

Agenda Item	6.4
Report No	PLN/081/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 18 October 2022
Report Title: 22/01637/FUL : Energiekontor UK Ltd
Land At Torr Leathann Strathrory, Ardross, Alness
Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Amended access track to Strathrory Wind Farm
Ward: 06 - Cromarty Firth
Development category: Local

Reason referred to Committee: Community Council objection

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 The application seek planning permission for an amended site access to serve the permitted Strathrory Wind Farm which was granted planning permission by Scottish Ministers on 07 January 2022.
- 1.2 The application proposes to form a new site access bell mouth T junction with B9176 Struie Road and form around 240m of associated access track which would tie in with the position of the previously consented access track for the wind farm. The new access is has been proposed to reduce the amount of infrastructure required for the development by taking a shorter route that requires less cut and fill. Secondly, the amended access is also to ensure that the necessary visibility splays are achieved without tree felling being undertaken within western edge of the adjacent Morangie Forest SPA.
- 1.3 The location of the proposed access is 110m south of the previously consented position for the site access, moving the junction to the apex of the bend in the road. The track will be formed to the specified gradient of the wind turbine manufacturer, with a width of approximately 5m on straight sections. At corners and passing places track width will be increased to accommodate the swept path of the turbine delivery vehicles.
- 1.4 The application comprises a series of application drawings which cover the proposed layout, construction detail, vehicle tracking, visibility splay analysis, peat probing results, and habitat mapping. During determination of the application Light Detection and Ranging (LiDAR) information that shows the sight lines to be achieved has been provided, as well as a traffic count and speed survey and road traffic accident data.
- 1.5 No variations have been made to the application during the course of its determination.

2.0 SITE DESCRIPTION

- 2.1 The site is situated north of Strathy Burn and west of the B9176 Struie Road, approximately 4km northeast of Ardross and 8km northwest of Alness. The site is not within any areas designated as important for natural heritage. There are however a number of designations within 20km and notably includes the adjacent Morangie Forest SPA, located on the eastern side of the B9176 opposite the consented wind farm's site access.
- 2.2 The site levels fall east to west from the B9176 down to an unnamed tributary of the Allt an Torr Eun, which sits approximately 6m below the level of the road, and continues across open moorland to the Allt an Torr Eun itself. Site levels fall approximately 10m in total over a distance of 150m from the road. Having crossed this watercourse, the site levels rise on the other side before levelling off to merge with the alignment of the consented access track to serve the wind farm.

3. PLANNING HISTORY

- 3.1 06.06.2022 22/02442/FUL - Strathrory Wind Farm Re- Pending

		Design - Erection and Operation of a Wind Farm for a period of 35 years, comprising a total of 7 wind turbines with Turbines 1,2,3 and 5 having a maximum blade tip height of 180m, Turbine 4 having a maximum blade tip height of 160m, and Turbines 6 and 7 having a maximum blade tip height of 149.9m, battery energy storage system, access tracks, borrow pit, substation, control building, and ancillary infrastructure.	Consideration
3.2	02.03.2022	22/00942/S42 - Application for non-compliance with Condition 10 (Construction Traffic Management Plan) of planning permission 20/00584/FUL	Pending Consideration
3.3	21.01.2022	22/00310/PAN - Strathroy Wind Farm - Erection and operation of a wind farm for a period of 35 years, comprising up to 7 wind turbines, access tracks, borrow pits, substation, control building, and ancillary infrastructure	Closed
3.4	07.01.2022	20/00584/FUL - Strathroy Wind Farm - Erection and operation of a wind farm for a period of 35 years, comprising of 7 wind turbines with a maximum blade tip height of 149.9m, access tracks, borrow pits, substation, control building, and ancillary infrastructure.	Permission Granted on Appeal (PPA-270-2250)
3.5	08.04.2020	19/05636/FUL - Erection of temporary anemometer mast up to 80 metres in height (36 months)	Permission Granted
3.6	25.10.2019	19/04269/SCOP - Strathroy Windfarm - 11 wind turbines with a blade to tip height of up to 180 metres and a generating capacity of up to 62 Megawatts (MW)	Scoping Response Issued
3.7	08.10.2019	19/04209/PAN - Strathroy Wind Farm - Proposed development of up to 11 wind turbines, with surrounding infrastructure including a battery storage compound, associated crane pads , access tracks, a substation, control room and temporary construction compound.	Closed

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 20.05.2022

Representation deadline: 03.06.2022

Timeous representations: 1 Objection

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) Increased road safety risk due to the access being positioned on a bend of a high speed road where the local deer population are a driving hazard; and
- b) Lack of consideration of site access issues at an earlier stage when determining the application for the wind farm.

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

5. CONSULTATIONS

- 5.1 **Ardross Community Council** object to the application. It considers that visibility sight lines are inadequate, particularly when existing the site looking north when vehicles are turning right southbound. It considers the access in this position is a danger to road users and highlights that this road is a tourist route which is also used for the transportation of aggregate and timber. Sight lines encroach into the vegetation and rising ground affects visibility. Concerns are also expressed with the maintenance of the visibility splays, including grass cutting and snow removal. The visibility splays required are on land out with the applicant's ownership and it is not considered appropriate to rely upon the Council to undertake verge clearance due to limited budgets, and during heavy snowfall events snow is piled up from clearing the road. It questions Transport Planning's assessment of the proposal and does not consider it appropriate for sight lines to be across the opposing verge.
- 5.2 **Flood Risk Management Team** do not object to the application. It has no other comments.
- 5.3 **Historic Environment Team – Archaeology** do not object to the application. It advises that no specific archaeological mitigation is required for the amended access track.
- 5.4 **Transport Planning Team** do not object to the application. Their initial consultation response set out that their response of no objection was on the basis of all works being carried out in accordance with the submitted details. Following a review of Ardgay Community Council's consultation response, receipt of more detailed LiDAR informed visibility splay application drawings, and undertaking a site visit, it confirms that 215m visibility splays could be provided in each direction with some tree felling along the edge of the public road. It explains that existing visibility at the proposed site access is sub-standard at present due to tree cover on the south side of the public road, which extends very close to the carriageway

edge. It goes on to highlight that clear that visibility in both directions would be greatly enhanced by the removal of roadside trees, as indicated by the submitted drawings. From assessment on site, Transport Planning the vertical alignment of the public road would not appear to prohibit provision of 9m x 215m visibility splays in each direction. Further to the applicant submitting accident data and undertaking a speed survey which demonstrates that the design speed of the road should be 50mph, Transport Planning's latest consultation response confirms no objection based on the provision and maintenance of visibility splays measuring 9m x 160m in each direction.

- 5.5 **Scottish and Southern Energy Networks (SSEN)** do not object to the application. A 132Kv overhead transmission line passes through the site and sufficient separation and clearance from this is required. SSEN Transmission has therefore undertaken a ground clearance measurement survey at the proposed crossing point and associated increase in ground levels. It confirms this does not raise any concerns.
- 5.6 **Scottish Environmental Protection Agency (SEPA)** do not object to the application. It understands that best practice methods will be put in place to minimise impacts on surrounding peatland habitats and if planning conditions are applied requiring: the watercourse crossing, which should be a bottomless arched culvert or traditional single span bridge, to be designed to accommodate, without constriction, the in 200 year flood event plus an allowance for climate; and wet woodland planting to compensate for the loss caused by the development.
- 5.7 **NatureScot** do not object to the application. Given the proximity to the adjacent SPA, it advises that as per the consented wind farm, the development is likely to a significant adverse effect on the adjacent Morangie Forest SPA which is protected for its capercaillie qualifying interest. As such, it does not however consider that the proposal will have an adverse affect on the integrity of the SPA, subject to application of mitigation identified in the EIAR for the consented wind farm and conditions. Other matters raised by NatureScot include the requirement for the Council to undertake an Appropriate Assessment of the effects of the proposal on the aforementioned SPA and its species. It is also pleased to note that no felling will be required within the SPA and the amended access proposals will not bring infrastructure significantly closer to the capercaillie records previously provided by the applicants and is not expected to increase the potential for disturbance. It recommends that any potential impacts arising from the amended access are addressed in line with the proposed mitigation and Habitat Management Plan for the wider consented wind farm.
- 5.8 **Scottish Water** were consulted but did not provide a response.

6. DEVELOPMENT PLAN POLICY

- 6.1 The following policies are relevant to the assessment of the application:

Highland Wide Local Development Plan 2012

- 28 - Sustainable Design
- 30 - Physical Constraints
- 31 - Developer Contributions

- 36 - Development in the Wider Countryside
- 51 - Trees and Development
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built and Cultural Heritage
- 58 - Protected Species
- 59 - Other Important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 63 - Water Environment
- 64 - Flood Risk
- 66 - Surface Water Drainage
- 67 - Renewable Energy Developments
- 72 - Pollution
- 73 - Air Quality
- 77 - Public Access

Inner Moray Firth Local Development Plan 2015 (IMFLDP)

- 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.

The Highland Council Supplementary Guidance

- 6.3
- Highland's Statutorily Protected Species (March 2013)
 - Onshore Wind Energy: Supplementary Guidance (November 2016)
 - Physical Constraints (March 2013)
 - Sustainable Design Guide (Jan 2013)
 - Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL CONSIDERATIONS

Emerging Local Development Plan Policy and Non-Statutory Planning Guidance

- 7.1
- The Highland-wide Local Development Plan Main Issues Report. It is anticipated the Proposed Plan will be published following publication of secondary legislation and National Planning Framework 4 (NPF4);
 - The Inner Moray Firth Local Development Plan 2 (IMFLDP2) Proposed Plan (2022). No allocations relevant to the proposal are included in the Proposed Plan. Relevant emerging general policies include:
 - Policy 2 Nature Protection, Preservation and Enhancement; and
 - Construction Environmental Management Process for Large Scale Projects (Aug 2010).

Scottish Government Planning Policy and Other Guidance

- 7.2
- Scottish Planning Policy (The Scottish Government, 2014)
 - National Planning Framework 3 (NPF3) (The Scottish Government, 2014)
 - Consultative draft National Planning Framework 4 (NPF4) (The Scottish Government, 2021)
 - PAN 60 – Planning for Natural Heritage (Jan 2008)

- Siting and Designing Wind Farms in the Landscape, SNH (Aug 2017)
- Wind Farm Developments on Peat Lands, Scottish Government (Jun 2011)

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 key considerations in this case are:
- a) Development Plan and Planning History
 - b) Design, Siting and Visual Impact
 - c) Transport and access
 - d) Peat Impacts
 - e) Natural Heritage including ornithology
 - f) Water environment

Development Plan and Planning History

8.2 The proposal is for the construction of a new junction and track access to serve a consented wind farm. Given the planning history, the need for a site access is not disputed, and the assessment of the application is focused on the environmental impacts of amending the location and form of the proposed access from that previously consented. In doing so, the application must be determined against pertinent HwLDP Policy 36 Development in the Wider Countryside and Policy 28 Sustainable design. These policies consider matters of siting and design, pattern of development and other development constraints.

Design, Siting and Visual Impact

8.3 The applicant's covering letter explains that the rationale for the proposed amended access and its relocation 110m further south is to reduce the amount of infrastructure required by taking a shorter route that requires less cut and fill. Secondly, the amended access is also to ensure that the necessary visibility splays are achieved without tree felling being undertaken within western edge of the adjacent Morangie Forest SPA.

8.4 In relation to the amount of cut and fill required to form the access, the supporting information explains that by moving the access further south there would be a difference in ground level between the B9176 and where the track access needs to cross the Allt an Torr Eun watercourse to reach the wind farm. By realigning the

access, the track would also be reduced in length by 46m. As a result, the proposed new route would require roughly the same amount of cut ground, but would substantially reduce the amount of infill material required, reducing this from around 15,000m³ to 6,000m³. This equates to a reduction of 9,000m³ with this material having to be sourced from elsewhere on site or be imported from a nearby quarry. Based on this material comprising predominantly aggregate / sand and gravel it is understood that this equates to a saving of 14,400 tonnes which if all imported to site, would have otherwise required around 720 HGV two-way movements on the local road network.

- 8.5 The applicant has also explored two further potential alternative site access solutions which have been discounted. The first was the possibility of relocating the proposed site access a further 190m further south from the current proposal. This would position the junction at a straighter section of the public road to enhance visibility splays, with existing ground levels in this location also being almost level with the road. This was however discounted as it would require a 0.5km longer access track which would also cross an area of deeper peat, with this option not resulting in any significant cut and fill savings. The second alternative was to utilise the existing quarry access road located further north, however, this existing track remains outwith the applicant's control and would require significant upgrading along its 4.5km length with it having multiple watercourse crossings and would require a new bridge over the Strathroy River.
- 8.6 Given all of the available options, it is considered that the design and siting of the amended access appears to be the most appropriate in terms of minimising infrastructure requirements to serve the site.
- 8.7 In terms of the dimensions and form of the track access, it is of a comparable scale to the consented track access, with its geometry and alignment having been informed by swept path analysis. Its relocation slightly further south would not have any materially different landscape and visual impacts over and above those previously identified for the consented position, with it remaining visible from the road network.
- 8.8 Construction of the running surface is intended to comprise compacted stone material of a suitable bearing capacity and a condition can be used to secure the final access design details in terms of materials and finishes. This would consider the appropriate treatment of the junction's overrun area which would only be used when transporting abnormal loads. A condition can be used to secure a Construction Method Statement covering the access tracks with the provision of cross section drawings. To allow for unknown underlying ground conditions it is proposed that the applicant be afforded micro siting limits for the track. These should extend to no more than 50m and be limited around areas of deep peat and watercourses.

Transport and access

- 8.9 The access to the site will need to be formed in accordance with the Road and Transportation Guidelines for New Developments, including the form of the access and the required visibility splays. It is anticipated that the construction of the track will have an impact on the local road network. As a result, mitigation is

required to manage this construction impact. This includes the provision a Construction Traffic Management Plan (TMP), which could cover the proposed access as well as the wider wind farm development. A separate planning application 22/00942/S42 has been made which looks to split the TMP into two phases to firstly cover general construction works and then the movement of abnormal loads. The re-worded condition is recommended for approval is proposed to be replicated for this proposal. Once the track is constructed, it is not anticipated that the operation of the track will generate significant levels of traffic.

- 8.10 Concerns with the adequacy, deliverability and maintenance of the proposed visibility splays have been raised by Ardross Community Council. In light of its comments, the applicant was asked to undertake a further review of the junction which could then be considered by Transport Planning. This included the applicant undertaking a road speed survey, review of accident data and undertaking a LiDAR topographical drone survey to inform the provision of profile cross section drawings to demonstrate the sight lines to be achieved.
- 8.11 The recent speed survey findings demonstrate that the mean speed of vehicles at the proposed access junction to be 44.1mph, with the 85th percentile speed being 51.3mph. As such the design speed of the road at this location is 50mph and therefore the proposed visibility splays of 9m x 160m in both directions is proposed. Based on the LiDAR informed vertical visibility splay (Dwg No. SK01, Rev P7), this demonstrates that the proposed splay of 9m x 160m is achievable without the need for any ground re-grading works at the 9m setback mark. In terms of the horizontal visibility splay (Dwg No. SK02, Rev P7) also demonstrates that these splays are achievable with limited clearance works the 9m mark.
- 8.12 On the basis of the submitted information Transport Planning have no objection. This is subject to full visibility being available over the entire length of the 9m set back, not just at the 9m mark but all the way up to the junction line as drivers exit the site. In order to achieve this, a degree of tree felling and ground re-grading works will be required, as detailed on the vertical and horizontal visibility splay drawings. Whilst visibility all the way up to the junction line was initially sought by Transport Planning, a setback of 0.83m is required to obtain the full 160m of visibility within the road verge without encroaching upon neighbouring third-party land out with the applicant's control. Given that the driver's eye position will be setback from the junction line to allow for the HGV cab or car bonnet this is considered acceptable and based on the latest visibility splay drawings, Transport Planning have since reiterated that they have no objection.
- 8.13 During construction activities, the junction will be subject to wider traffic management measures to be agreed through the CTMP which is expected to include measures such as advance warning signs advising of the new junction and that turning traffic may be located head. During the operational phase, the accident history of the B9176 in the vicinity of the access junction would suggest that for low traffic flows turning in and out of the proposed junction, that the proposed visibility splays would not seem to have increased accident potential.
- 8.14 In terms of ongoing verge maintenance, it can also be conditioned that the full extent of the visibility splays be maintained by the applicant, with the extent of this relating to the areas of land on the opposite side of the road which fall within the

adopted road verge and remains under the control of the Roads Authority. The condition relating to the maintenance of this area can also specify the requirement for grass cutting during the summer and the removal of snow in winter to maintain visibility at a driver's eyeline of 1.05m and a target height of 0.6m when exiting the junction.

- 8.15 In terms of wider public access, an outdoor access management plan will be required to manage recreational access in the area during the construction period. This can be secured by condition.

Peat Impacts

- 8.16 Peat probing has been undertaken which demonstrates that the peat depths to be encountered as a result of the amended access track will be at least as shallow as the consented access route. A condition can be imposed for the Construction Environmental Management Plan to include a finalised Peat Management Plan, building upon the outline Peat Management Plan provided as part of the consented wind farm. This would include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and NatureScot.

Natural Heritage including ornithology

- 8.17 Based on the survey work undertaken by the applicant, which included protected species surveys and national vegetation classification survey, this demonstrates that the amended access route would not give rise to any significant changes to the consented access position, with the site entrance and access track currently consist predominantly of open moorland with rough grass and heather.
- 8.18 Given the proximity to the adjacent SPA and potential for disturbance, the development is likely to a significant adverse effect on the adjacent Morangie Forest SPA which is protected for its capercaillie qualifying interest. As such, the Council has undertaken an Appropriate Assessment of the effects of the proposal on the aforementioned SPA and its species, with this being provided at Appendix 2 of this report. This concludes that the proposal will not have an adverse affect on the integrity of the SPA subject to application of mitigation identified in the Environmental Impact Assessment Report for the consented wind farm and conditions. This mitigation includes no works at dawn or dusk during the capercaillie lekking season.
- 8.19 NatureScot has also expressed support for the amended access. Whilst this will result in minimal tree felling this is not proposed within the fence line which defines the edge of the SPA and the proposal do not bring infrastructure significantly closer to the capercaillie records, with no increase in potential disturbance for this species. Both NatureScot and SEPA have sought the finalised Habitat Management Plan for the wider wind farm to be updated to reflect the proposed amended access, with planting of wet woodland to compensate for the loss caused by the development. This can be conditioned with the area of planting to equate to at least the W4 habitat area shown on Figure 6: NVC Classification most of which is likely to be impacted by the development, as well as the loss of 0.1ha of woodland located within the road verge which requires to be removed to

achieve suitable visibility splays.

Water Environment

- 8.20 There are two watercourses on the site which require to be crossed by the amended access - the Allt an Torr Eun and an unnamed tributary. At water crossings, track alignment will be as close to perpendicular to the watercourse as possible to minimise disturbance. Typical bottomless culvert water crossing details have been provided with indicative track design formation levels including provision for drainage. SEPA are content with the proposed bottomless arched culvert watercourse crossing design and have advised that a traditional single span bridge would also be acceptable, providing that these crossings be designed to accommodate, without constriction, the 1 in 200 year flood event plus an allowance for climate change. This can be conditioned.

Other material considerations

- 8.21 Given the remote nature of most of the site, it is not considered that there will be significant residential amenity impacts arising during the construction period.
- 8.22 A representation has raised concern with the lack consideration having been given to the site access when determining the consented wind farm. The approved site access was however assessed when determining the wind farm application and remains deliverable.

Matters to be secured by Section 75 Agreement

- 8.23 None

9. CONCLUSION

- 9.1 The amended access demonstrates sensitive siting and design, resulting in less infrastructure being required to serve the wind farm, as well as less potential disturbance to the adjacent Morangie Forest Special Protection Area, whilst also maintaining road safety. All other environmental impacts can be appropriately managed by way of planning conditions.
- 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: Not applicable

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
Obligation N

Revocation of previous permission N

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

CONDITIONS AND REASONS

Duration of planning permission

1. Planning Permission is granted for a period of 37 years from the date of Final Commissioning, comprising an operational period of up to 35 years from the date of Final Commissioning and a period of up to 2 years for decommissioning and site restoration. Written confirmation of the Date of Final Commissioning must be provided to the Planning Authority no later than one month after the event.

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

Accordance with the provisions of the application

2. The development shall be constructed and operated in accordance with the approved drawings: Proposed Access and Original Access General Arrangement, (Dwg No. SK01A, Rev P4) and the information contained within the Environmental Impact Assessment Report, Further Environmental Information I, and Further Environmental Information II of planning permission 20/00584/FUL (approved on 7 January 2022), except in so far as amended by the terms of this consent.

Reason: To clarify the terms of the permission.

Single Vehicular Site Access

3. The development shall be constructed and operated as a single point of access to serve the wind farm, with no other vehicle access onto the public road network to be formed.

Reason: To clarify the terms of the permission and in the interest of visual amenity and road safety.

Design of ancillary infrastructure

4. No development shall commence on the junction and access track infrastructure until final details of the external appearance, dimensions and surface materials, including for the junction abnormal load overrun area, as well as any external fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with these approved details.

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

Micro-siting

5. All areas of track shall be constructed in the location shown in Proposed Access and Original Access General Arrangement, (Dwg No. SK01A, Rev P4), or as may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and NatureScot), micro-siting is subject to the following restrictions:
 - a) no access track or water crossing shall be moved more than 50m from the original position shown;
 - b) No micro-siting shall take place with the result that infrastructure (excluding floating access tracks) is located within areas of peat of greater depth than the original position shown;
 - c) No micro-siting shall take place within areas hosting highly dependent Ground Water Dependent Terrestrial Ecosystems, watercourses and other sensitivities; and,
 - d) All micro-siting permissible under this condition must be approved in writing by the Environmental Clerk of Works (ECoW).

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

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

Construction Environmental Management Plan

6. There shall be no Commencement of Development until a finalised Construction Environmental Management Plan (CEMP) is submitted to and agreed in writing by the Planning Authority, in consultation with SEPA. The document shall include provision for:
 - a) an updated Schedule of Mitigation (SM); highlighting mitigation set out

within each chapter of the Environmental Impact Assessment Report (EIAR), within the EIAR Further Environmental Information II, and the conditions of this consent;

b) processes to control / action changes from the agreed SM; and,

c) the following specific details:

i. a Construction Method Statement which shall cover:

- hard surfaces and access tracks, including details of floating track, with the provision of cross section drawings;
- site compound and substation, detailing the storage of materials and machinery, including the areas designated for offices, welfare facilities; fuel storage, battery storage and car parking;
- emergency event contingencies; and,
- measures to ensure construction vehicle adherence to the routing of the access tracks.

ii. finalised Peat Management Plan, building upon the outline Peat Management Plan provided at Appendix 12.2 of the Environmental Impact Assessment Report (EIAR); to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and NatureScot; this should:

- highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage;
- measures to avoid bare peat being left to dry out and provision of a drawing detailing the placement of removed turves over top of the stored peat to protect it from drying out as well as providing the turves a surrogate site so that the vegetation is maintained during storage; and,
- avoid peat slide risk in accordance with the mitigation measures set out within a finalised Peat Landslide Hazard and Risk Assessment, building upon the outline assessment provided at Appendix 12.1 of the EIAR.

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

- development and storage of material buffers (50m minimum) from water features, unless otherwise agreed in writing by Planning Authority, in consultation with SEPA;
- watercourse crossings designed to accommodate the 1 in 200 year flood risk event plus climate change and crossings designed as oversized bottomless culverts or traditional style bridges;
- surface water drainage provision which accords with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time. Site specific maps shall be provided showing (1) cut off ditches to prevent clean surface water entering the construction

site; and (2) proposed locations of SuDS features (lagoons, cut off drains, discharges to vegetated buffers, check dams etc.), demonstrating where polluted water will be directed and treated and where clean water will be redirected. These plans must clearly show how polluted surface water is kept away from the water environment. All surface water drainage provision shall be completed in a timely manner and installed concurrently with the construction of any track or hard surface;

- construction related maintenance regimes;
- a surface and ground water (quantity and quality) baseline survey construction and operational monitoring programme, highlighting any necessary public and private water supply protection measures; and,
- a fisheries monitoring plan, to be prepared by the applicant in consultation with SEPA and local fishing interest groups (including the Cromarty Firth Fishery Board (CFFB) and the Cromarty Firth District Salmon Fishery Board (CFBSFB)), to: establish the characteristics of the baseline conditions prior to construction; monitor the performance of the mitigation measures set out within the WCMP; and identify triggers for any remedial action by applicant to maintain water quality and potential fish passages.

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

v. a Site Waste Management Plan;

vi. a Pollution Prevention Plan;

vii. Construction Noise and Vibration Mitigation Plan;

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

- the recording of structures;
- the physical marking out on the ground and erection of a visible protective barrier around known features, with extractive operations to avoid these features;
- watching briefs; and,
- a procedure to be followed should any unexpected features be identified during construction. Where it is not possible to avoid impact on any of the above sites, archaeological mitigation (excavation) in advance of development may be undertaken providing it has been approved in advance in writing by the Planning Authority.

ix. a Breeding Bird Protection Plan (BBPP) and Species Protection Plans, with associated survey and monitoring requirements to be agreed by the Planning Authority, in consultation with NatureScot. This must be informed by a further pre-construction ecological survey for legally protected species which must be carried out at an

appropriate time of year for the species, at a maximum of 12 months preceding commencement of construction, and a watching brief must then be implemented by the Ecological Clerk of Works (ECoW) during construction. The species that should be surveyed for include, but are not limited to, breeding birds, otter, pine marten, water vole, badger, red squirrel, and wildcat. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs. A communication plan must be provided to ensure all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection. This plan must detail a notification and stop the job commitment requirements.

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

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

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

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

Traffic Management Plan

7. There shall be no Commencement of Development until Stage 1 of a Traffic Management Plan (TMP) has been submitted to, and approved by, the Planning Authority, in consultation with the Roads Authority and Transport Scotland. Stage 1 of the TMP, which shall be implemented as approved, must include:
- a) a description of all measures to be implemented by the developer in order to manage general traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised Quality Assured traffic management consultant;
 - b) Provision for Community Liaison in line with the scheme agreed under Condition 15;
 - c) the identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for general construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including

the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities. This shall include the following:

- i. the site access being via the B9176 only;
 - ii. a detailed review of the routes to site for general construction traffic;
 - iii. details of all mitigation / improvement works for general construction traffic;
 - iv. a route assessment report for general construction traffic and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary;
 - v. an initial assessment of the capacity of existing bridges, culverts and other structures along the construction access routes to cater for general construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;
- d) 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;
- e) wheel washing measures with all vehicles transporting construction material to be sheeted to ensure water and debris are prevented from discharging from the site onto the public road;
- f) details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period;
- g) measures to ensure that construction traffic adheres to agreed routes on the road network; and
- h) a procedure, including a survey of relevant roads before the commencement of development, for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods.

There shall be no commencement of abnormal load deliveries until Stage 2 of the TMP has been submitted to, and approved by, the Planning Authority, in consultation with the Roads Authority and Transport Scotland at least two months in advance of the first anticipated abnormal load delivery to the site, the date of which shall be notified to the Council prior to commencement of development of any development on the site. Stage 2 of the TMP, which shall be implemented as approved, must include:

- i) the identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for abnormal load deliveries, to ensure that it is to a standard capable of accommodating the identified vehicles (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities. This shall include the following:
 - i. a detailed review of the routes to site for abnormal loads, with a

delivery route from Nigg Harbour to the A9 to be via the B9175 or from Invergordon harbour to the A9 to be via the B817 coast road, U4242 Industrial Estate Distributor Road and C1063 Academy Road, joining the A9 at Tomich junction;

- ii. details of all mitigation / improvement works required to facilitate abnormal load movements, including details of any upgrading works and an associated construction and reinstatement management plan for any works required at the Edderton junction affecting the Edderton War Memorial;
 - iii. a route assessment report for abnormal loads, 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;
 - iv. an initial assessment of the capacity of existing bridges, culverts and other structures along the abnormal loads delivery route to cater for abnormal load vehicles, with upgrades and mitigation measures proposed and implemented as necessary;
 - v. a videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks notice of this trial run must be made to the local Roads Authority and Transport Scotland, with the local Roads Authority in attendance unless agreed in writing;
 - vi. no deliveries by abnormal loads shall take place until a final assessment of the capacity of existing bridges and structures along the abnormal 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 loads have been submitted to and approved by the Planning Authority; thereafter the approved works shall be completed prior to the abnormal load deliveries to the site;
- j) a risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- k) a detailed protocol for the delivery of abnormal loads/vehicles shall be submitted to and approved by the Planning Authority. The protocol shall identify any 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. The protocol shall identify any times that loads/vehicles would avoid;
- l) 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;
- m) a detailed delivery programme for abnormal load movements, which shall

be made available to the Planning Authority;

- n) a procedure, including a survey of relevant roads before the commencement of any abnormal load deliveries, after any abnormal load deliveries, and the implementation of any remedial works required during construction / decommissioning periods; and,
- o) appropriate reinstatement works shall be carried out, as required by the Planning Authority, at the end of the turbine delivery and erection period.

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

Visibility Splays

- 8. During the construction, operation and decommissioning of the wind farm, the site access junction visibility splays shall be maintained by the applicant with:
 - i. visibility splays measuring between 0.83m and 9m x 160m (the X and Y dimensions respectively) in each direction formed from the centre line of the junction; and
 - ii. within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension; with the applicant undertaking grass cutting / vegetation maintenance in summer and snow removal in winter.

Reason: To maintain safety for road traffic and the traffic moving to and from the development.

Recreational Access Management Plan

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

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

Ecological Clerk of Works

- 10. There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the applicant of an independent Ecological Clerk of Works (ECoW), in consultation with NatureScot and SEPA. The terms of appointment shall:
 - a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Impact Assessment Report, Further Environmental Information, and other information lodged in support

of the application including but not limited to the Construction and Environmental Management Plan (CEMP) and the Habitat Management Plan (HMP) (“the ECoW Works”);

- b) require the ECoW to report to the applicant’s nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity;
- c) require the ECoW to submit a report every two months to the Planning Authority, or monthly at the further written request of the Planning Authority, summarising progress with the development and environmental works undertaken on site;
- d) have power to stop to the job / activities being undertaken within the development site when ecological interests dictate and / or when a breach or potential breach of environmental legislation occurs to allow for a briefing of the concern to the applicant’s nominated construction project manager; and,
- e) require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

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

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

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

Habitat management

11. There shall be no Commencement of Development until a Habitat Management Plan (HMP) in accordance with the Outline HMP included in the EIAR has been submitted to and approved in writing by the Planning Authority, in consultation with SEPA and NatureScot. The HMP shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, and restoration of the site. It shall include:
- a) measures for the assessment of, restoration and habitat management works for blanket bog, including measures to reduce Sitka spruce regeneration;
 - b) restoration measures for the most sensitive habitats, peatland restoration proposals, provide enhancement of Annex 1 habitats, habitats for protected species and mitigation measures in relation to capercaillie and black grouse during lekking;

- c) provision of an appropriate buffer distance from finalised turbine locations to watercourses and tree lines of high bat activity, applying the formula set out below and at Environmental Impact Assessment Report Paragraph 9.145 which accounts for the finalised blade length, hub height and feature height, or alternative suitable mitigation measures subject to the prior written approval of the Planning Authority, in consultation with NatureScot:
- $$b = \sqrt{(50+bl)^2 - (hh-fh)^2}$$
- d) measures to manage habitats within 150m of each turbine rotor sweep to and avoid shrub encroachment to mitigate bat activity;
- e) all site fencing to be marked to minimise black grouse and capercaillie collision risk;
- f) provision for regular surveys, monitoring and reporting in relation to:
- ground conditions within HMP area from the period from Commencement of Development until the date of completion of post construction restoration; and,
 - bird and bat populations (collision and breeding monitoring), including flight paths within and adjacent to the wind farm site from the period from Commencement of Development until the date of completion of post construction restoration with the provision of a before and after control impact study; and
- g) provision of planting of wet woodland to compensate for the loss caused by the development. This can be conditioned with the area of planting to equate to at least the W4 habitat area shown on Figure 6: NVC Classification, submitted with the amended access planning application; and
- h) provision of woodland planting to compensate for the loss of 0.1ha caused by the development' junction visibility splays.

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

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

Construction hours

12. Construction and decommissioning work or development associated with the proposed development shall only take place between the following hours:
- a) 07:00 to 19:00 Mondays to Fridays and from 07:00 to 13:00 hours on Saturdays with no work on Sundays or a Bank Holiday in Scotland, unless otherwise agreed in advance in writing by the Planning Authority; and subject to,
 - b) during the capercaillie lekking season (March to May inclusive), no works will start before 09:00 hours and all works shall cease 2 hours before dusk across the site.

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

Decommissioning and Restoration Plan

13. No development (excluding preliminary ground investigation which shall be permitted) shall commence until an Interim Decommissioning and Restoration Plan (IDRP) for the site has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA, NatureScot and the Roads Authorities. Thereafter:
- a) the IDRP shall be reviewed by the applicant within five years of the Commencement of Development and every five years thereafter until such time as the wind farm is decommissioned and the site restored. Each review shall ensure that the IRDP reflects best practice in decommissioning prevailing at the time and ensures that site specific conditions, identified during construction of the site, and subsequent operation and monitoring of the development are given due consideration. A copy shall be submitted to the Planning Authority for its written approval, in consultation with NatureScot and SEPA;
 - b) not later than 12 months prior to the decommissioning of the development, a detailed Decommissioning and Restoration Plan (DRP), based upon the principles of the approved interim plan, shall be submitted to, and approved in writing by, the Planning Authority, in consultation with NatureScot and SEPA; and c) the DRP shall be implemented in full as approved. In the event that the final DPR is not approved by the Planning Authority in advance of the decommissioning, the Interim DRP (IDRP) shall be implemented in full, unless otherwise agreed by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority and in accordance with legislative requirements and published best practice at time of decommissioning, the IDRP and subsequent DRP shall include details about the method of removal of the elements of the development including where necessary details of:
 - i) justification for retention of any relevant elements of the development;
 - ii) the treatment of disturbed ground surfaces;
 - iii) management and timing of the works;
 - iv) environmental management provisions; and,
 - v) a traffic management plan to address any traffic impact issues during the decommissioning period.

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

Decommissioning and restoration guarantee

14. There shall be no Commencement of Development until:
- a) full details of a guarantee, bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures

outlined in the Decommissioning and Restoration Plan (DRP) approved under condition 18 of this permission have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the bond must be able to be called upon by The Highland Council and be enforceable against the operator and landowner and / or leaseholder;

- b) confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the Planning Authority; and,
- c) documentary evidence that the guarantee, bond or other financial provision approved under part (b) above is in place has been submitted to, and confirmation in writing that the financial provision is satisfactory has been issued by, the Planning Authority.

Thereafter:

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

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

Each review shall be:

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

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

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

Community liaison

15. Prior to the Commencement of Development, a scheme setting out arrangements

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

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

Time Limit for the Implementation of this Planning Permission

16. The development to which this planning permission relates must commence no later than three years of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

Reason: In accordance with the provisions of Section 58 and 59 of the Town and Country Planning (Scotland) Act 1997 (As Amended).

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 and Soakaways

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

Local Roads Authority Consent

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

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

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

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

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

Mud and Debris on Road

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

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>

Signature: Dafydd Jones

Designation: Area Planning Manager – North

Author: Peter Wheelan

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

Relevant Plans:

Document Type	Document No.	Version No.	Date Received
Committee Location Plan	-	-	-
Location Plan	Appendix 1	-	07.04.2022
Proposed Access and Original Access General Arrangement	SK01A	Rev P4	06.05.2022
Proposed Access Junction Indicative Visibility Splays	SK01	Rev P7	03.10.2022
Proposed Access Junction Indicative Vertical Visibility Splays	SK02	Rev P7	03.10.2022

Appendix 1 – Letter of Representation

Objector

1.	Ms Sandra Cunliffe	Heron's Flight, Ardross, Ainess, IV17 0YD	24/03/22
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Appendix 2 – Appropriate Assessment

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by NatureScot, the applicant and various published information.

Morangie Forest Special Protection Area (SPA)

In its response to the Council of 23 June 2022, NatureScot advised that the proposal is likely to have a significant effect on the qualifying interest (capercaillie) of the Morangie Forest SPA. Their advice is set out below:

“We advise that based on the information provided, our conclusion is that the proposal will not adversely affect the integrity of the site. The appraisal we carried out considered the impact of the proposals on the following factors:

- The application is for a change to the access track entrance and realignment of 236m of access track. We are pleased to note that no felling will be required within the SPA. This change will not bring the infrastructure significantly closer to the capercaillie records previously provided by the applicants and is not expected to increase the potential for disturbance.*
- The risk of disturbance will be further reduced if the applicant’s commitment to the mitigation outlined in their email dated 4 August 2020 (in connection with the wider wind farm application) is implemented. This stated that during the capercaillie lekking season (March to May inclusive) no works would start before 09:00 and works would cease two hours before dusk across the site. As the amended access track layout still lies within the wind farm site it is assumed this mitigation will continue to apply.”*

Highland Council Appraisal of the Proposal

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

The impacts on the Morangie Forest SPA is considered for the proposed construction of an amended site access to sever the 35 year operation and decommission of the consented wind farm. The applicant has undertaken an Environmental Impact Assessment Report (EIAR), FEI I and FEI II for the consented wind farm which considers connectivity with the adjacent SPA in terms of disturbance and loss of habitat caused by the proposed development in relation to capercaillie and their associated habitat. Although the amended access will require limited tree felling, this will be located along the roadside and not beyond the fence which defines the edge of the SPA, with the works not being significantly closer to the capercaillie records previously provided by the applicants.

Mitigation measures to manage the development’s impacts are set out within the EIAR and associated FEI I and FEI II. The mitigation measures set out within these documents are to be secured by condition and notably, the applicant has confirmed their commitment to prepare a Habitat Management Plan for the site which focuses on habitat improvement for

capercaillie, and for the capercaillie lekking season (March to May inclusive), no works starting before 09:00 all works shall cease 2 hours before dusk across the site. These mitigation measures are also to be set out within conditions associated with the amended access.

As a result of the mitigation measures set out, no adverse effects on either site's integrity can be concluded for this species. The appointment of an ECoW is also to be conditioned to undertake protected species surveys and advise on the implementation of the Habitat Management Plan, and the Construction Environmental Management Plan.

The mitigation measures set out within the EIAR, and the conditions, should be sufficient to address any significant risk and avoid an impact on the integrity of this designated site and its qualifying feature.

Overall, it can be therefore concluded that while likely significant effects have been identified, there will not be an adverse effect on site integrity of the Morangie Forest SPA providing the mitigation set out within the appropriate assessment is applied.