Agenda item: 7.1
Report no.: PLN/069/23

Planning and Environmental Appeals Division

Scottish Government
Riaghaltas na h-Alba
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K Lyons
Highland Council
Sent By E-mail

Our ref: PPA-270-2282
Planning Authority ref:22/02442/FUL

11 August 2023

Dear Karen Lyons

PLANNING PERMISSION APPEAL: LAND AT TORR LEATHANN STRATHRORY, ARDROSS ALNESS IV17

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

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

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

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

Yours sincerely

Audrey Devoy

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Appeal Decision Notice – EIA Development

Decision by J Alasdair Edwards, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2282
- Site address: land at Torr Leathann, Strathrory, Ardross, Alness, IV17
- Appeal by Energikontor UK Limited against the decision by Highland Council
- Application for planning permission 22/02442/FUL dated 27 May 2022 refused by notice dated 28 November 2022
- The development proposed: erection and operation of a wind farm for a period of 35 years comprising a total of 7 wind turbines with turbines 1, 2, 3 and 5 having a max blade tip height of 180m, turbine 4 max 160m, and turbines 6 and 7 max 149.9m; battery storage system, access tracks, borrow pit, substation, control building and ancillary infrastructure
- Application drawings: listed in schedule at end of notice
- Dates of unaccompanied site visits by Reporter: 7-10 February 2023 and 4 May 2023

Date of appeal decision: 11 August 2023

Decision

I allow the appeal and grant planning permission subject to the 25 conditions listed in Schedule 1 at the end of the decision notice. Attention is also drawn to the 5 advisory notes in Schedule 2.

Environmental impact assessment

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

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 in May 2022;
- consultation responses including from NatureScot, Historic Environment Scotland, the Scottish Environment Protection Agency, Transport Scotland, the Defence Infrastructure Organisation, and RSPB Scotland
- representations from Ardross Community Council and members of the public.

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. My conclusions on the significant environmental effects of the proposal are set out in my reasoning below.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises National Planning Framework 4 (2023); the adopted Highland-wide Local Development Plan (2012); the Inner Moray Firth Local Development Plan (2015); and relevant statutory supplementary guidance, including that on onshore wind energy (2013). The provisions of the Inner Moray Firth Local Development Plan are only relevant to the extent that the plan identifies the boundaries of special landscape areas. Having regard to the provisions of the development plan the main issues in this appeal are whether the proposed development would have an acceptable landscape and visual impact (including cumulative impact); avoid, or suitably mitigate, any other impacts; and should impacts arise, whether these would be sufficiently outweighed by any benefits of the proposal.

The proposed development

2. The appeal site is located some four kilometres north-east of Ardross and eight kilometres north-west of Alness. The site slightly undulates falling eastwards from Torr Leathann (637m above ordnance datum (AOD)) down towards the B9176 (210m AOD) and is framed in northern and southern views by Druim nam Fiadh (363m AOD) and Cnoc Corr Guinie (396m AOD) located further east. The proposed turbines would be sited on ground between 256m and 294m AOD. The site comprises open moorland which is partly surrounded by coniferous forestry with existing neighbouring wind farms of Beinn Tharsuinn, Beignn nan Orighrean and Coire na Cloiche being located at higher elevation to the north-west.

3. Planning permission for seven wind turbines (149.9 metres in height) with associated infrastructure was granted on the site in January 2022[1]. The revised and now proposed development is described in chapter 3 of the EIA report and subject to micro-siting tolerances of 50 metres. The only substantive change over that previously consented is the proposed height increase of five of the turbines. In summary, the appeal proposal would include:

- Seven turbines (measuring 149.9 to 180 metres high).
- Associated turbine compound areas including foundations and hardstanding areas (7,200 square metres).
- On-site tracks (2.6 kilometres).
- New site access from B9176.
- Four new watercourse crossings.
- On-site substation.
- Underground cables linking the turbines to substation.
- An energy storage compound to store batteries to a 5MW capacity.
- One borrow pit search area for the extraction of stone on-site.
- A temporary construction compound.

4. It is estimated that construction would take 18 months with daily periods of activity being controlled by condition. The operational life would be 35 years. At the end of its life a six month decommissioning stage is anticipated which would involve total removal of all above-ground infrastructure except access tracks retained for estate operations.

[1] Scottish Government DPEA appeal reference PPA-270-2250 dated 7 January 2022.

The principle of development

5. The appeal site is identified in the Highland-wide Local Development Plan in the wider countryside with some features of local/regional importance. Policy 67 (renewable energy developments) is of primary relevance as, subject to consideration of set factors, it provides support where the location, siting and design would not be "significantly detrimental overall". Similarly, National Planning Framework 4 policy 11 (energy) supports wind farms and energy storage (criterion a) where the project design and mitigation demonstrates how impacts are addressed (criterion e).

6. The council's statutory supplementary guidance on onshore wind energy identifies the site within an "area with potential for wind energy development" with pockets of land constrained by peat and carbon rich soils. Furthermore, the 'Black Isle, surrounding hills and Moray Firth landscape sensitivity appraisal' (2017) covering part of the site - but generally applicable to its entirety based on the fact that the site is covered by the same underlying rolling hills and moorland landscape character area - suggests that there may be some limited potential for larger scale development. Therefore, in broad terms, where set factors were addressed or satisfactorily mitigated (including avoidance of constrained land and respect for the immediate and surrounding context), the site could accommodate wind energy development.

7. However, in this case, the appeal site has extant planning permission for seven wind turbines. Consequently, the principle of developing the site for a wind energy proposal is already clearly established. Therefore, while other factors are to be considered, the determinative matter in this case is whether the increase in height would result in any unacceptable impacts, which taken in the balance, would justify dismissal of the appeal proposal.

Landscape effects

8. No landscape designations cover the appeal site and the site is not within an identified wild land area. The EIA report (chapter 6) indicates no indirect significant effects are predicted for any landscape designations within 45 kilometres including three national scenic areas (where the objectives of these designations and overall integrity would not be compromised) and eleven special landscape areas (where the integrity and qualities of these areas would be safeguarded). I agree with these findings which are not disputed by NatureScot or the council.

9. Significant landscape effects would be restricted to the 'host' rounded hills and moorland slopes landscape character type (affecting land within some two kilometres of the turbines). In addition, two small areas to the south-west and south-east of the adjacent forest edge farming landscape character type (within the Ardross landscape character area) are predicted to experience significant effects. These predictions are not disputed by the council. I note the council's concern that forestry felling to the south of the appeal site could extend indirect effects in this landscape. However, those effects would be temporary in the context of a replanting cycle and would not affect all forestry at the same time; effects would also be relatively contained and localised within the valley features to the south.

10. I further agree with (and the council does not dispute) the EIA predictions that there would be significant cumulative landscape effects arising in relation the rounded hills and moorland slopes landscape character type arising as a result of the proposal together with the existing Beinn Tharusuinn, Beinn nan Oighrean and Coire na Cloiche wind farms located some 2.9 to 4.5 kilometres north-west of the appeal site. These effects would be

tempered by the fact that the existing turbines already have a significant effect on the host landscape. I concur with the EIA conclusion that while turbines would be viewed in this landscape the separation between them would mean that a wind farm landscape would not be created.

11. As noted in the EIA, the Novar group of turbines (some 9 to 11 kilometres south-west of the appeal site) currently have a significant effects on the adjoining rounded hills and moorland slopes landscape character type within two kilometres leading to a significant effect overall with the proposal on the host landscape; albeit discrete and contained. Indeed, I agree with the EIA that the Novar group has no direct influence on the landscape within the appeal site. The EIA further notes significant cumulative effects arsing on the rounded mountain mastiff landscape character type (Ben Wyvis landscape character area) but these effects are primarily attributed to the Novar and Novar extension rather than the proposed development. No other cumulative landscape effects are predicted in the EIA and I find no other cumulative landscape effects of significance would occur.

Visual effects

12. As expressed in the EIA report, there would be no significant visual effects arising from new internal access tracks, turning heads, crane hard-standings; the substation building or battery storage areas (designed and coloured to minimise impact on the moorland); electrical cabling (underground); the temporary construction compound; or the on-site borrow pit (which would be restored if required). Unmitigated temporary lighting during construction and decommissioning would result in significant effects from light sources up to two kilometres from the site but these effects would cease upon completion of works. I endorse these findings and note that they are not disputed by parties.

13. Once operational, there is no dispute between parties (and I agree) that there would be significant individual and cumulative effects from Strathrory Bridge (viewpoint 1, 1.8 kilometres to east of nearest turbine); Lealty Lodge (viewpoint 4, 5.6 kilometres south-west); and Cnoc Fyrish (viewpoint 5, 8.2 kilometres south).

14. The EIA predicts no individual or cumulative significant effects would occur from settlements, including Sittenham (3.2 kilometres away), Dublin/Ardross (3.6 kilometres south-west) or Alness (7.7 kilometres distant). The council generally agrees that no significant effects would occur from Dublin, Easter Ardross, Dalvaide, Sittenham and, while moderate effects are noted, Dornoch. However, it argues that the visual impact from the minor road at Loanreoch (viewpoint 2 - 2.4 kilometres south-west of the nearest turbine) would be significant and is representative of views from Ardross Distillery, Loch Dubh and the access/approach to some 50 homes in the area. I disagree. While blades and some hubs would be visible, the dip in the landform and horizontal plain of forestry on the ridge (which I appreciated would be subject, partially, to felling and restocking) would limit visibility of the full array. Careful spacing of the turbines (primarily avoiding overlapping), distance to the turbines, vegetative screening and orientation of buildings would also reduce the severity of the visual effects experienced. Furthermore, the position and visibility of other existing, consented and application turbines would not lead to a real or perceived feeling of encirclement. Therefore, I find that the effects for residents/visitors in this area would not, other than those identified at paragraphs 16 and 17 below, be significant.

15. The council further contend that the effects from Culbokie and Resolis (and along the B9163 and B9169) on the Black Isle would be significant (as represented in viewpoints 6 and 10). This is not reflected in the EIA findings. The proposed turbines would be visible from some properties and locations within Culbokie and along the northern extent of the

Black Isle. However, they would be seen in a very narrow field of view and relatively contained within a dip in the landform at some 12.5 to 18.5 kilometres distant. The turbines would also be seen generally in the context of a wide panorama set with the Cromarty Firth in the foreground and Ben Wyvis to the west which would likely be the focus of views (away from the proposal) and which the proposed turbines would not detract. There are also other visual interruptions and distractions in the landscape including screening, other buildings, settlements (including Alness) and, further east, substantial marine infrastructure at Invergordon. Existing turbines at Novar are also visible from the Black Isle. The proposed turbines would not introduce a discordant feature into the landscape or substantial new lighting (at night) that would appear incongruous to the current situation.

16. None of the five properties within two kilometres of the proposal (Crannich, Wester Baldoon, Easter Baldoon, Easter Strathy and Wester Strathy) would be significantly affected in terms of visual amenity. While aviation warning lighting could, theoretically, be visible from Wester Baldoon its effects would not be significant due to mitigation reducing the intensity and luminance of the lighting. Having visited the area, I agree with these EIA predictions.

17. For short distances and from vistas along the B9176 (along 1.6 kilometres northbound and 1.4 kilometres southbound); the minor road between Crannich and Dublin (junction with the B9176); and the minor road between Contullich and Boath (a one kilometre stretch) there would be significant visual effects for road users both arising from the proposed development and cumulatively with other existing, consented and application turbines. The EIA further predicts significant cumulative effects for short ranges along the A9 / North Coast 500 and the railway line (between Inverness and Brora) primarily occurring due to existing, consented and application turbines not directly associated with the proposal. I agree with these effects on transport routes. The council also considers that significant effects would occur from the A9 at Duncanston (viewpoint 12). While I agree with the council that this route accommodates tourists, I also agree with the appellant that views would be focused on the Cromarty Firth and Ben Wyvis (in a direction opposite the proposed turbines). Furthermore, the turbines would only be visible in an extremely narrow field of view (2 degrees) in a dip in the landscape with partial screening. At a distance of 21 kilometres from the nearest turbine, I am not persuaded that the visual effects from this vantage would be significant.

18. In terms visual effects from recreational routes and destinations, the EIA predicts significant individual and cumulative effects from core paths RC41.01 (Strathrory); RC05.03 (Dam Wood); RC05.04 (Dublin to Ardross Mains around Loch Dubh); RC05.01 (Fyish Path); RC05.02 (Tollie to Lealty Path); RC15.08 (path south-west of Edderton); and RC15.04 (Struie Hill). Significant cumulative visual effects on the Sustrans Cycle Route 1 and from Ben Wyvis (viewpoint 9, 19 kilometres west of the proposal) are noted in relation to existing, consented and application wind farms but not attributed directly to the proposed development. No other significant effects on routes/destinations are predicted. Having visited each of these routes and destinations, I agree that the effects would likely be as anticipated in the EIA.

19. As noted by the council, the EIA identifies other “moderate” but not significant effects. I find that these would be experienced at a distances over 10 kilometres from the appeal site in locations where intervening screening, landform and other visual influences would limit the visual impact of the proposal. I therefore agree with the EIA prediction and do not consider the identification of moderate effects suggests that the proposal is inappropriately scaled, designed or sited.

20. Returning to aviation lighting, I note that the appeal site is not located in a designated dark skies area. There is a risk of the sense of remoteness being disturbed by the introduction of lighting. However, as indicated previously this area is not devoid of artificial lighting from settlements and from infrastructure along and on the Cromarty Firth. A lighting strategy (secured by condition) would limit effects with lights primarily operating at a low intensity and only at maximum intensity for 3% of the time. As noted in the EIA and agreed by the council, there would be no significant effects from lighting on the host or adjoining landscapes or any landscape designations; and no significant visual effects. There is no suggestion from parties of any cumulative effects arising from the installation of aviation warning lighting.

21. While the proposed turbines are up to 180 metres high, the layout and design within the moorland landscape and natural dip in the landform has led to a considered approach to minimise significant effects. This is represented by the limited number of significant landscape and visual effects identified and which would be experienced only in the general locality of the appeal site to some 8.5 kilometres distant (to the south-west, south, south-east and east). The criterion presented in the council's onshore wind energy supplementary guidance are, as the document states, "not absolute requirements" but provide an awareness of key constraints. I have carefully considered these and find that the proposal would meet the criterion overall. That is because the proposal, individually and cumulatively, would provide sufficient separation with other, and fit with the existing pattern of, wind energy development; and would not:

- be perceived as encircling settlements or key locations
- be visually prominent in the majority of views within or from settlements, key locations or along access routes
- reduce or detract from transitional gateway locations or routes
- overwhelm or detract from landscape characteristics or the fabric or setting of valued natural or cultural landmarks
- affect the distinction between neighbouring landscape character types
- affect the amenity of key recreational routes and ways or transport routes.

22. Furthermore, the proposal would not overtly diminish the distinct remoteness and moorland exposure of the B9176 tourist route; it would maintain containment of space and not overwhelm the landscape and sense of place of the Moray Firth; it would not impinge on key views from the Cromarty Firth or Nairn; would protect the legibility of the layered landscape in longer views; would protect the key characteristics and special qualities of Ben Wyvis special landscape area; and would preserve the mitigation of other wind energy schemes. Consequently, I consider the proposal would also follow the advice set out in the Black Isle, surrounding hills and Moray Firth Coast Caithness landscape sensitivity appraisal for this area.

Other effects

23. The EIA report assesses a wide range of other impacts: cultural heritage; ornithology; ecology; noise; traffic and transportation; geology, hydrology and hydrogeology; health and safety; telecommunications and television; aviation, aviation lighting and radar; carbon calculator; forestry; and socio-economics. The council has not founded its refusal on any of these impacts and I note in this regard that there are no objections on the part of key agencies, subject to the imposition of appropriate conditions. However, a few significant environmental effects (prior to mitigation) are predicted, as bulleted below:

- A direct impact on an archaeological asset (a farmstead) due to access track construction; and potential disturbance of unknown archaeological remains.
- A medium risk of collision to foraging pipistrelle bats.
- Effects on running water (soil disruption and runoff) to fish and spawning habitat.
- Potential for contamination from maintenance vehicles.
- Heavy goods vehicle traffic flows during construction at the A836 (Edderton) resulting in significant severance, driver delay, pedestrian delay and impact on amenity.
- Temporary beneficial economic benefits during construction and decommissioning.

24. Beyond those identified above, the EIA confirms that no significant effects (both as a result of the proposal and cumulatively with other wind farms) would occur, including on:

- Archaeological remains; scheduled monuments; the setting of listed buildings; and inventory gardens and designed landscapes (including the A-listed Ardross Castle and its estate).
- Birds, including from loss of habitats and foraging/breeding areas; disturbance or displacement; and collision risk (including, specifically, Black Grouse, Capercaillie, Curlew, Pink-footed Goose, Red Kite and Snipe).
- Habitat, where the loss of 7.7 hectares (of blanket bog, upland heathland, acid grassland and mire) from the 911 hectare appeal site (0.85%) would not be substantial; and deep peat would be avoided.
- Protected and other species, including fish, molluscs, otter and bats (other than potential collision risk). While local representors refer to invertebrate and insect loss, this is not considered significant or raised as a concern by the council or NatureScot.
- Amenity, as a result of noise, audibility, wind shear, amplitude modulation, infrasound; low frequency noise or shadow flicker.
- Health and safety, as the site is not at risk of natural disasters; the likelihood of peat slide risk is low; and sensors would shut-down turbines in the event of any mechanical or structural failure.
- Aviation safeguarding, operation of radar and defence operations.
- Telecommunications and television; forestry; tourism or recreational heritage destinations; population or health; traffic and transportation (other than that described for the A836); private water supplies; peat; drainage; water quality; or flooding.

25. In addition, the EIA includes a suite of mitigation measures to address the significant effects predicted and the other effects identified. The mitigation would either be embedded or could be suitably controlled by condition and include:

- A programme of archaeological survey, excavation and recording.
- A habitat management plan (including details for enhancement) and peat management plan. Use of floating tracks on peat over 1 metre deep. Establishment of exclusion zones around sensitive areas. Early restoration of habitats where possible to minimise effects due to exposure; restore blanket bog using best practice; and re-use of any disturbed peat on site.
- Use of an Ecological Clerk of Works and application of breeding bird protection and species protection plans. Conducting pre-construction and pre-commencement surveys for protected species; and provide ramps in steep-sided excavation pits (to allow species to exit).
- Application of best practice in construction and implementation of a construction environment management plan and pollution control methods. Vehicles entering the

site would be maintained with regular inspection to avoid oil spills and avoid risk of pollution. Spill kits would also be readily available.
- Construction periods controlled and best practice/advice applied to reduce noise alongside a noise control plan.
- Applying a traffic routing strategy; traffic timing strategy; temporary signage; traffic marshals; and temporary traffic management. Ensuring site access is designed in accord with design manual for roads and bridges; and implementation of a staff travel plan.
- Incorporation of sustainable urban drainage system measures on site and to complement similar drainage solutions on other wind energy developments. Ensuring minimal watercourse crossings and construction of permeable access tracks with regular cross track drains. Any water abstraction for dust suppression, vehicle washing and welfare facilities regulated through a CAR abstraction licence.
- Application of an agreed aviation lighting scheme.

26. Other notable effects identified in the EIA are that the proposed development would have a carbon payback period of some 0.7 to 1.9 years when compared to the fossil fuel mix of electricity generation. Annual carbon dioxide savings are predicted at some 65,500 tonnes with a total of 2.3 million tonnes over the 35 year operating period - equivalent to the annual supply for 42,522 average homes in Scotland. During construction some 31 to 57 full-time equivalent local jobs could be created; and between 91 and 164 equivalents at a national level. Further employment is predicted from indirect effects occurring through the supply chain, wage spend and increased hotel occupancy. Some 7 local full-time equivalent jobs and 30 national jobs are predicted during operations and maintenance of the proposal. While not directly material to the assessment of the proposal, the project would also provide a community benefit fund of some £6.3 million during operation.

27. The council has given consent for an amended access to the consented scheme which appears to have an impact on wet woodland and requires, through the habitat management plan, compensatory planting. However, in this case, the EIA does not directly refer to any woodland loss and the site layout plan does not show any trees which would be affected by development. I consider that should any felling occur then it would be minor (not significant) and fully compensated through mitigation through the habitat management plan.

28. While the EIA predicts no significant effects on birds, I must consider any effects on European Sites. In this case, although not directly connected with or necessary for the conservation of the site, NatureScot advises, and I agree, that the proposal “is likely to have a significant effect on the qualifying interest (Capercaillie) of the Morangie Forest SPA [Special Protection Area] and Novar SPA”. An appropriate assessment is therefore required. In that regard, the EIA has considered the connectivity with the SPAs and potential effects on the qualifying species. With strict adherence to mitigation NatureScot noted that the proposal is not likely to result in collision risk, nor obstruct opportunities for dispersal between woodlands used by Capercaillie; and that the proposal is not likely to result in significant disturbance to the species. I agree that with the application and implementation of the mitigation measures (restrictions over working hours on the site during lekking season together with habitat management improvements and the appointment of an Ecological Clerk of Works) there would be no deterioration of the habitats used by the Capercaillie or significant disturbance to the species; and that the population of the species as a viable component of the site and distribution within the site would be maintained in the longer term. I find that the proposal would have no adverse effect on the integrity of Morangie Forest SPA or Novar SPA either alone or in combination with other projects/plans. No other European Site would be affected by the proposal.

29. The response from Highlands and Islands Airport Limited (10 November 2022) indicates no objection to the proposal but the council notes that the response identifies turbine 5 as being 160 metres not 180 metres high. However, the consultee has confirmed in writing (during the appeal process) that the error was a typo and that the proposal would not impinge on aviation safeguarding interests.

30. 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. I am also satisfied that my reasoned conclusions on the significant effects of the proposed development are up-to-date.

Assessment against the development plan

31. The proposed development would be sensitively sited and carefully designed in a manner to minimise significant effects and lifecycle greenhouse gas emissions (bringing net benefits after its carbon payback period). While there would be some localised significant effects (and cumulative effects), the proposal would be of a scale, form, pattern and construction to respect the landscape characteristics and visual amenity of the area overall.

32. Furthermore, the proposal would avoid or suitably mitigate any effects on physical constraints and resources; protect the water environment; not be at risk of flooding or increase risk elsewhere while incorporating sustainable urban drainage systems; not have any significant adverse or unacceptable effects to sites of local, regional, national or international significance; result in no adverse residual effects on any birds, protected or other species; avoid unnecessary disturbance, degradation or erosion of peat and soils following the hierarchy; safeguard the integrity of habitat features on site; provide no significant or unacceptable impacts on communities or residential amenity; and would result in no direct impact on core paths or public access.

33. Detailed assessments demonstrate that any pollution effects would not be significant and could be satisfactorily mitigated. If necessary there would be sufficient provisions to control extraction and restore the location of a borrow pit. Underground cables for electricity transmission across the site would result in no significant adverse effects. There is no identified risk from suicide on the site, disasters or other risks to human health. Decommissioning and restoration could be adequately controlled by condition. And, the proposal would contribute to local community wealth building through increased spending within communities, use of local supply chains and job creation.

34. Conditions imposed on development would also ensure the implementation of an agreed suite of management plans together with the appointment of an Ecological Clerk of Works. These measures would ensure adherence to best practice; application of mitigation measures; sufficient compensation/enhancement for habitat loss; reduction in the generation, and re-use/recycling, of wastes; and compensatory tree planting (if needed).

35. Consequently, I find that the proposal would comply with the provisions of the National Planning Framework 4 and Highland-wide Local Development Plan which cover the above matters as follows: NPF4 policies 2 (climate change and adaptation); 4 (natural places); 5 (soils); 6 (forestry, woodland and trees); 7 (historic assets and places); 12 (zero waste); 22 (flood risk and water management); 23 (health and safety); 25 (community wealth benefits); and 33 (minerals); alongside Highland-wide Local Development Plan policies 28 (sustainable design); 30 (physical constraints); 51 (trees and development); 53 (minerals); 54 (mineral wastes); 55 (peat and soils); 57 (natural, built & cultural heritage); 58

(protected species); 59 (other important species); 60 (other important habitats); 61 (landscape); 63 (water environment); 64 (flood risk); 66 (surface water drainage); 69 (electricity transmission infrastructure); 72 (pollution); 73 (air quality); and 77 (public access).

36. While carefully arranged there would be some significant localised visual effects resulting in a negative contribution to the visual quality of the place in which it is located contrary to the provisions of Highland-wide Local Development Plan policy 29 (design quality & place-making).

37. There is some tension with NPF4 policy 3 (biodiversity) as, while identified, there is no specific identification of biodiversity enhancement and the return to the appeal site in a better state than without intervention. Development would result in habitat loss but there have been assessments of the site to understand its characteristics and minimise effects through siting and design with an undertaking to provide enhancement. While exact measures are not prescribed, I note that the requirement for enhancement was not a policy requirement at the time the application was made. In any event, I consider that the conditions requiring agreement and implementation of enhancement through the habitat management plan would be sufficient to ensure gain in this instance.

38. The primary policies with regard to wind energy proposals are National Planning Framework 4 policy 11 (energy) of and 67 (renewable energy developments) of the Highland-wide Local Development Plan. While there are some nuances, both policies effectively support renewable proposals where set factors are addressed. Reviewing their provisions, I find that the proposal would be well-related in terms of the primary resource (wind) and contribute to meeting renewable energy and greenhouse gas emission targets (of which significant weight is afforded by policy 11). It is uncertain whether the proposal maximises net economic impact (as required by policy 11) but it certainly would have a positive effect on the economy. And, as described above in my findings above, the design and mitigation are sufficient that the proposal would not have significant effects overall. Consequently, I find that the proposal meets with the provisions of these policies.

39. National Planning Framework 4 policy 1 (tackling the climate change and nature crises) requires significant weight to be given to both crises in decision-making. In this case, the effects on the natural environment could be effectively mitigated with sufficient provision for enhancement; and the contribution towards renewable energy and greenhouse gas emissions reduction targets would be substantial. Therefore, the proposal wouldn’t exacerbate the nature crisis and would aid in tackling the climate change crisis.

40. In terms of supplementary guidance, the proposal would comply with the council’s onshore wind energy supplementary guidance (as found at paragraph 21 above) and other supplementary guidance on flood risk and drainage impact assessment (2013); the Highland historic environment strategy (2013); the Highland’s statutorily protected species (2013); managing waste in new developments (2013); and physical constraints (2013). The proposal would also be compatible with the council’s sustainable development guide as it would use resources efficiently; have minimal environmental impact; and, through investment in the local economy and job creation, enhance the viability of Highland communities. It would have a significant localised effect on landscape character but overall would conserve the character of Highland area.

41. Therefore, taking a balanced view, while there would be some localised significant effects, I find that the appeal proposal would be compatible with the development plan.

Other material considerations

42. A suite of publications relating to energy and climate change policy have been submitted. These carry ambitions and targets to reach net zero targets, tackle the challenges of climate change, and safeguard energy security. The proposed development would make a meaningful contribution to addressing these matters.

43. I find no incompatibility with the council's non-statutory guidance on standards for archaeological work (2012); the special landscape area citations (2011); the Highland's renewable energy strategy and planning guidelines (2006); the advice on construction environmental management process for large scale projects (2010); or the Highland Council Visualisation Standards for Wind Energy Developments (2016). I also consider that the proposal would align with the provisions of the Proposed Inner Moray Firth Local Development Plan (2022).

44. I have further considered the numerous reporter decisions and electricity consent report cases submitted. These provide insight into decision-making on wind energy proposals showing a balanced approach and acknowledging the weight to be given to contributions towards renewable energy and greenhouse gas emission reduction targets. There is no inconsistency in those approaches to that undertaken in this case.

45. Representations from individuals and Ardross Community Council identified concerns including:

- The need for increased scale and height of turbines.
- Significant visual and cumulative impacts for residents (day and night).
- Impact on the Dornoch Firth NSA.
- Abnormal road routes requiring major works and tree felling.
- Adverse impacts on amenity, habitats, ecology, ornithology, traffic and road safety, peatland, groundwater and water quality, cultural heritage, tourism and recreational activities, and aviation safety.
- Use of flawed carbon calculations.
- A high density of wind farms in Highland.
- Need for fire extinguisher equipment to avoid peatland fires.
- Impact on "wildness" around Beinn Tharsuinn, Torr Leathann and Cnoc a Mhadaidh.
- Little or no economic benefits.

46. I have addressed the majority of the above matters in my findings above. For those remaining, I find the following:

- The carbon calculations provide a range of potential outcomes based on industry data which I have no evidence to suggest is flawed. The key factor is that the proposal would result in a net benefit in relation to carbon emissions over a very short period.
- In terms of density, there are other wind farms in Highland but the proposed development would have limited cumulative effects and has been sited to ensure sufficient spacing to other wind farms in the area without a risk of a wind farm landscape being created.
- The operation of the site would be subject to strict health and safety protocols, which could include fire prevention apparatus.

- Having visited the land to the north-west of the appeal site at Beinn Tharsuinn this area is not devoid of human influence. I agree that it has an open and remote moorland character but that would not be adversely harmed by the proposal.

Conclusion

47. I conclude, for the reasons set out above, 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. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

48. I have endorsed all of the suggested conditions and provided a period of five years to commence development to account for any delays in procurement or connection (as identified by the appellant). Where parties have disagreed, I find that it is reasonable for certain works to commence before erection of tall structures on the site in relation to aviation lighting; that there is no need for the prior notification of significant volumes of heavy good vehicles during operation (primarily as such an event is not envisaged but also as the road network should be sufficient to accommodate such an event); that any wear and tear to roads can be accommodated satisfactorily through condition 11 (traffic management) and, if necessary, the provisions of the Roads (Scotland) Act 1984 without the need for a separate condition; that there is no need to use a condition to limit the site to a single access (as any change or proposal for another access would be subject to a separate application process); and that it is not reasonable or justified to require the appellant to fund a planning monitoring officer, particularly as the Ecological Clerk of Works would also have a duty to monitor and report.

49. While parties agreed with the wording, as the EIA does not refer to particular tree/woodland loss I have modified the terms of condition 14 (habitat management plan) to refer to the provision of compensatory planting where necessary. I have also modified the terms of condition 10 (construction environmental management plan) to refer to the addition of an appropriate, rather than 20%, climate change allowance to allow for the relevant allowance to be accommodated following provisions of NPF4.

50. The attached conditions also provide for monitoring measures where appropriate. In condition 13 I require the appointment of an Ecological Clerk of Works, who would have responsibility for monitoring ecological mitigation measures relating to the proposed development. Conditions 10 and 11 also involve monitoring. There is no evidence to suggest that any other monitoring measures are required.

J Alasdair Edwards
Reporter

Schedule 1: Conditions

1. The development to which this permission relates shall be begun not later than the expiration of five 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 but to allow for contingencies a period of five years is merited in this case.

Duration of planning permission

2. Planning Permission is granted for a period of 37 years from the date of Final Commissioning, comprising an operational period of up to 35 years from the date of Final Commissioning and a period of up to 2 years for decommissioning and site restoration to be completed in accordance with a scheme to be approved under Condition 19 of this permission. Written confirmation of the Date of Final Commissioning must be provided to the planning authority no later than one month after the event.

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

Accordance with the provisions of the application

3. The development shall be constructed and operated in accordance with the provisions of the Application and the Environmental Impact Assessment Report (dated May 2022), except in so far as amended by the terms of this consent.

Reason: to clarify the terms of the permission.

Design and operation of turbines

4. 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:

a) the make, model, design, power rating and sound power levels of the turbines to be used;
b) 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;
c) the turbines with internal transformers.

Thereafter, development shall progress in accordance with these approved details and, with reference to part (b) 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 all elements of the development accord with the parameters set out in the description of development as described in this consent and set out in Chapter 3 of Environmental Impact Assessment Report (dated May 2022) and to ensure that all elements are acceptable in terms of visual, landscape, noise and other environmental impact considerations.

Design of ancillary infrastructure

5. No development shall commence on the control building, substation or ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas including electric vehicle charging provision, battery storage, 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.

Battery Storage

6. No development shall commence on the battery storage facility until final details of specific pollution prevention measures been submitted to, and approved in writing by, the planning authority, in consultation with the Scottish Environment Protection Agency.

Reason: in the interest of pollution prevention and protection of the water environment.

Advertisement on infrastructure

7. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground, or fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority.

Reason: to in the interests of the visual amenity of the area.

Micro-siting

8. All wind turbines, buildings, borrow pits, areas of hardstanding and tracks shall be constructed in the location shown in EIAR Figure 3.1 and as per the turbine coordinates set out in Table 3.1 of Chapter 3, Volume 1 of the EIAR (dated May 2022). Wind turbines, buildings, borrow pits, 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 the Scottish Environment Protection Agency and NatureScot), micro-siting is subject to the following restrictions:

a) no wind turbine or related hardstanding, access track, water crossing, borrow pit or temporary construction compound shall be moved more than 50m from the original position shown;

b) no wind turbine foundation shall be positioned higher than 5m above ground level than the position shown on the approved Site Layout Plan;

c) no micro-siting shall take place with the result that infrastructure (excluding floating access tracks) is located within areas of peat of greater depth than the original position shown;

d) no micro-siting shall take place within areas hosting highly dependent Ground Water Dependent Terrestrial Ecosystems, watercourses and other sensitivities;

e) With the exception of water-crossings, no element of the proposed development shall be positioned closer than 50m from the top of the bank of any watercourse, unless a detailed assessment is provided to demonstrate the additional measures and monitoring that will be put in place to reduce the risk of pollution of the watercourse, including as a result of instability;

f) All micro-siting permissible under this condition must be approved in writing by the Environmental Clerk of Works (ECoW). No later than one month after the date of Final Commissioning, an updated Site Layout Plan must be submitted to the planning authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority's written approval, as applicable.

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

Borrow pit

9. There shall be no Commencement of Development until a site specific scheme for the working and restoration of any borrow pit forming part of the development has been submitted to, and approved in writing by, the planning authority, in consultation with the Scottish Environment Protection Agency. The scheme shall include:

a) a map showing the location, size, depths and dimensions of any borrow pit;

b) a map showing in relation to each proposed excavation, stocks of rock, overburden, soils and temporary and permanent infrastructure including tracks, buildings, oil storage, pipes and drainage, overlain with all lochs or watercourses to a distance of 250m from working areas;

c) a site-specific buffer drawn around each loch or watercourse proportionate to the depth of excavations and at least 10m from access tracks. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse, and drawings of what is proposed in terms of engineering works;

d) a ground investigation report giving existing seasonally highest water table including sections showing the maximum area, depth and profile of working in relation to the water table;

e) site map showing cut-off drains, silt management devices and settlement lagoons to manage surface water and dewatering discharge. Cut-off drains must be installed to maximise diversion of water from entering quarry works;

f) a site map showing proposed water abstractions with details of the volumes and timings of abstractions;

g) a detailed working method statement based on site survey information and ground investigations;

h) a site map showing the location of pollution prevention measures such as spill kits, oil interceptors, drainage associated with welfare facilities, recycling and bin storage

and vehicle washing areas. The drawing notes should include a commitment to check these daily;

i) a site map showing where soils and overburden will be stored including details of the heights and dimensions of each store, how long the material will be stored for and how soils will be kept fit for restoration purposes;

j) sections and plans detailing how restoration will be progressed including the phasing, profiles depths and types of material to be used;

k) details of how the rock will be processed in order to produce a grade of rock that will not cause siltation problems during its end use on tracks, trenches and other hardstanding;

l) a programme of implementation of the works described in the scheme; and,

m) full details of the reinstatement, restoration and aftercare of the borrow pits at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

The approved scheme shall thereafter be implemented in full.

Reason: to ensure that excavation of materials from the borrow pits is carried out in a safe manner, minimises environmental and visual impacts, and to secure the restoration of borrow pits at the end of the construction period.

Construction Environmental Management Plan

10. There shall be no Commencement of Development until a finalised Construction Environmental Management Plan (CEMP) is submitted to and agreed in writing by the planning authority, in consultation with the Scottish Environment Protection Agency. The document shall include provision for:

a) an updated Schedule of Mitigation (SM); highlighting mitigation set out within each chapter of the EIAR (dated May 2022) and the conditions of this consent;

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

c) the following specific details:

i. A Construction Method Statement which shall cover:

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

ii. A finalised Peat Management Plan, building upon the outline Peat Management Plan provided at Appendix 12.2 of the EIAR (dated May 2022); to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by the Scottish Environment Protection Agency and NatureScot; this should:

- highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage;
- measures to avoid bare peat being left to dry out and provision of a drawing detailing the placement of removed turves over top of the stored peat to protect it from drying out as well as providing the turves a surrogate site so that the vegetation is maintained during storage; and,
- avoid peat slide risk in accordance with the mitigation measures set out within a finalised Peat Landslide Hazard and Risk Assessment, building upon the outline assessment provided at Appendix 12.2 of the EIAR (dated May 2022).

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

- development and storage of material buffers (50m minimum) from water features, unless otherwise agreed in writing by Planning Authority, in consultation with the Scottish Environment Protection Agency;
- watercourse crossings designed to accommodate the 1-in-200 year flood risk event plus an appropriate climate change allowance with crossing WX03 to be a single span bridge (refer to EIAR Figure 12.1) and other crossings designed as oversized bottomless culverts or traditional style bridges;
- surface water drainage provision which accords with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time. Site specific maps shall be provided showing (1) cut off ditches to prevent clean surface water entering the construction site; and (2) proposed locations of SuDS features (lagoons, cut off drains, discharges to vegetated buffers, check dams etc.), demonstrating where polluted water will be directed and treated and where clean water will be redirected. These plans must clearly show how polluted surface water is kept away from the water environment. All surface water drainage provision shall be completed in a timely manner and installed concurrently with the construction of any track or hard surface;
- construction related maintenance regimes;
- a surface and ground water (quantity and quality) baseline survey construction and operational monitoring programme, highlighting any necessary public and private water supply protection measures; and,
- a fisheries monitoring plan, to be prepared by the applicant in consultation with the Scottish Environment Protection Agency and local fishing interest groups (including the Cromarty Firth Fishery Board (CFFB) and the Cromarty Firth District Salmon Fishery Board (CFBSFB)), to: establish the characteristics of the baseline conditions prior to construction; monitor the performance of the mitigation measures set out within the WCMP; and identify triggers for any remedial action by applicant to maintain water quality and potential fish passages.

iv. Measures to mitigate construction impacts on wetland habitats as set out within the Habitat Management Plan under Condition 14.

v. A Site Waste Management Plan.

vi. A Pollution Prevention Plan.

vii. A Construction Noise and Vibration Mitigation Plan.

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

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

ix. A Breeding Bird Protection Plan (BBPP) and Species Protection Plans, with associated survey and monitoring requirements to be agreed by the planning authority, in consultation with NatureScot. This must be informed by a further pre-construction ecological survey for legally protected species which must be carried out at an appropriate time of year for the species, at a maximum of 12 months preceding commencement of construction, and a watching brief must then be implemented by the Ecological Clerk of Works (ECoW) during construction. The species that should be surveyed for include, but are not limited to, breeding birds, otter, pine marten, water vole, badger, red squirrel, and wildcat. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs. A communication plan must be provided to ensure all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection. This plan must detail a notification and stop the job commitment requirements.

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

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

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

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

Traffic management

11. There shall be no Commencement of Development until Stage 1 of a Traffic Management Plan (TMP) has been submitted to, and approved by, the planning authority, in consultation with the Roads Authority and Transport Scotland. Stage 1 of the TMP, which shall be implemented as approved, must include:

a) A description of all measures to be implemented by the developer in order to manage general traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised Quality Assured traffic management consultant.

b) Provision for Community Liaison in line with the scheme agreed under Condition 22.

c) The identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for general construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the roads authorities. This shall include the following:

   i. the site access being via the B9176 only;

   ii. a detailed review of the routes to site for general construction traffic;

   iii. details of all mitigation / improvement works for general construction traffic;

   iv. a route assessment report for general construction traffic and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary;

   v. an initial assessment of the capacity of existing bridges, culverts and other structures along the construction access routes to cater for general construction traffic, with upgrades and mitigation measures proposed and implemented as necessary.

d) Details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage measures, improved geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays.

e) Wheel washing measures with all vehicles transporting construction material to be sheeted to ensure water and debris are prevented from discharging from the site onto the public road.

f) Details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period.

g) Measures to ensure that construction traffic adheres to agreed routes on the road network.

h) A procedure, including a survey of relevant roads before the commencement of development, for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods.

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

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

   i. a detailed review of the routes to site for abnormal loads, with a delivery route from Nigg Harbour to the A9 to be via the B9175 or from Invergordon harbour to the A9 to be via the B817 coast road, U4242 Industrial Estate Distributor Road and C1063 Academy Road, joining the A9 at Tomich junction;

   ii. details of all mitigation / improvement works required to facilitate abnormal load movements, including details of any upgrading works and an associated construction and reinstatement management plan for any works required at the Edderton junction affecting the Edderton War Memorial;

   iii. a route assessment report for abnormal loads, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary;

   iv. an initial assessment of the capacity of existing bridges, culverts and other structures along the abnormal loads delivery route to cater for abnormal load vehicles, with upgrades and mitigation measures proposed and implemented as necessary;

   v. a videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks notice of this trial run must be made to the local roads authority and Transport Scotland, with the local Roads Authority in attendance unless agreed in writing;

   vi. no deliveries by abnormal loads shall take place until a final assessment of the capacity of existing bridges and structures along the abnormal load delivery route is carried out and submitted to and approved by the planning authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal loads have been submitted to and approved by the planning authority. Thereafter the approved works shall be completed prior to the abnormal load deliveries to the site.

j) A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness.

k) A detailed protocol for the delivery of abnormal loads/vehicles shall be submitted to and approved by the planning authority. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. The protocol shall identify any times that loads/vehicles would avoid.

l) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the Police and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted.

m) A detailed delivery programme for abnormal load movements, which shall be made available to the planning authority.

n) A procedure, including a survey of relevant roads before the commencement of any abnormal load deliveries, after any abnormal load deliveries, and the implementation of any remedial works required during construction / decommissioning periods.

o) Appropriate reinstatement works shall be carried out, as required by the planning authority, at the end of the turbine delivery and erection period.

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

Recreational Access Management Plan

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

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

Ecological Clerk of Works

13. There shall be no Commencement of Development unless the planning authority has approved in writing the terms of appointment by the applicant of an independent Ecological Clerk of Works (ECoW), in consultation with NatureScot and the Scottish Environment Protection Agency. The terms of appointment shall:

a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Impact Assessment Report (dated May 2022), and other information lodged in support of the application including but not limited to the Construction and Environmental Management Plan (CEMP) under Condition 10 and the Habitat Management Plan (HMP) under Condition 14 (“the ECoW Works”);

b) require the ECoW to report to the applicant's nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity;

c) require the ECoW to submit a report every two months to the planning authority, or monthly at the further written request of the planning authority, summarising progress with the development and environmental works undertaken on site;

d) have power to stop to the job/activities being undertaken within the development site when ecological interests dictate and/or when a breach or potential breach of environmental legislation occurs to allow for a briefing of the concern to the applicant's nominated construction project manager; and,

e) require the ECoW to report to the planning authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The EcoW shall be appointed on the approved terms prior to Commencement of Development, throughout the period of construction, post-construction and then the period of decommissioning and restoration. No later than 12 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the applicant shall submit details of the terms of appointment by the applicant of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the planning authority for approval, in consultation with NatureScot and the Scottish Environment Protection Agency. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

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

Habitat management

14. There shall be no Commencement of Development until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the planning authority, in consultation with the Scottish Environment Protection Agency and NatureScot. The HMP shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, and restoration of the site. It shall include:

a) measures for the assessment of, restoration and habitat management works for blanket bog, including measures to reduce Sitka spruce regeneration;

b) restoration measures for the most sensitive habitats, peatland restoration proposals, provide enhancement of Annex 1 habitats, habitats for protected species and mitigation measures in relation to capercaillie and black grouse during lekking;

c) provision of an appropriate buffer distance from finalised turbine locations to watercourses and tree lines of high bat activity, applying the formula set out below and at Environmental Impact Assessment Report Paragraph 9.149 (dated May 2022) which accounts for the finalised blade length, hub height and feature height, or alternative suitable mitigation measures subject to the prior written approval of the Planning Authority, in consultation with NatureScot: $b= \sqrt{(50=bl)^2-(hh-fh)^2}$;

d) measures to manage habitats within 150m of each turbine rotor sweep to and avoid shrub encroachment to mitigate bat activity;

e) all site fencing to be marked to minimise black grouse and capercaillie collision risk;

f) provision for regular surveys, monitoring and reporting in relation to:

- ground conditions within HMP area from the period from Commencement of Development until the date of completion of post construction restoration; and,
- bird and bat populations (collision and breeding monitoring), including flight paths within and adjacent to the wind farm site from the period from Commencement of Development until the date of completion of post construction restoration with the provision of a before and after control impact study.

g) Provision of compensatory planting of any wet woodland and/or tree loss caused by development and creation of junction visibility-splays.

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

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

Construction hours

15. Construction and decommissioning work or development associated with the proposed development shall only take place between the following hours:

a) 07:00 to 19:00 Mondays to Fridays and from 07:00 to 13:00 hours on Saturdays with no work on Sundays or a Bank Holiday in Scotland, unless otherwise agreed in advance in writing by the planning authority; and subject to,

b) during the capercaillie lekking season (March to May inclusive), no works will start before 09:00 hours and all works shall cease 2 hours before dusk across the site.

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

Operational noise

16. 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 35dB LA90 at any noise sensitive location existing at the time of consent and in addition:

a) prior to the First Export Date, the wind farm operator shall submit to the Highland Council (THC) 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 THC;

b) within 21 days from receipt of a written request of THC, 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 THC 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 THC) in accordance with the procedures described in the attached Guidance Notes.

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 THC 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 THC 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 THC;

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 THC 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; and 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 THC 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 THC and the attached Guidance Notes;

e) the wind farm operator shall provide to THC the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within two months of the date of the written request of THC made under paragraph (b) of this condition unless the time limit is extended in writing by THC. 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 THC 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 THC;

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 THC. 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; and 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 date of First Commissioning, the wind farm operator shall submit to THC 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; and,

j) the scheme referred to in paragraph (i) 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) above being received by THC. These measures must remain in place, except during field trials to optimise mitigation, until a long term mitigation strategy is ready to be implemented.

Reason: in the interest of the residential amenity of nearby properties.

Aviation safety

17. No turbine shall be erected until the applicant has provided the planning authority, Ministry of Defence, Defence Geographic Centre, Civil Aviation Authority, Highlands and Islands Airports Limited, and National Air Traffic Services with the following information, and has provided evidence to the planning authority of having done so:

a) the date of the expected commencement of each stage of construction and the expected end date;

b) the height above ground level of the tallest structure forming part of the development;

c) the maximum extension height of any construction equipment;

d) the position of the turbines and masts in latitude and longitude.

Reason: in the interests of aviation safety.

Aviation lighting

18. Prior to commencing construction of any wind turbine generators, anemometry masts, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level), an aviation-lighting scheme shall be submitted to and approved by the planning authority in consultation with the Civil Aviation Authority and the Ministry of Defence. The aviation-lighting scheme shall define how the development will be lit throughout its life to maintain civil and military aviation safety requirements, and shall include:

a) Details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and

b) The locations and heights of all wind turbine generators in the development, identifying those that will be fitted with aviation warning lighting and the position of the lights on the wind turbines generators; the types(s) of lights that will be fitted; and the performance specification(s) of the lighting types(s) to be used.

Thereafter, the aviation-lighting scheme shall be implemented as approved. The lighting installed in accordance with the aviation-lighting scheme shall remain operational for the life time of the development.

Reason: in the interest of aviation safety.

Decommissioning and Restoration Plan

19. No development (excluding preliminary ground investigation which shall be permitted) shall commence until an Interim Decommissioning and Restoration Plan (IDRP) for the site has been submitted to, and approved in writing by, the planning authority in consultation with the Scottish Environment Protection Agency, NatureScot and the roads authorities. Thereafter:

a) the IDRP shall be reviewed by the applicant within five years of the Commencement of Development and every five years thereafter until such time as the wind farm is decommissioned and the site restored. Each review shall ensure that the IRDP reflects best practice in decommissioning prevailing at the time and ensures that site specific conditions, identified during construction of the site, and subsequent operation and monitoring of the development are given due consideration. A copy shall be submitted to the planning authority for its written approval, in consultation with NatureScot and the Scottish Environment Protection Agency;

b) not later than 12 months prior to the decommissioning of the development, a detailed Decommissioning and Restoration Plan (DRP), based upon the principles of the approved interim plan, shall be submitted to, and approved in writing by, the planning authority, in consultation with NatureScot and the Scottish Environment Protection Agency; and c) the DRP shall be implemented in full as approved. In the event that the final DPR is not approved by the planning authority in advance of the decommissioning, the IDRP shall be implemented in full, unless otherwise agreed by the planning authority. Unless otherwise agreed in writing with the planning authority and in accordance with legislative requirements and published best practice at time

of decommissioning, the IDRP and subsequent DRP shall include details about the method of removal of the elements of the development including where necessary details of:

i) justification for retention of any relevant elements of the development;
ii) the treatment of disturbed ground surfaces;
iii) management and timing of the works;
iv) environmental management provisions; and,
v) a traffic management plan to address any traffic impact issues during the decommissioning period.

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

Redundant turbines

20. The Wind Farm Operator shall, at all times after the date of Final Commissioning, record information regarding the monthly supply of electricity to the national grid from the site as a whole and electricity generated by each individual turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the planning authority within one month of any request by them.

In the event that any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period exceeding 12 months, then unless otherwise agreed, the wind turbine(s), along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within nine months of the end of the said continuous 12 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition.

This 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 five 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 Decommissioning and Restoration Statement (DRS), or the Interim DRS (IDRS) should the DRS not have been approved at that stage.

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

Decommissioning and restoration guarantee

21. There shall be no Commencement of Development until:

a) full details of a guarantee, bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan (DRP) approved under condition 18 of this permission have been submitted to, and approved in writing by, the planning authority. For the avoidance of doubt the bond must be able to be called upon by The Highland Council and be enforceable against the operator and landowner and / or leaseholder;

b) confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the planning authority; and,

c) documentary evidence that the guarantee, bond or other financial provision approved under part (b) above is in place has been submitted to, and confirmation in writing that the financial provision is satisfactory has been issued by, the planning authority.

Thereafter:

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

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

Each review shall be:

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

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

Reason: to ensure financial security for the cost of the restoration of the site to the satisfaction of the planning authority.

Community liaison

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

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

Telecommunications

23. Within 12 months of the first export date, any claim by any individual person regarding television or telecommunications interference at their house, business premises or other building, shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the planning authority. Should any impairment of services be attributable to the development, the developer shall remedy such impairment within 3 months.

Reason: to mitigate the potential effect of telecommunications interference on the development.

Visibility Splays

24. During the construction, operation and decommissioning of the wind farm, the site access junction visibility splays shall be maintained by the applicant with:

i. visibility splays measuring between 0.83m and 9m x 160m (the X and Y dimensions respectively) in each direction formed from the centre line of the junction; and

ii. within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension; with the applicant undertaking grass cutting / vegetation maintenance in summer and snow removal in winter.

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

Operational Traffic Management

25. There shall be no abnormal load movement during the operational lifetime of the wind farm without the prior written approval of the roads authorities. Any such movements shall be in accordance with the approved Traffic Management Plan required by Condition 11.

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

Definitions

“Dwelling” is a building within Use Class Schedule 1 Paragraph 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

“Final Commissioning” means the earlier of (a) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the development erected in accordance with this consent; or (b) the date 18 months after the date of First Commissioning, unless a longer period is agreed in writing in advance by the planning authority.

"First Commissioning" means the date on which electricity is first exported to the grid on a commercial basis from any of the wind turbines forming part of the development.

Guidance Notes for Wind Farm 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 Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. 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).

Guidance Note 1

(a) Values of the $L_{A90,\ 10\text{-minute}}$ noise statistic should be measured at the complainant's property, 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 in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should 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 planning authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should 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 Developer shall submit for the written approval of the planning 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 $L_{A90,\ 10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction 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 Developer shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minute period in a manner to be agreed in writing with the planning authority. Each 10-minute arithmetic average mean wind speed data measured or calculated at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-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 planning authority in accordance with paragraphs (e), (f), (g) and (h) of the noise condition shall be provided in comma separated values in electronic format with the exception of data collected to asses tonal noise (if required) which shall be provided in a format to be agreed with Dumfries and Galloway Council.

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the levels 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).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 paragraph (b).

(b) Valid data points are those measured in the conditions set out in the assessment protocol approved by the planning authority under paragraph (e) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the $L_{A90,\ 10\text{-minute}}$ 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.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (e) of the noise condition, 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 is to be calculated and applied using the following rating procedure.

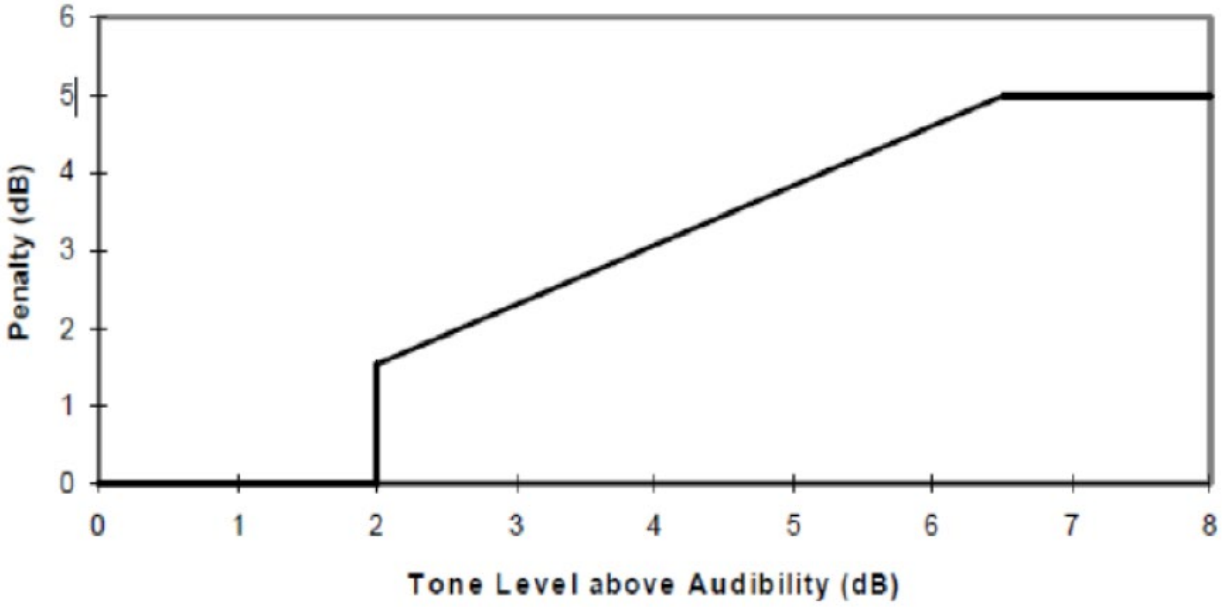
(b) For each 10-minute interval for which $L_{A90,\ 10\text{-minute}}$ data have been determined as valid in accordance with Guidance Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals 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 or below 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 used.

(e) A least squares “best fit” linear regression line 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 ± 0.5m/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 Guidance 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.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance 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 Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the planning authority in its written protocol under paragraph (e) of the noise condition.

(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 Guidance Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant’s dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (c) of the noise condition, 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 Developer 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 Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (e) of the noise conditions.

ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10\log [10^{L2/10} - 10^{L3/10}]$$

iii. The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note iii. above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then the Development fails to comply with the conditions.

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)).

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 the in 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

Environmental Impact Assessment Report Figures (May 2022)	
Site boundary	Figure 01.01
Proposed site layout	Figure 03.01
Typical turbine election	Figure 03.02
Typical turbine foundations	Figure 03.03
Typical track cross sections	Figure 03.04
Typical watercourse crossings	Figure 03.05
Typical construction compound	Figure 03.06
Typical crane hardstanding	Figure 03.07
Typical cable trench design	Figure 03.08
Typical substation elevations	Figure 03.09
Typical substation floor and roof plans	Figure 03.10
Typical energy storage compound plan	Figure 03.11
Typical energy storage compound elevation	Figure 03.12
Site access junction	Figure 03.13

Schedule 4: Opportunities for public participation in decision-making

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

- The appellant has provided a report on pre-application consultation. This indicates that an online public exhibition was held between 7 February and 17 March 2022. Live question and answer sessions were also held on 17 February, 3 March and 10 March 2022. Public exhibition details were provided directly to Ardross, Kilmuir and Logie and Strathpeffer community councils together with each local authority ward councillor, member of the Scottish Parliament and member of Parliament. A leaflet was also sent to all residential and business addressed within 10 kilometres of the proposed development. The exhibition was also advertised in two editions of the Ross-shire Journal. Eight people attended the sessions and 16 response forms were submitted.

- A project website provided details of the proposal and contact details for the project officer which some members of the public used to gain information about the proposal.

- Advertisements of the application in the Ross-shire Journal and Edinburgh Gazette has been provided. These invited the public to make representations upon the proposal for the development and the accompanying EIA report.

- The planning authority received 17 public representations in respect of the application. The main points raised in those representations are summarised in this decision notice at paragraph 45.

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.