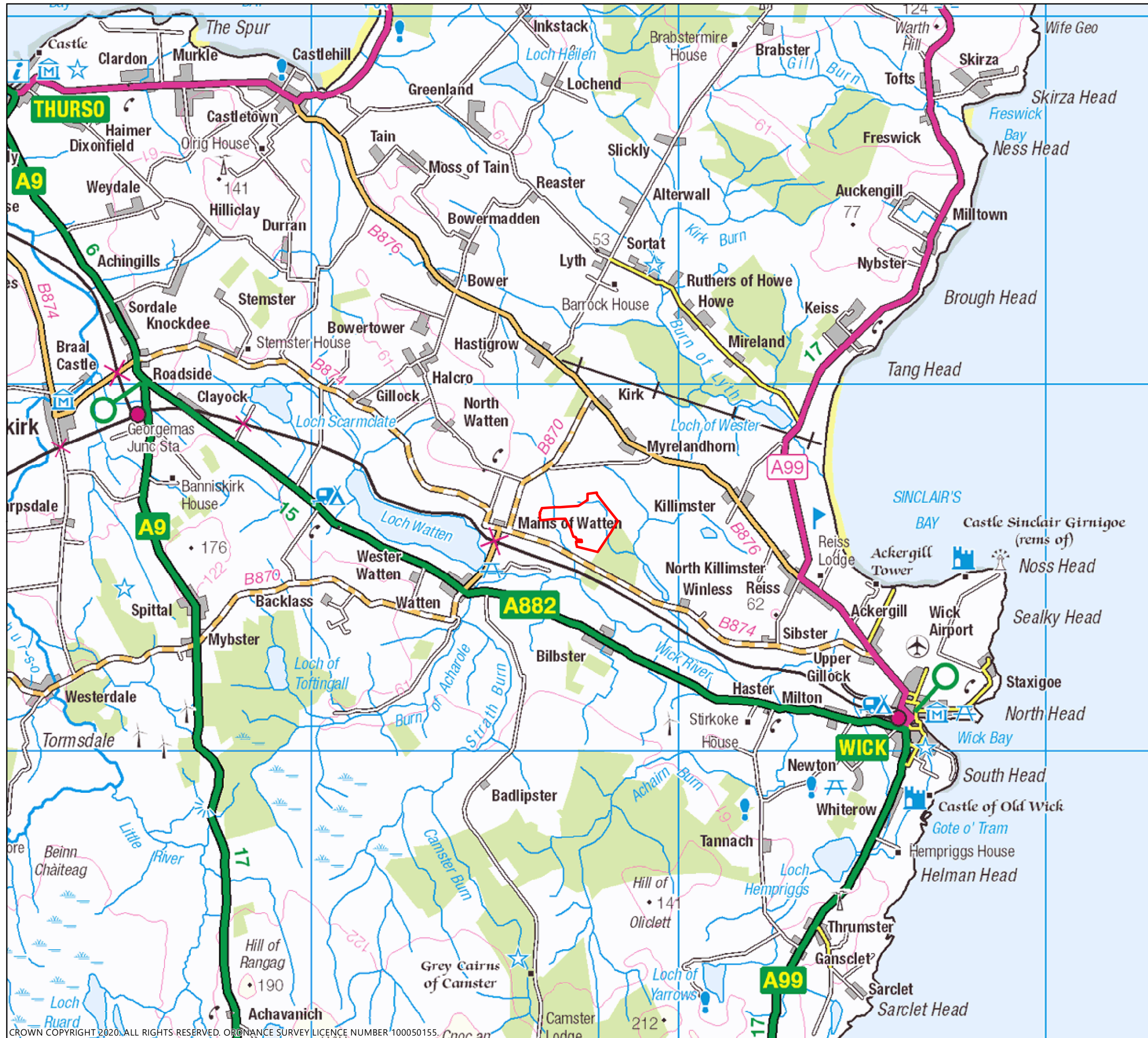
Advisory notes

- 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).

Approved drawings:

Location plan 5.1

Site layout plan	5.2
Elevations	5.3
Foundations	5.4
Floor plan	5.5
Section plan	5.6
Section plan	5.7
Section plan	5.8
Elevations	5.9
Floor plan	5.10
Drainage	5.11



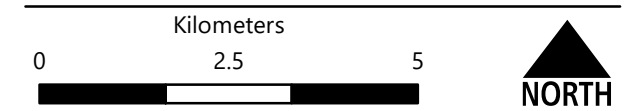
PROJECT: COGLE MOSS WIND FARM
 CLIENT: COGLE MOSS RENEWABLES LLP

FIGURE 1

Site Location of Permitted Development
 15/02769/FUL

SCALE: 1:100,000 DOCUMENT SIZE: A3
 DRAWN BY: AE DATE: 02/02/2022

KEY:
 Application boundary



MUIRDEN ENERGY LLP
 MUIRDEN
 TURRIFF
 ABERDEENSHIRE
 AB53 4NH









FIGURE 2

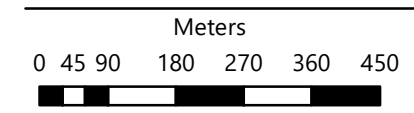
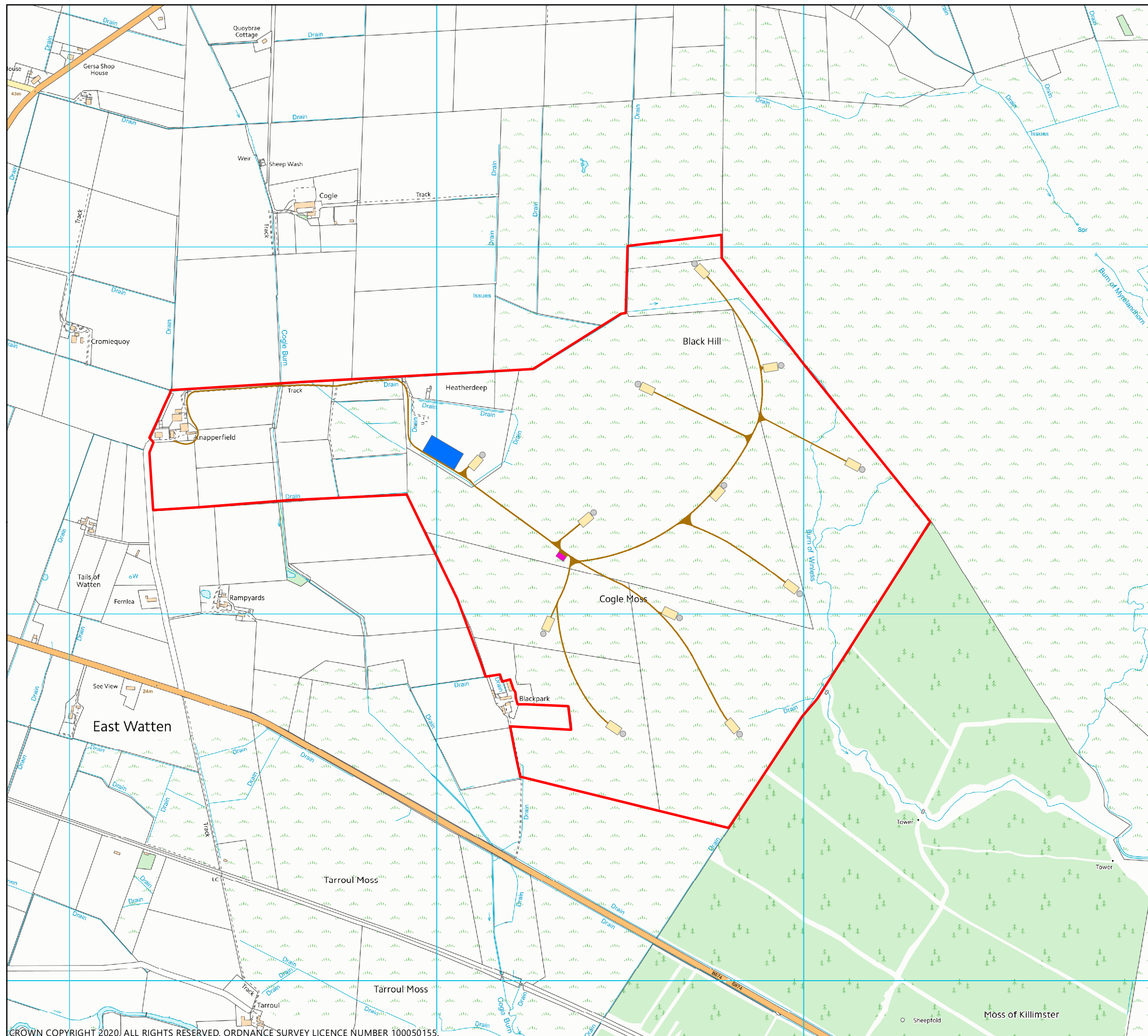
Site Plan for Permitted Development
 15/02769/FUL

SCALE: 1:10,000
 DRAWN BY: AE

DOCUMENT SIZE: A3
 DATE: 02/02/2022

KEY:

-  Application boundary
-  Access track
-  Crane hardstandings
-  Foundations
-  Substation
-  Temporary construction compound



MURDEN ENERGY LLP
 MURDEN
 TURRIFF
 ABERDEENSHIRE
 AB53 4NH

