

Planning and Environmental Appeals Division
Hadrian House, Callendar Business Park, Falkirk, FK1 1XR
E: dpea@gov.scot T: 0300 244 6668



Scottish Government
Riaghaltas na h-Alba
gov.scot

Appeal Decision Notice – EIA Development

Decision by Allison Coard a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2277
- Site address: Meall Buidhe Wind Farm, Land 4420M NW of Croick Estate, Ardgay, IV27
- Appeal by Meall Buidhe Renewables LLP against the decision by The Highland Council
- Application for planning permission 20/02659/FUL dated 14 July 2020 refused by notice dated 25 July 2022
- The development proposed: Erection of and Operation of a Wind Farm for a period of 25 years comprising of 8 Wind Turbines access tracks, substation, control building, and ancillary infrastructure with a maximum output of 40 Megawatts
- Application drawings: as listed in schedule 3 to this notice
- Date of site visit by Reporter: 26, 27 and 28 April 2023

Date of appeal decision: 14 June 2023

Decision

I allow the appeal and grant planning permission subject to the 32 conditions listed at the end of the decision notice. Attention is drawn to the 5 advisory notes at the end of the notice.

Environmental impact assessment

The proposed development is described as above and as set out at Chapter 5 of the supplementary EIA report. The proposed layout of wind farm infrastructure is set out through Figures 15.1a and 15.1b in Volume 2 of the Supplementary Information (APP1.12). It is EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”).

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

- the EIA report submitted on 4 September 2020;
- Supplementary Information (SI) indicating reducing the scheme from 9 to 8 turbines and a change to the model of turbine as advertised on 21 May 2021;
- Additional Environmental Information on the updated cumulative position submitted with the appeal on 20 October 2022 and advertised on 10 February 2023;
- consultation responses and representations from the public as summarised in Annex 4 to this notice.

I am required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 4 below. My conclusions on the significant environmental

effects of the proposal are set out below. For ease of reference, and unless otherwise stated, I refer to the EIA report (EIAR) to include the original report, the supplementary Information and the Additional Environmental Information.

Preliminary

I note that the council has amended the description of the development from the terms of the application. I consider the description should be accurate and convey the substance of what is applied for. I note the appellant disagrees with the council's revised description but only in terms of including the height of the turbines.

The description, in the absence of the height of the turbines, is in my view sufficiently clear to convey the nature of the development proposed. In that context I have amended the description slightly in response to the appellant's request bearing in mind the description on the submitted application. I address the matter of the specification of the height of the turbines, by means of condition, below.

Since the council's consideration of this application National Planning Framework (NPF4) has been adopted and now forms part of the development plan.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case is National Planning Framework 4, the Highland Wide Local Development Plan and the Caithness and Sutherland Local Development Plan. Having regard to the provisions of the development plan the main issues in this appeal are:

- landscape and visual impacts including on communities;
- wild land areas;
- impact on peat;
- impact on nature conservation interests;
- the benefits of the proposal; and
- other impacts and proposed mitigation.

Landscape Impact

2. The EIAR predicts significant localised direct effects on the Meall Buidhe Landscape Character Area which is part of the larger Moorland Slopes and Hills Landscape Character Type. Significant indirect combined cumulative effects are assessed for the Kyle of Sutherland and the Rosehall/Achany and Braemore Landscape Character Areas when application stage proposals within 15 kilometres of Meall Buidhe are taken into account.

3. The Meall Buidhe Landscape Character Area lies between two hills - Beinn Ulbaidh (494 metres) and Meall Dheirgidh (506 metres) with the rising land of Meall Buidhe located centrally within the site area. The moorland sits above coniferous woodland plantation. There would be significant direct effects of introducing turbines to that host landscape. Strath Oykel wind farm is at application stage but would also be within this character area so, if approved, would have a combined significant cumulative effect.

4. Other existing and consented windfarms are contained within the wider character type on moorland with adjacent forestry plantation on the other side of the valley. This landscape is not unusual in Sutherland with open uninhabited moorland areas above the

straths and forming a foreground to the higher land and mountains. I acknowledge this extensive moorland landscape can offer advantages in terms of its scale and simplicity with corresponding capacity to accommodate change. However I recognise the site locality, whilst not wild land, has a sense of wildness given its remoteness and the lack of development in the more immediate area. These factors make it more susceptible to change.

5. The capacity of this landscape relies on a design and layout of turbines that can work with and maintain its characteristics as far as possible. It also relies on the mitigation of any significant effects on adjacent landscape areas which may prove more sensitive to change. From the submitted evidence and my observations on site I consider that the well-spaced positioning of the turbines and the nature of the landform would restrict significant effects to only a localised part of the landscape character type. However, it is notable that siting of a windfarm in this area of moorland would extend the influence of windfarms within this landscape.

6. Indirect effects would be experienced within the Auchany and Braemore LCA which is also part of the larger moorland hills and slopes LCT as described above. However this area is already influenced by Auchany and Rosehall operational windfarms. Other proposals are at application stage including the Auchany extension, Garvary and Strath Oykel. The up to date cumulative assessment indicates a combined cumulative significant effect in this context which is a change from that originally assessed. I have taken from the submissions that Braemore is no longer an extant permission. Consequently, it is not taken into account in the cumulative assessment.

7. The Kyle of Sutherland LCA within the Straths LCT is characterised by wooded strath. This is illustrated through viewpoints 2,3 and 5. The introduction of turbines above the strath would introduce some localised landscape change. There would be a combined cumulative effect given the influence of Auchany and Rosehall and this impact would increase were the application stage schemes, Auchany extension, Garvary and Strath Oykel, to progress. This is a landscape that is already influenced by turbines. However the influence of turbines is focussed on the other side of the valley. The Strath Oykel application is at its closest point 1.7 kilometres from Meall Buidhe on the same side of the strath.

8. Nature Scot's 'Siting and Designing Wind Farms in the Landscape' (APP4.1) advises at paragraph 2.28 that generally the fewer the turbines and the simpler the layout on an even landform the easier it is to create a positive feature- visually balanced, simple and consistent in image. I note that during the design process an initially much denser arrangement of 26 turbines was discounted to 9 and subsequently further reduced to remove Turbine 2 and reduce the height and alter the location of turbine 9. The development design includes a set back from the edge of the strath with a regular spacing to avoid prominence and dominance in the context of the vertical and horizontal scale of this landscape. However I consider the introduction of turbines on the other side of the strath extending their influence into a new area is an important consideration in this appeal.

Visual impact on communities, transport and recreational routes

9. Many of the representations reflect concerns around the perception that local houses/settlements would be encircled by wind energy development. This reflects the proposed location relative to other wind farm developments that have been approved, have been built or are under construction in the vicinity of the settlement. I appreciate that there is also concern and uncertainty as to whether other proposals in the pipeline may proceed.

10. A number of viewpoints were assessed along the A837 and around the settlements of Rosehall, Invercassley and Altass. From my site visit I noted that for much of the section of the A837 and A839 trees currently screen the view. There are glimpsed views in sections and more open views are evident including within and around Altass and Rosehall. The following viewpoints illustrate significant visual effects on local residents, visitors and on those using local footpaths, the main road network and travelling around and between local settlements:

11. Viewpoint 2: A837 to the south of Rosehall and Invercassley. The turbines would be viewed at a distance of 5.4 kilometres. From here there is a view over the valley towards wooded hillside including Inveroykel Lodge. Woodland and moorland enclose the Strath and all 8 turbines would be visible spaced along part of the horizon. I consider that siting and spacing relative to slope and gradient provides a simple arrangement and some corresponding mitigation of effect. In that respect the arrangement has positive design benefits albeit this would increase the horizontal field of this view. I consider that when viewed from this angle the windfarm would be a prominent but not dominant new feature on the horizon. As stated above it would be on a side of the strath not currently associated with turbines.

12. I agree with the assessment that there would be a significant effect experienced by visitors, local residents and others using the A837 in this locality. From this viewpoint there is some visibility of Achany and Rosehall windfarms but not in the same field of view. I also note those existing turbines are partly screened by landform on the opposite side of the valley. In the event that the Strath Oykel proposal were to go ahead the influence of turbines would also extend to the south-west. There would be significant combined cumulative effects with operational windfarms which would increase in the event that Strath Oykel is progressed.

13. Viewpoint 3: this viewpoint is on the A837 some 5.9 kilometre distant and closer to Altass. From here Rosehall and Achany are to the north and application stage Strath Oykel could add a cluster of turbines to the south west and in close proximity to Meall Buidhe. There would be whole or partial views on limited sections of the road as much of the route is enclosed by trees which screen visibility.

14. Viewpoint 4: this viewpoint represents the impact on Rosehall between Invercassley Stores and the village post office. The turbines would be viewed at a distance of 5.8 kilometres. I consider that views, from the village, would be partially screened by buildings and landscaping. Visibility is contained beyond the hillsides flanking Strath Oykel. Woodland would currently limit visibility to 6 turbines. These turbines would be viewed in a linear arrangement along the horizon. Achany and Rosehall windfarms are also visible from this location but in the opposite direction and set back from the village. I have also considered the potential addition of the Achany extension and Strath Oykel in short range views to the north-east and south west. Meall Buidhe and Strath Oykel, if both approved, would sit within a direction of view currently free of turbines.

15. Viewpoint 6: there is an assessed combined cumulative effect given Rosehall and Achany are visible on the skyline to the north east. The introduction of application stage windfarms, if approved, at Garvary and Starth Oykel with Meall Buidhe would accentuate that combined effect.

16. Viewpoint 7: at 6.5 kilometres from the proposal is indicative of the view from Altass which is a small and dispersed area of housing along the minor road above the Kyle of

Sutherland. There are views of Achany and Rosehall windfarms to the north in closer proximity. Whilst there is awareness of these moving turbines these are generally not in the direct facing view of properties. A number of properties along the road enjoy an elevated view over the valley on the opposite slope to the Meall Buidhe proposal. The turbines would be in a more direct facing view than currently experienced. I consider the applicant's appeal submissions under-state this impact. The view would be significantly changed to become one where turbines were a prominent albeit not in my view a dominant feature. In my opinion the avoidance of a dominant effect is achieved given the separation, distance and positioning in the wider view above the wooded valley sides. Strath Oykel, if approved, would add to the overall awareness of wind farm development in short to medium range views from this location albeit at a different angle of view and with some separation.

17. Viewpoint 9 at 8.9 kilometres from the proposed development illustrates the impact on this elevated stretch of A839 road between Rosehall and Lairg. All 8 turbines would be visible and prominent on the horizon with a more dominant impression than evident from other viewpoints. This view also serves to illustrate the impact on the Rounded Hills LCT as discussed above. Operational Achany, Rosehall and Lairg windfarms have some visibility from this location and there would be an impression of wind turbines on both sides of the strath. This an impression that would be intensified were both Meall Buidhe and Strath Oykel to be approved.

Impact on recreational routes within 10 kilometres

18. The proposed turbines would have a significant visual effect on sections of 3 core paths at Rosehall (SU21.03, SU21.08 and SU21.09).

19. On the first of these, the sections of the path closest to the village would be most impacted. However, there would be intermittent screening effects from trees and buildings. There is a relatively open stretch of ground in proximity to the village, which also represents the view from the fishing paths along the banks of the river. The path then enters woodland which would screen the proposal. On my site visit it was obvious this is a popular fishing destination. Similar effects would be apparent on SU21.08 and SU21.09 with a significant visual effect on a relatively short section of these routes. On the waterfall paths there is partial visibility of Achany and Rosehall so there would be a significant combined cumulative effect. There are no other assessed significant effects on recreational and tourist destinations within 10 kilometres of the proposed development.

Wild Land and Special Landscape Area

20. The proposed site is not within an area of wild land, a special landscape area or other designation. However I recognise the visibility of the proposed turbines relative to Wild Land Area 29 to the south and to a lesser extent Wild Land Area 34 to the north. Reference is also made in submissions to indirect impacts on the Fannichs, Beinn Dearg and Glencalvie Special Landscape Area although this did not feature in the council's reasons for refusal.

21. The council's reasons for refusal centre on the impacts on wild land areas 29 and 34. Similar concerns are expressed in community representations and from Mountaineering Scotland. Concerns about the impact on wild land qualities were raised by NatureScot in relation to WLA 29: Rhiddoroch - Beinn Dearg - Ben Wyvis. Effects on these qualities were described as significant and adverse given proximity to summits, ridges and slopes in the eastern and north eastern section of this wild land area. However, following adoption of National Planning Framework 4 these comments are not expressed as an objection.

22. For Wild Land Area 34, NatureScot's response of 18 December 2020 confirmed that there would be some adverse effect on qualities. However, those effects would be mitigated given distance and the existing influence of contemporary land use. That led to a conclusion that the impact on Wild Land Area 34 was not significant. Its focus of concern was placed on the significant adverse effects on Wild Land Area 29.

23. I explain below that the development plan context focusses protection on the defined wild land areas rather than on the concept of setting or buffer zones. Nevertheless I consider it is important to understand the qualities of the wild land areas. Mountaineering Scotland clarifies that its concern is about the impact on the wildness of the landscape when viewed from identified summits rather than the specific application of Policy 4 of NPF4. I accept the premise, as stated in the appellant's submissions, that a significant visual effect experienced from location(s) within the wild land area does not necessarily translate to a significant effect on its special qualities or integrity.

24. From the submitted landscape and visual assessment and as observed on my site visit I consider that the mitigating effects of distance and the closer positioning of other windfarms mitigate significant effects on the special qualities of Wild Land Area 34. All turbines would be visible from the popular summits of Ben More Assynt and Conival as well as from a number of other peaks. However, the level of effect is mitigated by a distance of over 25 kilometres. Other sections of Area 34 fall in closer proximity at 7 kilometres to its closest boundary. Within these areas there are existing external influences from settlement and development including windfarms. The EIAR, through the most recent update, identifies a significant combined cumulative effect on Area 34 when application stage windfarms are taken into account.

25. Exchanges through the appeal suggest that conclusions by NatureScot in relation to Area 34 may be subject to change in the event that Sallachy 2 windfarm is not implemented. However, NatureScot were consulted at the relevant stages including on the updated cumulative position. Its advice on Area 34 dates from December 2020 and has not changed. The Additional Information, published in October 2022, indicates the significant cumulative effect taking the consented Sallachy windfarm and application stage Achany extension into account. In combination, Meall Buidhe would increase the external influence of windfarms to the south of this wild land area. However given the influence of turbines and other development is already established in principle I agree with the assessment of the EIAR, NatureScot and the council's planning officer that this effect would not be significantly adverse. I find no other evidence to lead me to a contrary conclusion.

26. For Area 29 Wild land quality one is described as "the range of awe inspiring massive, high rounded hills and plateaux as well as steep rocky peaks and ridges offering elevated panoramas". The third quality is described as "a very large interior with a strong sense of remoteness and sanctuary that seems even more extensive where appearing to continue into neighbouring wild land areas". In the context of Wild Land Quality 4 I note this focusses on the northern part of the Wild Land Area and some parts of its interior. In this area NatureScot advised the visibility of the turbines would provide a scale indicator reducing the perceived extensiveness of the area.

27. The turbines are not within the wild land area so there is no direct impact on its interior as characterised by the central Beinn Dearg peak and overlapping the Special Landscape Area. I recognise some impact given the apparent continuity into neighbouring areas of wild land. The visualisations illustrate the effect the proposal would have in bringing turbines closer to the north east and east margins of the wild land area.

28. Viewpoint Wild Land 1. Beinn a' Chaisteil shows the effect Meall Buidhe would have in bringing the turbines more to the forefront with a proposed design that has a comparable linear extent to Achany. However this view remains relatively contained within the expansive landscape and is mitigated by distance at over 17 kilometres.

29. Viewpoints 8 and 10 illustrate significant visual impacts where the proposal would bring the influence of wind farms into closer focus (4.5 kilometres at closest) in front of and central to existing wind farms within the same field of view. This appeared to me to be a less visited area with a corresponding sense of remoteness. I consider a strong sense of sanctuary and solitude was evident from my site visit to viewpoint 8 Carn a Choin Deirg. This viewpoint represents the impact on the margins of the wild land area in proximity to Meall Buidhe. It illustrates the existing influence of turbines on this expansive landscape. The operational wind farms in the same field of view are in the middle/far distance and Meall Buidhe would bring this influence into closer focus. However, this would be only one element of an extensive view where mountains and the coast are focal points of interest.

30. Taken together the above summary indicates some limited but significant indirect visual effects from within Wild Land Area 29. Nevertheless in the context of National Planning Framework Policy 4 it is important to recognise the identified significant effects on Wild Land Area 29 are external and indirect effects. In addition as stated above there is a distinction between a significant visual effect, such as that described above at Viewpoint 8, and the effects on wild land qualities. My conclusion is that whilst there is a locally significant visual effect this is indirect and relatively contained within the wider landscape context. There would be some impact on wildness qualities but turbines would not as a result become a widespread or defining characteristic. I consider this proposal would not undermine the overall qualities of Wild Land Area 29.

Landscape and Visual Conclusions

31. There are significant localised effects as described above. I have considered the design mitigation that has been applied to reduce the wider extent of these impacts. I am conscious that a windfarm is of a scale and nature that some localised effects are unavoidable. In this case the effects are contained to the host landscape with cumulative effects on two neighbouring landscape character areas. Visually impacts focus on a small part of the local road network, some local footpaths, nearby settled rural areas and surrounding higher land. The proposal would achieve some set back from the Straths and avoid the higher mountains and designated areas. It would have a regular and spacious setting within an expansive landscape setting. Windfarms are already a notable but not dominant presence in these areas. I accept above this proposal would be the first on this side of the Strath and consider this is an important consideration to be weighed in the overall balance.

32. The combined cumulative effects would increase were Strath Oykel to be approved and constructed. The council's submissions to my procedure notice place weight on an increase in the magnitude of change at a range of viewpoints in taking Strath Oykel into account. That proposal, given its scale, is an application under Section 36 of the Electricity Act. I understand the inquiry process has just commenced. My assessment above takes into account the findings of the EIAR and its cumulative update. However my overall conclusions on Mheall Buidhe do not assess the acceptability or otherwise of the Strath Oykel proposal. That decision will subsequently fall to Scottish Ministers. My decision is reached with an awareness of that potential cumulative scenario. Nevertheless I recognise that the likelihood of that combined effect arising will remain uncertain until after my

decision on this appeal is issued. Consequently, in reaching my decision I place greater emphasis on the cumulative situation when operational and consented windfarms are taken into account.

33. On the issue of impact on settlement Nature Scot guidance advises that care should be taken to avoid multiple wind farms dominating the landscape surrounding of a settlement. Wind farms may do this if they are close to it at high elevation, surround or enclose the access and main approaches, dominate approaches through sequential cumulative effects (through the presence of several wind farms in succession), or are physically too close. How a 'wind farm landscape' relates to a settlement will depend on the design of the wind farms and their spatial relationships with each other, and how the settlement relates to its hinterland.

34. I appreciate that the cumulative situation is raising local concerns particularly as there are other proposals in the pipeline and this would be the first windfarm on the south side of the valley. These concerns are reflected in the submissions of NOROS (No Ring of Steel) and in the other representations received from local residents as well as Creich Community Council. I have carefully considered these matters. However my assessment above and observations on site lead me to conclude that the addition of this proposal to the operational and consented baseline would not lead to encirclement in the sense of being within a windfarm or an area dominated by turbines. Rather there would be an increasing awareness of turbines at more locations in the local area and in more direct views. Viewpoints above, when considered together, illustrate significant but intermittent impact on settlement.

35. Direct views from residential property would be rare although more evident for residents in and around Altass. Otherwise there would be less direct or intermittent views with screening, at least in part, by existing landscape features or other forms of development. Views from the local road network and riverside would be more open with an increased awareness of turbines. I consider the impact of this would be mitigated to an extent by distance, the direction of view and the relative siting and spacing between turbines and between windfarm locations.

36. I consider that significant effects on residential amenity, to the extent that any individual property would be overwhelmed or dominated by turbines, are avoided given the mitigating effects of distance and the nature of the view. I conclude above that there is a significant visual effect including from directly facing properties. However none of these are within three kilometres of the proposed turbines. I appreciate the concern of those residents who will experience a change in the view from their properties and surroundings. However the turbines are well spaced and the skyline lacks any distinct or significant features that would be overwhelmed by the proposed turbine location and design. The nature of the landscape and the set back of the turbines would in my view avoid any sense of the turbines looming over or dominating the settled river valley and its lower slopes.

37. From the above my conclusion is:

- significant direct landscape effects would be restricted to an undesignated area of Moorland Slopes and Hills: Meall Buidhe landscape character area;
- significant indirect landscape effects would be limited to the Rosehall/Achany and Braemore and the Kyle of Sutherland Landscape Character areas;
- there would be no significant effects on any landscape planning designations and the proposal is not within a Wild Land Area;

- there would be significant visual effects from certain sections of the A837, A839, sections of the Altass minor road, local footpaths, local settlement and dispersed housing and when viewed from locations within Wild Land Areas 29 and 34;
- this proposal would introduce turbines for the first time to the north of the Strath;
- there are some directly facing residential properties but none within 3 kilometres; and
- significant impacts concentrate on views 5-6 kilometre distant within an extensive landscape setting.

38. I return below to my assessment of acceptability of these landscape and visual impacts in the context of the overall balance of considerations in this case.

Impact on Fisheries and water quality

39. The likely significant effects on water quality and fisheries receptors are considered in Chapter 13 Hydrology, Geology and Hydrogeology of the Environmental Impact Assessment Report (EIAR) (APP1.03 & APP1.11). Mitigation commitments are set out in Chapter 13 of the EIAR (APP1.3). No significant residual effects are identified. I understand the River Oykel is one of the most important and productive salmon fisheries in the Scottish Highlands.

40. The Kyle of Sutherland District Salmon Fishery Board (KSDSFB) and Kyle of Sutherland Fisheries Trust (KSFT) object to the application due to the contradictory and vague information provided in the ecological assessment and as they consider that it remains unclear that significant effects on fish populations could be avoided.

41. A difference of view is apparent in terms of Chapter 13 of the EIAR where the potential effects on water quality to on-site and downstream hydrological receptors are assessed as not significant. I note the appellant subsequently confirms the current classification status of the Oykel waterbody as good rather than moderate and also accepts connectivity between the headwater areas of the Kilmachalmack Burn and any part of the River Oykel downstream of the point of confluence. Areas of the proposed access track to the west would also be in direct connection with the River Oykel upstream of the River Kilmachalmack confluence. However these clarifications do not alter the overall conclusions on significance.

42. My appropriate assessment below is relevant in relation to impacts on the salmon population relative to the Strath Oykel Special Area of Conservation. The maintenance of water quality and prevention of pollution to protect the relevant water habitats is a primary consideration to protect that species. The mitigation described in the EIA report is summarised at paragraph 8.1.3 of the appeal statement. It includes, amongst other things, a 50 metre buffer around mapped watercourses as well as pollution control measures detailed through the Outline Construction Management Plan.

43. I note the Scottish Environmental Protection Agency (SEPA) raised initial concerns about sections of the access track in proximity to watercourses where the potential for runoff and pollution is high, especially since the ground is sloped. However this matter was resolved during the application process and objection was withdrawn subject to further detail being secured through condition in line with the proposed mitigation. My conclusions below on the impact on the water environment are also relevant in the context of the protection of fish populations. In addition, I am aware that works in or in the vicinity of inland surface waters and wetlands, as well as management of surface water runoff (including access tracks) will require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR).

44. I find nothing in the submitted evidence sufficient to indicate a contrary view to the conclusion that significant effects on fish populations would be avoided subject to the appropriate mitigation. I consider the relevant planning conditions below.

Impact on Peat and peatland habitat

45. The effects of the proposed development on hydrological, hydrogeological and geological conditions are assessed in the EIAR as not significant. However representations raise concerns about this issue in terms of impacts and the net benefits in terms of the carbon balance.

46. The majority of the site contains peat and Nature Scot expressed initial concerns about the habitat restoration proposals in terms of compensation for the planned losses of 'carbon rich soil, deep peat and priority peatland habitat'. Compensatory habitat restoration that is significantly larger than currently proposed was considered to be required.

47. The detail of the Outline Habitat Management Plan was revised in light of NatureScot's comments to reflect the value and extent of the blanket bog with a focus on its restoration. I understand that compensation for loss relies on significantly larger areas given the habitat fragmentation that will result from the proposed development, the effect on the hydrology of adjacent habitat and the time that it will take for restored habitat to function in the same way. This matter is relevant to my conclusions on biodiversity below and in relation to the wording of the relevant habitat management condition.

48. NatureScot's subsequent communication of 19 January 2022 confirms that revision of the draft Outline Habitat Management Plan (OHMP) December 2021 and the potential for further revision has resolved its concerns in this respect. The Scottish Environment Protection Agency confirms that the inclusion of blanket bog and wet heath habitats should increase the areas ability to act as a carbon sink and mitigate for any loss. The proposed condition on this matter references enhancement and restoration of 111 hectares of blanket bog (condition 16) and the council's view is this should be stated as a minimum. I return to that matter in rehearsing the proposed conditions below.

49. The outline Habitat Management Plan aims to restore and enhance the blanket bog and wet heath resource and reduce golden eagle collision risk and to make provision for monitoring of the restoration and enhancement measures. If the results prove unsatisfactory, the situation will be analysed and, if necessary, a remediation plan would be produced and implemented to ensure its aims are met.

50. The Scottish Environment Protection Agency (SEPA) does not object subject to conditions to ensure the development: minimises its impact on peat and carbon loss; protects and enhances, where possible, wetland and peatland habitats, and improves carbon sequestration; protects the water environment by using appropriate watercourse crossings; is constructed in a manner in line with the Schedule of Mitigation; and, is decommissioned in a manner sensitive to the environment by adhering to an agreed finalised Decommissioning and Restoration Plan. It confirms that it is content, from the layout, that steps have been taken to avoid deep peat and minimise impacts. The amended outline peat management plan provides detail in this respect and can be secured by condition.

51. Similarly SEPA confirms it is content that direct impacts on groundwater dependent terrestrial ecosystems are mitigated through avoidance and a schedule of mitigation including floating tracks along with provision for monitoring. It is content that the layout of

the turbine array minimises impacts on watercourses, requiring only two crossings and that the closest groundwater abstraction is greater than 250 metres from any excavations. In that context I consider that significant residual effects would be avoided and find no evidence to justify a contrary view.

Appropriate Assessment

52. The River Oykel Special Area of Conservation (SAC) is protected for its conservation interests in relation to freshwater pearl mussel and Atlantic salmon. The submissions to this appeal indicate there is a risk of the proposed development affecting the hydrological environment during the construction phase including through effects on erosion and sedimentation; effects on baseflow; and changes to drainage patterns and pollution risk. This has the potential to affect freshwater pearl mussel in the River Oykel SAC which lies downstream from the development. This is also applicable to Atlantic salmon.

53. The identification of a potentially significant effect on its conservation interests means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. This means that the implications of the likely significant effects on the European site and its qualifying interests must be considered to determine whether there would be an adverse effect on integrity. That determination is referenced as "Appropriate Assessment".

54. There are three main tributaries which converge into the River Oykel at a lower elevation than the wind farm development envelope. These hold suitable habitat to support a population of freshwater pearl mussel and Atlantic salmon. As filter feeders, freshwater pearl mussels are extremely vulnerable to water pollution. Avoidance of an adverse effect will depend on maintaining water quality and the favourable conservation status of the site. Table 10.7 of Chapter 10 of the EIAR sets out the conservation objectives for the SAC. These include avoiding deterioration of the qualifying habitats and the population and distribution of the species. Disturbance of the species should also be avoided. Base line surveys indicate habitat, within the referenced tributaries below the site, demonstrate high conservation value for both species. This was not evident in the watercourses within the proposed turbine envelope. Information was collected on the fisheries resource.

55. There is embedded mitigation including buffer zones around watercourses as described in the EIAR. Mitigation also includes pollution control methods and measures for runoff and sediment management. A pollution prevention plan and species protection plan for freshwater pearl mussel is recommended in Technical Appendix 10:6 Freshwater Pearl Mussel Survey Report. This is proposed to protect the River Oykel SAC tributaries from impacts from construction activities. In turn that mitigation would be applicable in the context of maintaining the integrity of the site and its qualifying species which also include Atlantic Salmon. In addition I recommend below a condition for prior approval of a construction management document. This includes a pollution prevention plan and species protection plan and allows for consultation with appropriate bodies prior to its approval. It references electro-fishing surveys and a "stop the job" commitment.

56. Mitigation is summarised above and in Chapter 6 of the EIAR when read with Chapter 13 Hydrology, Geology and Hydrogeology. Subject to that mitigation and to the appropriate conditions my conclusion is that there would be no adverse effect on the integrity of the River Oykel Special Area of Conservation. That conclusion is supported by the consultation response from NatureScot. It is also reflected in the council's assessment as included in its report of handling. I find no evidence to the contrary.

Net Carbon Impact

57. This is related to the issue of carbon balance and whether the proposal is sustainable due to the peat impacts as discussed above. In considering this matter in the context of National Planning Framework 4 I sought further written submissions through Procedure Notice 3. In response the appellant provided details of its summary input to the carbon calculator. I have considered above the impact on peat including the response from the Scottish Environment Protection Agency along with the conclusions of the EIAR. I find no evidence to indicate that the net impact would be other than positive in contributing to the reduction of greenhouse gas emissions.

Ornithology

58. Nature Scot is satisfied that the level of survey work carried out in relation to Annex 1 birds in the wider countryside is appropriate. It agrees with the summary presented in the ornithological chapter of the EIAR and recommends that a Breeding Bird Protection Plan (BBPP) should be produced prior to works commencing.

59. The Royal Society for the Protection of Birds raised related issues in its response of 30 September 2020. No subsequent response was received following consultation on the reduced scheme in 2021. Further information was sought as part of the appeal process on the issues raised. Comments were also sought in relation to representations which questioned the sufficiency of survey work relative to recent felling operations.

60. The further response of RSPB, dated 3 March 2023, clarifies that it has no objection subject to a construction environmental management plan condition with reference to black grouse and works timings. An appropriate habitat management plan was also requested. No other outstanding issues are raised. In relation to the timing of forestry operations the appellant confirms surveys over 3 consecutive years. Satellite imagery and other evidence indicates some felling operations but not in close proximity to the proposed turbines and all outwith the guidance distances. Forestry Commission Scotland Guidance Note 23 is referenced in this respect.

61. Drawing on the findings of the EIAR, the appellants submissions, the consultation response from NatureScot and the subsequent response from RSPB I find no significant residual effects subject to the recommended conditions. In addition I find nothing sufficient to suggest that that the survey findings or methodology were inappropriately applied or flawed.

Transport Impacts

62. Transport Scotland does not object subject to conditions to secure information regarding abnormal loads including route and accommodation measures along the trunk road network. Information is to be provided regarding construction traffic and traffic management including construction materials, additional signage and temporary control measures in relation to the trunk road network

63. The proposed access would be from the A837 turning south at Oykel Bridge onto Oykel Bridge Road (U3581) before following the private road across Einig Bridge. I understand a section of A837 road between Ledmore junction to Oykel Bridge is in parts constructed as a floating road and that a structural survey of this is required to ensure that the road can accommodate the transportation of the wind turbine components with reinforcements where necessary. Other construction traffic will travel via the wider road

network. A construction and Traffic Management Plan (CTMP) is proposed to be secured through condition.

64. Both Trunk Road Authority and the Council Transport Planning Team has confirmed that development traffic can be accommodated on the road network, subject to conditions and a requirement for a legal agreement to address “wear and tear” provisions. I also note the provision for involvement of a community liaison group prior to and during the construction phase. I have considered and understand community concerns in relation to the traffic and transport implications of the scheme but subject to the mitigation described I am satisfied that significant residual effects would be avoided.

Benefits of the Proposed Development

65. The proposal would have an installed generating capacity of up to 40MW with generation of around 94 GWh of renewable electricity per year. I agree this would make an important contribution towards the Scottish Government’s ambitious renewable energy targets and help to reduce Scotland’s reliance on imported fossil fuels. Representations indicate this estimated output may prove ambitious but I have no evidence sufficient to demonstrate that would be the case.

66. The appellant references other net economic benefits comprising a contribution of approximately £25.9 million to the Scottish economy during the construction phase, of which approximately £10.2 million will be contributed to the Highland economy, and an annual contribution of approximately £1.6 million to the Scottish economy during the operational phase.

67. In terms of employment the proposal is estimated to create 230 man year equivalent jobs in Scotland during development and construction, including 158 man year equivalent jobs in Highland. In the operational phase it would support 33 man year equivalent jobs in Scotland including 17 in Highland.

68. There are other benefits as described above in the proposed restoration of blanket bog and wet heath peatland habitat and through recreational use of the proposed development’s access track’s which start close to Oykel Bridge. Representations point to economic disbenefits in terms of the scenic value of the area as a fishing and tourist destination. However, I am not presented with any evidence in this case that shows that such interests could not co-exist with a windfarm in this location or that a further addition to turbine visibility in the locality would have any significant impact on visitor numbers.

Other impacts and matters raised in representation.

69. The EIAR assesses the site selection and design process and a detailed assessment of matters falling under the headings noise, shadow flicker, ecology, ornithology, communications, infrastructure and electromagnetic interference, hydrology, geology and hydrogeology, cultural heritage and socio economic. I consider some of these related matters above but note that the council has not founded its refusal on these and there are no outstanding concerns on the part of key agencies, subject to the imposition of appropriate conditions. The EIAR does not identify any other residual significant environmental effects in addition to those relating to landscape and visual impact.

70. Representations raise concern about noise impacts but present no detailed evidence and I rely on the conclusions of the EIAR that significant or unacceptable effects would be avoided in accordance with best practice guidance. I also address this issue below in the

context of the proposed conditions. Given the distance of the proposed turbines from residential property I consider that shadow flicker and any consequent effects on health would be avoided. This is reflected in the agreement between the council and appellant to delete a condition relating to shadow flicker given there are no houses within 11 rotor diameters of the proposed turbines.

71. Representation is received in relation to impacts on aviation defence but I have no evidence that would substantiate any concern particularly as the Ministry of Defence confirms, in its letter of 25 May 2021, it has no objection subject to notification for the purposes of aviation lighting, charting and safety. Consultation responses also confirm there is no objection from the industry body in relation to its safeguarding criteria (response from NATS Safeguarding dated 14 May 2021).

Development Plan Conclusions

72. Drawing together all of the above I consider significant support for the proposal is drawn from National Planning Framework 4. This is the most recently adopted part of the development plan. I have set out the climate, energy and other benefits of the proposal in paragraphs 65-68 above. These benefits are of particular relevance in drawing support from Policy one. This gives significant weight to the global climate crisis. I appreciate that the proposal falls below the threshold definition for national development under the heading Strategic Renewable Electricity Generation and Transmission Infrastructure. Community submissions question any evidence of beneficial climate effects. However that view runs contrary to recently adopted national policy. The intent of Policy one is to encourage, promote and facilitate development that addresses the global climate crisis. I find this proposal would contribute to that objective.

73. Policy 11 of NPF4 is the topic specific policy. In principle it is supportive of a windfarm in this location given it is not within a National Park or National Scenic Area. I have described above the positive energy generation and economic benefits. My assessment through paragraphs 52-56 demonstrates consistency with Policy 4b) in relation to the Special Area of Conservation.

74. The identified significant residual landscape and visual impacts are localised and contained. I am satisfied the design of the project and the mitigation as described above seeks to address, as far as possible, the impacts of a windfarm proposal in this location. Impact on communities is an important consideration and I have described above the significant visual effects that would be experienced particularly in and around Rosehall and Altass. However based on my assessment above I consider that these impacts fall within the parameters of Part e) section ii) of Policy 11. This states that such impacts are to be expected for some forms of renewable energy and that where impacts are localised and/or appropriate design mitigation has been applied they will generally be considered acceptable. In the context of Policies 1 and 11 of NPF4 I do not consider the extent, scale and nature of the identified impacts, as summarised in paragraphs 31-37 above, weigh as heavily in the planning balance as the identified benefits.

75. This conclusion also reflects the concluding section of Policy 11 that states in considering these impacts significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission targets. My assessment above demonstrates the avoidance of significant effects in relation to the other matters listed in parts iii to xii of Policy 11. In relation to part xiii there are significant cumulative landscape and visual effects as explained above. However based on my

assessment and when set in the context of the overall policy I do not consider the scale and nature of these cumulative effects outweighs the benefits of the proposal.

76. I must also consider the relevant terms of the local development plan. In that context I have considered the terms of topic specific policy 67. It cross references the Highland Renewable Energy Strategy to be replaced by Onshore Wind Supplementary Guidance and Planning Guidelines. I find some inconsistency overall between the local development plan approach and the relevant balance of considerations now applied through NPF4.

77. The later adopted document places emphasis on the significant weight to be placed on the contribution to renewable energy targets. It also states that landscape and visual impacts of a localised scale will generally be acceptable subject to appropriate design mitigation. The Act advises that in the event of any incompatibility between a provision of National Planning Policy Framework 4 and a provision of an LDP the later in date is to prevail. In that context I rely on my conclusions above in relation to the topic specific National Planning Framework 4 Policy 11.

78. National Planning Policy 3(b) is also engaged and I understand work is underway to produce a Scottish biodiversity metric and to finalise the Scottish Biodiversity Strategy. The appellant's submissions state that Meall Buidhe is a transitional project which should not be immediately required to comply with the entirety of the Policy 3 advice. I am directed to the Chief Planner's letter of 8 February 2023 advising on transitional arrangements for NPF4. This letter specifically refers to Policy 3 and accepts that further guidance is awaited. However, I consider this remains an applicable development plan policy and there is nothing in the Chief Planners letter or elsewhere that advises me it should be set aside in the meantime.

79. In the absence of detailed guidance on implementation of this policy I accept that any numerical assessment or measure of biodiversity net gain presents some difficulty. I am referred in submissions from the community to an approach whereby a ten percent improvement on the baseline should be secured through a legal agreement. I accept that the application of this policy may evolve and it may be that future guidance will support a more ambitious response. However I find insufficient basis to support this approach at this time and note it is not the approach supported by the council in this case. I also find the council's proposed approach to address this matter by condition lacks precision or surety as to what would be required. Consequently I find no clear basis to adopt these approaches.

80. Nevertheless, in the absence of more definitive guidance or evidence I consider the approach in this case shows the mitigation hierarchy has been addressed in terms of planning and design. That design is based on the evidence presented on the nature of the site and its ecological context. In addition the draft habitat management plan as described in paragraphs 47-49 above, to be refined by condition, details compensatory provision along with arrangements for management, monitoring and long term retention. In that context I conclude that the proposal generally accords with this policy and its stated objectives. Related nature conservation and biodiversity policies are set out in Section 21.3 of the Highland Wide Local Development Plan including in relation to protected species. Drawing on my conclusions above I find no conflict with these policies.

81. Framework Policy 4(g) is relevant in this case and I have concluded at paragraph 30 above that there would be no significant impacts on the overall qualities of Wild Land Area 29. In any event this policy clarifies that effects on development outwith wild land areas will not be a significant consideration. That clarification of policy context in relation to wild land led to the removal of NatureScot's related objection. My conclusion is that consistency with

Policy 4g) is demonstrated. Wild Land is referenced in local development plan Policy 57 on Natural Heritage but this does not contain the same clarification as Policy 4(g). Consequently I rely on the terms of Framework Policy 4.

82. Framework Policy 5: Soils applies in relation to peat and peatland habitat. Similar considerations are applied in Policy 55 of the Highland Wide Local Development Plan. However this is the older expression of development plan policy and unlike Policy 5 it does not specifically reference the location of energy generation proposals nor does it reflect part d) of that policy. Consequently I have applied the more recent statement of development plan policy.

83. My conclusions above indicate how the mitigation hierarchy has been applied in terms of deep peat avoidance and avoidance of the more sensitive areas of habitat. A draft peatland management plan has been prepared and the draft habitat management plan also provides relevant detail. During the course of the appeal the appellant provided details of its summary input to the carbon calculator and no party raised any detailed evidence to the contrary. Drawing on my conclusions in paragraphs 45-51 I find that compliance with Policy 5 is demonstrated subject to the necessary mitigation.

84. The council also refers me to local development plan policies on trees, the principle of Development in Woodland, flood and waste Water Treatment; Surface Water Drainage, Public Access and Travel. Some if not most of these have similar albeit not necessarily identical provisions as contained in National Planning Framework 4. On those matters my conclusions above are that significant effects are avoided or mitigated. I find no other policy conflict and note that the council's reasons for refusal relied only on Policies 67 Renewable Energy, Policy 61 Landscape and Policy 57 Natural, Built and Cultural Heritage and only in the context of adverse impacts on wild land and on significantly detrimental visual impacts.

Highland Council Supplementary Planning Policy Guidance

85. This is also part of the development plan. However much of this is focussed on the principles set out in Policy 67 and setting out a Spatial Framework, in line with Table 1 of the previous Scottish Planning Policy. The National Planning Framework 4 approach no longer includes spatial frameworks and some of the previous criteria as stated in Scottish Planning Policy have been updated. Consequently as I find incompatibility between the local development plan and the framework I rely on the framework as the later expression of development plan policy.

Overall conclusion on consistency with the development plan.

86. My reasoning above leads me to the conclusion that the proposal would achieve overall compliance with the relevant terms of the development plan.

Onshore Wind Policy Statement

87. I consider this generally reflects the terms of NPF4. It also provides some further supporting detail on increasing the installed capacity of onshore wind in Scotland by a minimum amount equivalent to about 130% of the entire installed capacity of all current operational wind farms in Scotland in the period of around eight years. This is clearly a challenging target and there is an acceptance in the policy statement of the consequent change in the landscape. I find this further supports my conclusion above in terms of consistency with the relevant provisions of NPF4. This policy statement does not form part of the development plan but is a material consideration in this case.

Other relevant energy policy

88. I am also referred to other national policy statements and to the decisions of other reporters in rehearsing these and the weight to be attached to the benefits of the proposal. However I consider those considerations are reflected above and that in light of the recent expression of national policy, through NPF4, I need not rehearse these matters further. I consider the National Policy Framework when read with the Onshore Wind Policy Statement adequately reflects the balance of considerations and the emphasis to be placed on meeting renewable targets and addressing the climate crisis.

Conditions

89. Exchanges during the course of this appeal confirm that most although not all of the proposed conditions are agreed between the council and the appellant.

90. The inclusion of a condition on the appointment of a planning monitoring officer was not agreed nor the wording “no less than” in terms of the area for peatland and blanket bog in condition 16 in the context of the habitat management plan. The appellant requests deletion of proposed conditions on Ornithological monitoring and biodiversity as these are considered vague and unnecessary. Submissions on behalf of the local community group No Ring of Steel raise concerns around a number of the proposed conditions.

91. On condition 3 a bond or other means of securing financial guarantee for the proposed restoration reflects current practice and I note the council raises no concerns in this respect. Condition 4 requires prior approval by the planning authority and my conclusions above do not support the assertion that the residual effect on roads would be significant. Whilst the reference to relevant sections may, on face value, appear vague it would appear disproportionate to require survey of the whole road. The provision for the prior approval of a detailed scheme enables the council to specify the relevant sections as part of that due process. A similar conclusion applies in relation to Condition 13 on the traffic management plan.

92. A matter is raised regarding the effectiveness of the Ecological Clerk of Works and the council’s enforcement process once a breach of condition has been identified. The appointment of an Ecological Clerk of Works is included in the draft conditions which were substantially agreed by the appellant and the council during the course of this appeal process. The clerk of works would monitor hydrological and ecological commitments and would retain the power to “stop the job”. The reason for this condition (condition 11) is to secure the effective monitoring of and compliance with the environmental mitigation and management measures associated with the proposal.

93. I am not persuaded in this case that a further appointment of a planning monitoring officer to ensure compliance with the conditions attached to this consent would be justified or reasonable. I note the concerns raised in representation about potential non-compliance with conditions in other schemes. However enforcement is a statutory function of the planning authority and not one to be addressed within this particular appeal. As I do not consider it is reasonable to require the appointment of a Planning Monitoring Officer, as requested by the council in this instance, I have not included this as a condition to this permission.

94. On the issues of the clerk of works to be appointed I find no clear reason to stipulate that appointment would exclude anyone with previous experience of the project. The

condition requires compliance with the terms of the Construction Environmental Management Document. Any failure to do so would become a matter to be addressed through the council's statutory function.

95. Representation question the effectiveness of sanctions should the controls fail to prevent environmental damage. However I consider the stop the job provisions should be read with those in condition 11 which sets out the role of the clerk of works in this respect. Ultimately the operator would be in breach of condition if it failed to proceed in accordance with the Construction Environmental Management Document.

96. I have considered whether a Section 75 agreement is necessary for deer management purposes. However I understand that Croick Estate is a member of the North Ross Deer Management Group, who along with other members collaboratively manage the wild deer populations in the surrounding area. The management measures introduced across the site are as set out in Condition 16 on the habitat management plan. This would apply and be factored into the Group's Deer Management Plan. I consider that condition 17 on deer management can be appropriately applied in this context without the need for a legal agreement.

97. Condition 26 is concerned with Water Quality and Fish Monitoring with provision for mitigation. Condition 31 whilst specifically directed to fresh water pearl mussel also includes relevant provisions in terms of a pollution prevention plan. The condition need not indicate all who may be consulted and the council is ultimately the planning and enforcement authority. I recognise the role of the local fisheries board but do not consider they need be specifically referenced in this condition.

98. On the issue of noise I am satisfied that proposed Condition 28 contains the necessary process for operational noise compliance assessment. It identified, in accordance with current practice, whether the proposed development's contribution to cumulative noise levels is within the acceptable limits outlined in Table 1. I agree with the appellant and council that Table 1 is not a reflection of properties assessed to be at risk of unacceptable cumulative noise effects but rather the closest properties surrounding the proposed development. There is nothing in the submissions to indicate the predicted operational noise levels of the proposed development are below the lower fixed limits recommended by ETSU-R97 at all of these receptor locations. Noise is not identified as a significant effect so this is a precautionary provision rather than one designed to deal with an identified significant effect.

99. In relation to the habitat management plan (condition 16) I consider the wording "no less than" is supported by the terms of the NatureScot response and the objective of the condition is supported by NPF4 Policy 3 on biodiversity. This reflects my conclusions above.

100. I consider a specific condition on Ornithology need not be included given the terms of the construction environmental management document and the habitat management plan. The proposed condition is a monitoring condition and is at least partly covered by these other conditions albeit not specifically in relation to flight paths. However the council has not explained why this would be necessary other than by reference to RSPB concerns. That organisation does not reference or indicate the importance of such a condition. In that context I am not persuaded it is necessary and have deleted it from the conditions below.

101. In relation to the proposed condition on Biodiversity (previously referenced by the council as condition 30) I appreciate this seeks to directly address the terms of National

Planning Policy. However I consider the matter of the application of Policy 4 above. My conclusion is that the condition as drafted would not be clear as to how compliance would be demonstrated, monitored or enforced. Consequently I have not included it as I find its terms imprecise. Nevertheless I consider the intent of the condition is otherwise addressed through the terms of Condition 16 which requires compliance with a habitat management plan to include enhancement of peatland and blanket bog of no less than 111 hectares. Given the particular terms of NPF4 policy provision I consider the council's request for the condition to state "no less than" is justified.

102. A condition is proposed to control the turbine height, location and design. This is to ensure that only the turbines as approved and assessed through the EIAR are used in the development and are acceptable in terms of visual, landscape, noise and environmental impact considerations. I have made some minor changes to the condition as proposed to further clarify these details including in relation to Turbine 9.

103. These conclusions are reflected in my conditions below with consequent renumbering and some minor rewording to improve consistency and secure implementation.

Monitoring

104. A number of the suggested conditions provide for monitoring measures where appropriate. The Ecological Clerk of Works would have responsibility for monitoring ecological mitigation measures relating to the proposed development and there is provision for further survey work and subsequent monitoring within the Draft Habitat Management Plan. Conditions 13,16,17,19,25 and 26 also require the incorporation of monitoring measures. There is no evidence to suggest that any other monitoring measures are required.

Overall conclusion

105. I am satisfied that my reasoned conclusions on the significant effects of the proposed development are up to date. I find that significant effects are limited to the landscape and visual impacts described above. Following my consideration of the environmental information, I have identified no additional significant effects. I conclude that, subject to mitigation controlled by means of the conditions attached to this notice, there would be no unacceptable residual impacts in regard to those matters.

106. For the reasons set out above I conclude that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

107. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Allison Coard

Reporter

Schedule 1: Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permission limiting its duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

2. The Planning Permission is granted for a period of 28 years from the date of Final Commissioning, comprising an operational period of up to 25 years from the date of Final Commissioning and a period of up to 3 years for decommissioning and site restoration to be completed in accordance with a scheme to be approved under Condition 25 of this permission. Written confirmation of the Date of Final Commissioning must be provided to the planning authority no later than one calendar 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

3. There shall be no Commencement of Development until:

i. 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 approved under Condition 25 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; 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 guarantee, 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 financial provision is satisfactory has been issued by, the planning authority.

Thereafter, the Operator, and Leaseholder and/or Landowner, shall:

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

ii. Pay for the guarantee, 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 their reasonable satisfaction.

Where a review approved under part (c) above recommends that the amount of the guarantee, 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 Operator, and Leaseholder and/or Landowner 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

4. No development shall commence on site until a detailed scheme for the following mitigation (including scale plans as necessary), inclusive of timescales for delivery has been submitted to, and approved in writing by, the Planning Authority:

i. A visual and structural condition survey of relevant sections of the A836, A837, A839 and A949 and Oykel Bridge Bridge shall be undertaken to establish a baseline for any widening and strengthening of the local road network and additional passing places required to facilitate the wind farm. Any widening or strengthening of the local road network shall be to a minimum width of 3.5 metres, a full width surface course overlay (with regulating to achieve appropriate camber and crossfall) to enhance structural integrity and provision. The scheme for widening and strengthening shall be based on current topographical surveys and shall include any necessary road drainage to allow the safe transport of the wind farm components. For the avoidance of doubt unless a greater width is required and agreed such as at passing places, junctions or for curve widening the width of permanent surfacing provided for the single track carriageway sections of the local road network shall be 3.5 metres. For two lane sections the width shall be a minimum of 6 metres. Any additional running width for the abnormal load movements shall be provided by strengthening of the verges and provision of a temporary running course. Within three months of completion of the abnormal load movements for the development the verges shall be reinstated

ii. Widening works at junctions on the abnormal load route to remove horizontal and vertical constraints on the network for the delivery of turbine components and abnormal loads. The widening works at junctions shall be based on current topographical surveys and shall include any necessary road drainage to allow the safe transport of the wind farm components. Provision of an engineering assessment of the carriageway strength of the proposed HGV construction traffic routes and their suitability to support the significant increase in loading for all the proposed HGV construction traffic routes where the increase in HGV usage above existing HGV flows is greater than 10%. A scheme to provide suitable full width strengthening and any necessary re-shaping of the carriageway based on any shortfall identified in the agreed assessment;

iii. Stage 2 Road Users Safety Audit (RUSA) undertaken; and

iv. Details of Provision of road markings and signage to accompany the proposed works.

Thereafter the upgrades and other work approved under parts i-iii above shall be completed to the satisfaction of the Planning Authority before commencement of construction, or as otherwise agreed in writing with the Planning Authority.

Reason: To increase the structural integrity of the road to ensure that it is adequate to serve this development and to address the cumulative change in character of the existing road network as a result of this development and in the interests of road safety

5. No development or works shall commence until the detailed design of the access junction, visibility splays, road markings and its associated infrastructure and signage has been submitted to and approved in writing by the Planning Authority.

Reason: In the interests of safe access and egress from the site.

6. Location, design and operation of turbines

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

- i. The make, model, design, power rating and sound power levels of the turbines to be used;
- 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;
- iii. The maximum height of the turbine from base to tip not exceeding 149.9 metres;
- iv. The maximum blade diameter on each turbine no greater than 115 metres;
- v. A maximum tower height of 92 metres on all turbines, with the exception of the Turbine shown in Figure S15.1a and referenced in the EIA supplementary report Volume 1 Chapter 5 at Table 5.1 as Turbine 9 (easting 246768 and northing 894408) which shall have a maximum tower height of 87 metres and overall height of 144.51 metres.
- vi. The turbines must 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.

7. Advertisement on Infrastructure

None of the wind turbines, anemometers, 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: In the interests of the visual amenity of the area and compliance with Town and Country Planning (control of advertisements) (Scotland) regulations 1984.

8. Design of 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.

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

9. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure SI5.1B. The 8 wind turbines as shown on the approved plan, the areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and NatureScot) micro-siting is subject to the following restrictions:

- a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure SI5.1B;
- 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 or be located within areas of peat of greater depth than the original location;
- d. Micro-siting shall take place to avoid sensitive peatland habitat;
- e. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- f. No wind turbine or associated infrastructure will be micro-sited to areas with peat depths greater than 1 metre;
- g. No element of the proposed development should be located closer than 50 metres to the top of the bank of any watercourse; and
- h. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

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, 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 while taking account of local ground conditions.

10. Blasting

Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the planning authority.

Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity and in accordance with best current practice.

11. Ecological Clerk of Works

There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company 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 statement and other information lodged in support of the application, the Construction and Environmental Management Document approved in accordance with Condition 12 and the Habitat Management Plan approved in accordance with condition 16;
- b. Require the EcoW to report to the Company'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;
- 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 Company'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 throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved.

No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company 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

12. Construction Environmental Management Document

No development shall commence until a finalised Construction Environmental Management Document is submitted to and agreed in writing by the Planning Authority in consultation with SEPA and other appropriate consultees as appropriate. The document shall include provision for:

- a. An updated construction stage Schedule of Mitigation (SM);
- b. Processes to control / action changes from the agreed Schedule of Mitigation; and
- 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;
- vi. details of watercourse crossings designed to 1 in 200 year flood risk event plus 20% for climate change;
- vii. 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;
- viii. 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 NatureScot. This should also highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage;
- ix. Water Quality Management Plan - highlighting drainage provisions including monitoring / maintenance regimes, water crossings, surface water drainage management (SUDs) and development and storage of material buffers (50m minimum) from water features, unless otherwise agreed in writing by the planning authority in consultation with SEPA and The Highland Council's Flood Risk Management Team;
- x. Public and Private Water Supply Protection Measures Plan;
- xi. Pollution Prevention Plan;
- xii. Site Waste Management Plan;
- xiii. Construction Noise Mitigation Plan; and
- xiv. Species Protection Plan(s): - including badger, pine marten, bat, otter, water vole and reptile.

The pre-construction survey for legally protected species is carried out at an appropriate time of year for the species, at a maximum of 12 months preceding commencement of construction, and that a watching brief is then 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 including black grouse, bat, badger, electrofishing surveys, otter, reptiles and water vole for example.

Provision of a communication plan to ensure all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection;

The notification arrangements and a stop the job commitment including the requirements:

Should an otter holt, or badger sett be found during construction where all works within 250 metres of the holt or sett shall stop immediately and the NatureScot Golspie office be notified and asked for advice.

Should any water vole activity be found during construction where 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 NatureScot Golspie office be notified and asked for advice.

- xv. 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, access tracks, 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;

xvi. A Construction Method Statement for the approval of the Planning Authority in consultation with NatureScot and SEPA incorporating the mitigation measures set out in the Peat Landslide Hazard and Risk Assessment; and

xvii. A Construction Environment Management Plan incorporating appropriate mitigation for the Ground Water Dependent Terrestrial Ecosystems as outlined in the EIAR Chapter 7 and Chapter 15.

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.

13. Traffic Management Plan

No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the Planning Authority in consultation with the relevant Roads Authority(s) and Transport Scotland. The CTMP, which shall be implemented as approved during all period of construction and decommissioning, must include:

- i. A schedule of structures on the local road network which form part of the HGV construction traffic routes and the abnormal load traffic routes which require structural assessment to be carried out;
- ii. A load assessment of the relevant A837, A836, A839 and A949 structures, which shall include an assessment of any and all loads which will be transported (inclusive of construction vehicles, plant and machinery) which may be used in the construction of the development;
- iii. 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;
- iv. A scheme of mitigation to safeguard the safety and the condition of the structures during the period of construction traffic has been submitted to and agreed in writing by the Planning Authority. The scheme of mitigation shall be informed by the load assessment and it shall include a pre-start inspection; arrangements for undertaking regular inspection of the structures; arrangements for reporting any deterioration and for carrying out maintenance due to the extraordinary level of traffic; consideration of Traffic Management measures for Heavy Goods Vehicles during construction of the development; and details of any necessary works to the bridge and the road over the bridge and the immediate approach to the bridge in order to facilitate the safe passage of the proposed construction traffic;
- v. The identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities, including:

- a. A detailed review of the routes to site for general construction traffic;
- b. A review of the access route from final Port of Entry at either Lochinver or Invergordon;

- c. 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;
- d. 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;
- e. 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;
- f. 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.
- vi. A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- vii. 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;
- viii. A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods;
- ix. 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;
- x. A detailed delivery programme for abnormal load movements, which shall be made available to Highland Council and community representatives;
- xi. 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;
- xii. 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 Highland Council, as roads authority;
- xiii. Wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road;
- xiv. Appropriate reinstatement works shall be carried out, as required by Highland Council, at the end of the turbine delivery and erection period;
- xv. Measures to ensure that construction traffic adheres to agreed routes;
- xvi. 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 Roads Authority(s). 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.

Thereafter the approved scheme of mitigation shall be implemented to the satisfaction of the Planning Authority.

Reason: To maintain safety for road traffic and ensure the structural integrity of the structures on the road is adequate to serve this development and to address the cumulative change in character of the existing road network as a result of this development and in the interests of road safety.

14. Community Liaison Group

No development shall commence until a community liaison group is established by the developer, in collaboration with The Highland Council and affected local Community Councils. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components. This should also ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the wind farm construction has been completed and is fully operational.

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.

15. 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 should ensure that public access is retained in the vicinity of Meall Buidhe Wind Farm 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.

16. Habitat Management Plan

There shall be no Commencement of Development unless a habitat management plan has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The habitat management plan be based on the principles of the outline Habitat Management Plan (December 2021) shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, restoration and aftercare of the site, and shall provide for the maintenance, monitoring and reporting of habitat management across the wind farm site. Specifically this shall include details of enhancement to peatland and blanket bog across the application site for an area of no less than 111 hectares.

The approved habitat management plan will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan will be updated

to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with NatureScot and SEPA.

Unless otherwise agreed in advance in writing with the Planning Authority, the approved habitat management plan shall be implemented in full.

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

17. Deer Management Statement

No development shall commence until a deer management statement has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The deer management statement shall set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of Development until the date of completion of restoration.

The approved deer management statement shall thereafter be implemented in full.

Reason: In the interests of good land management and the management of deer.

18. Trees

No trees within the application site, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, during construction.

19. Peat Landslide Management

No development shall commence until a detailed peat landslide risk assessment, addressing the construction phase of the development and post- construction monitoring, has been approved in writing by the Planning Authority.

The peat landslide risk assessment shall comply with best practice contained in "Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments" published by the Scottish Government in January 2007, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval. The peat landslide risk assessment shall include a scaled plan and details of any mitigation measures to be put in place.

The terms of the approved peat landslide risk assessment including in relation to any mitigation and monitoring to be put in place shall thereafter be implemented in full.

Prior to Commencement of Development, the Company shall appoint and pay for an independent and suitably qualified geotechnical engineer approved by the Planning Authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority.

The Company shall undertake continuous monitoring of ground conditions during the construction and deforestation phases of the Development. Continuous analysis and call

out services shall be provided by the geotechnical engineer throughout the construction phase of the Development. If a risk of peat failure is identified, the Company shall install such geotechnical instrumentation to monitor ground conditions as is recommended by the geotechnical engineer and shall monitor ground conditions. Any remediation work considered necessary by the geotechnical engineer shall be implemented by the Company to the satisfaction of the geotechnical engineer. Monitoring results shall be fed into risk analysis reports to be submitted to the planning authority on a quarterly basis during the construction and deforestation phases of the Development.

Reason: To minimise the risk of peat failure arising from the Development.

20. Television Reception

There shall be no Commencement of Development unless a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority.

The Television Reception Mitigation Plan shall provide for a baseline television 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. For the avoidance of doubt the scheme shall include, but not be limited to:

- Details of publication and publicity for the scheme;
- Timescale for investigation of any claims within a reasonable timescale;
- details for reporting mechanism to the planning authority the number of complaints / claims;
- details of the length of the operation of the mitigation scheme. This shall be no less than 18 months of the first export of electricity from the site; and
- details of the bond to be placed with the planning authority to ensure funds are available to deliver the mitigation plan.

The approved Television 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 Company and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the Development, the Company 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.

21. Private Water Supplies

(1) No development shall commence unless and until a private water supplies method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development.

(2) The method statement shall include water quality sampling methods and shall specify abstraction points.

(3) The approved method statement shall thereafter be implemented in full.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the development.

22. Redundant turbines

The Wind Farm Operator shall, at all times after the First Export Date, 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, 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 removed from the site and the surrounding land 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 they consider appropriate.

Paragraph (i) and (ii) shall not apply if such outages are out with the operator's control or as a consequence of any emergency or requirement of National Grid. In these instances the planning authority shall be informed of the turbine shutdowns, reasons for the turbine shut downs and timescales for the outages within 5 working days of the turbines being switched off.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved 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.

23. Aviation Safety

No development shall commence until the Company has provided the Planning Authority, 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

24. Aviation Lighting

No development shall commence until the Company has submitted a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. 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.

25. Site Decommissioning, Restoration and Aftercare

No development or works (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. Thereafter:

i. not later than 3 years prior to the decommissioning of the Development, the IDRP shall be reviewed by the Developer, 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, in consultation with NatureScot and SEPA; 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, in consultation with NatureScot and SEPA. 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 time of decommissioning details about 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 Highland Council 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.

26. Water Quality and Fish Population Monitoring

No Development shall commence until an integrated hydro-chemical and macro-invertebrate scheme for water quality monitoring and monitoring fish populations has been submitted to and approved in writing by the planning authority.

This shall include, but not necessarily be limited to:

- i. Frequency of monitoring, not less than once a month;
- ii. Reporting mechanism to the Planning Authority, Marine Scotland and SEPA being not less than quarterly;
- iii. Proposed method for agreeing mitigation required.

Thereafter, any mitigation identified shall be implemented.

Reason: In the interests of water quality management and protection and enhancement of the water environment.

27. Sustainable Drainage Systems

No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Third Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

28. Noise

The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the table attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

A) Prior to the First Export Date, the wind farm operator shall submit to the Local 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 Local Authority. No electricity shall be exported until the wind farm operator has submitted 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) Within 21 days from receipt of a written request of the Local 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 Local Authority to assess the

level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Local Authority) in accordance with the procedures described in the attached Guidance Notes.

The written request from the Local Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint to the Local Authority in the format set out in Guidance Note 1(e).

C) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken.

Where the proposed measurement location is close to the wind turbines, rather than at the complainants property (to improve the signal to noise ratio), then the operators submission shall include a method to calculate the noise level from the wind turbines at the complainants property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Local Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits of this condition shall be undertaken at the measurement location approved in writing by the Local Authority.

D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Authority for written approval a proposed assessment protocol setting out the following:

i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.

ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Local Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Authority and the attached Guidance Notes.

E) The wind farm operator shall provide to the Local Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Local Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the

measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Authority with the independent consultant's assessment of the rating level of noise immissions.

F) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (E) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Authority.

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

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

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

The Curtailment Plan shall be implemented in accordance with the approved details.

I) Prior to the First Export Date, the wind farm operator shall submit to the Local Authority for written approval, a scheme of mitigation to be implemented in the event that the rating level, after adjustment for background noise contribution and any tonal penalty, is found to exceed the conditioned limits. The scheme shall define any reduced noise running modes to be used in the mitigation together with sound power levels in these modes and the manner in which the running modes will be defined in the SCADA data.

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

Table 1 — Noise limits expressed in dB LA90,10 minute as a function of the measured wind speed (9 m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Noise Sensitive Receptor	Easting	Northing	Noise Limit (2b above predicted levels)
Lubachoinnich	241486	895472	28.2
The Old Manse	245417	891423	28.3
Croick Church	245677	891465	28.5
Croick House	245906	891408	28.4
Stalkers Cottage	246062	891383	28.4
The Craigs	247590	891091	26.6
Old Free Church	248641	891433	26.0
East Amat	248803	891569	26.0
Sgodachail Cottage	249228	892685	26.8
The Schoolhouse	250387	892685	35.1
Strathkyle Properties	252648	897552	22.7
Badarach Properties	252253	898148	22.9
Old Schoolhouse	251572	898168	24.1
Old Croft / Wester Achnahanat	251194	898207	25.1
Easter Kilmachalmack Properties	251009	898147	25.2
Easter Kilmachalmack Properties 2	250693	898118	25.8
Wester Kilmachalmack	250330	989324	26.3
Birchfield	249365	899123	23.9
Inveroykel Properties	246494	900882	23.8
Tigh A Rhos	245858	900820	24.3
River House	245497	900875	24.3
Oape	245300	900725	24.7
Carn Mholloch	245121	900740	25.3
Easter Oape	244848	900713	24.7
Upper Doune/Doune Properties	244374	900750	24.5
Brae	243607	900997	23.4
Lower Brae	243686	901025	23.4
Langwell Baeg	243453	900703	24.0
Langwell Lodge Properties	241644	901009	21.4
Oykel Terrace 1-6	238903	900372	18.5
Amat Cottage	239053	900065	19.1
Keepers Cottage	239071	900000	19.2

Guidance Notes for Noise Condition

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

Note 1

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

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

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

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine, arithmetic mean power generated by each turbine and any data necessary to define the running mode as set out in the Curtailment Plan, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. Each 10 minute arithmetic average mean wind speed data as measured at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSUR-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

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

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

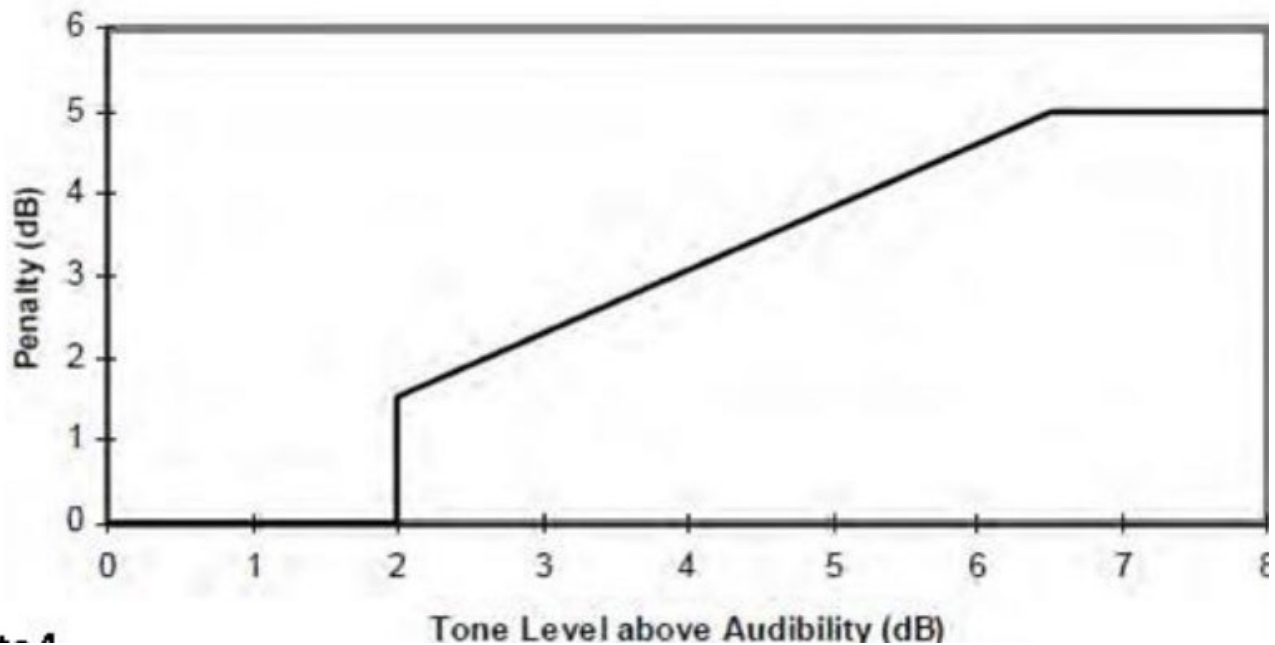
location of the data logging rain gauge to the Local Authority prior to the commencement of measurements.

Note 2

- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Authority but excluding any periods of rainfall measured in accordance with Note 1(f).
- (c) Values of the LA90,10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2- minutes of each 10- minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- (c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

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

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

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

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

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

$$L = 10 \log [10^{L2/10} - 10^{L3/10}]$$

iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty lies at or below the noise limits approved by the Local Authority then no further

action is necessary. If the rating level at any integer wind speed exceeds the noise limits approved by the Local Authority then the development fails to comply with the conditions.

Reason: In the interest of amenity.

29. Archaeology

(1) No development shall commence unless and until a programme of archaeological works to be carried out during construction of the Development has been submitted to, and approved in writing by, the Planning Authority.

(2) The programme of archaeological works shall 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 protected or preserved.

(3) The approved programme of archaeological works (as amended from time to time with written approval of the Planning Authority) shall be implemented in full.

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

30. Compensatory Woodland Planting Scheme

(1) No development shall commence unless and until a woodland planting scheme to compensate for the removal of 0.56 hectares of existing woodland ("the Replanting Scheme") has been submitted for the written approval of the Planning Authority in consultation with Scottish Forestry.

(2) The Replanting Scheme shall include: (a) details of the location of the area to be planted;
(b) the nature, design and specification of the proposed woodland to be planted;
(c) the phasing and associated timescales for implementing the Replanting Scheme;
(d) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme; and
(e) details demonstrating compliance with The UK Forestry Standard and the Scottish Government's Policy on Control of Woodland Removal (as amended or replaced from time to time).

(3) The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the Planning Authority in consultation with Scottish Forestry.

Reason: To secure replanting to mitigate against effects of deforestation arising from the Development

31. Freshwater Pearl Mussel

(1) No development shall commence unless and until a pollution prevention plan and species protection plan for freshwater pearl mussel in accordance with the recommendations of Technical Appendix 10.6: Freshwater Pearl Mussel (FWPM) Survey Report has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. Thereafter the Pollution Prevention Plan and Species Protections Plan shall be implemented.

(2) No development, construction or works in relation to decommissioning shall commence unless and until a pollution prevention plan and species protection plan for freshwater pearl mussel in accordance with the recommendations of Technical Appendix 10.6: Freshwater Pearl Mussel (FWPM) Survey Report has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. Thereafter the Pollution Prevention Plan and Species Protections Plan shall be implemented.

Reason: To avoid an adverse impact on the integrity of the River Oykel Special Area of Conservation

32. Schedule of Mitigation

No development shall commence unless and until as Schedule of Mitigation has been submitted to and approved in writing by the Planning Authority. The Schedule of Mitigation shall include:

- i. all mitigation identified in the Environmental Impact Assessment, Supplementary Environmental Information and the conditions of this planning permission;
- ii. a breakdown of timescales for implementation of each element of mitigation identified. This shall detail mitigation for the following stages of the development:
 - a) Pre-commencement;
 - b) Construction;
 - c) Operation;
 - d) Decommissioning; and
 - e) Site restoration and aftercare.

Thereafter the mitigation set out in the Schedule of Mitigation shall be implemented in full to the satisfaction of the Planning Authority.

Reason: to ensure the timeous delivery of all mitigation outlined in support of the application and in the interests of environmental protection.

Schedule 2: Advisory notes

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

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

Reason: To accord with section 27B(2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006.]

3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that

notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).

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

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

Schedule 3: Application drawings

EIA Report June 2020 and Supplementary Information April 2021

Plan 1 Location Plan Figure S15.1A

Plan 2 Site Layout Plan Figure S15.1B

Schedule 4: Consultation responses and opportunities for public participation in decision-making

Responses were received from NatureScot; Scottish Environment Protection Agency; Historic Environment Scotland; Transport Scotland; Ministry of Defence; Scottish Water; Kyle and Sutherland District Salmon Board; Ardgay Community Council; Creich Community Council; Scottish Water; Mountaineering Scotland and the RSPB.

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

- the appellant has provided a report on pre-application consultation (APP1.09 June 2020)). This indicates that 5 public exhibitions were held, two at Rosehall Village Hall on the 23 November 2017 and 18 September 2018, two at Ardgay Public Hall on 22 November 2017 and 19 September 2018 and one at Lochinver Village Hall on 19 June 2019 where the public had an opportunity to comment to the appellant on the proposed development;
- an advertisement of the application in the Northern Times and Edinburgh Gazette on 21 May 2021 has been provided. There were further adverts in both publications on 4 September 2020 and 10 February 2023 in relation to the Supplementary Information and Additional Information respectively. These advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report;
- the planning authority received 300 public representations in respect of the application. The main points raised in those representations are summarised in this decision notice.
- There were 67 representations to the appeal and 62 following publication of the further environmental information.

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal.

Telephone: 0131 244 6902
E-mail: colin.bell@gov.scot

Ms K Lyons
Highland Council
Sent By E-mail

Our ref: PPA-270-2277
Planning Authority ref: 20/02659/FUL

14 June 2023

Dear Karen Lyons

PLANNING PERMISSION APPEAL: MEALL BUIDHE WIND FARM LAND 4420M NW OF CROICK ESTATE ARDGAY IV27

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

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

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

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

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

Yours sincerely

Colin Bell

COLIN BELL
Case Officer
Planning And Environmental Appeals Division

