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The Scottish Government

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WD4 8LR

03 November 2023

Dear Mr Shirley

REFUSAL OF THE APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF KINTRADWELL WIND FARM IN THE HIGHLAND COUNCIL PLANNING AUTHORITY AREA

Application

I refer to the application made on 02 February 2021 ("the Application") under section 36 of the Electricity Act 1989 ("the Electricity Act") by Renewable Energy Systems Ltd ("the Company") for the construction and operation of the proposed Kintradwell Wind Farm ("the proposed Development").

The Company is incorporated under the Companies Act with company number 01589961 and having its registered office at Beaufort Court, Egg Farm Lane Station Road, Kings Langley, Hertfordshire, WD4 8LR.

The proposed Development is a wind powered electricity generating station comprising of 15 wind turbines, each with a ground to blade tip height of up to 149.9 metres ("m"), and battery storage facility with a total electricity generation capacity in excess of 50 megawatts. It would be located on land approximately 7.7 kilometres ("km") to the north of Brora, 11.5km to the west of Helmsdale and 12km to the north-east of Golspie within the administrative area of the Highland Council. Its location is entirely within the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area.

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

Legislation and Consultation

Application

Under paragraph 2(1) of Schedule 8 to the Electricity Act, and the Electricity (Application for Consent) Regulations 1990 ("the Consents Regulations") made under the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent application.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") on 02 February 2021 the Company submitted an Environmental Impact Assessment Report (the "EIA Report") describing the proposed Development and giving an analysis of its environmental effects.

In accordance with the Consents Regulations and the EIA Regulations, a notice of the proposed Development was advertised in the local and national press and the opportunity given for those wishing to make representations to do so. In addition, to comply with the EIA Regulations, Scottish Ministers were required to consult the relevant planning authority, The Highland Council in this case, as well as Scottish Natural Heritage (operating as NatureScot), the Scottish Environment Protection Agency ("SEPA") and Historic Environment Scotland ("HES"), as well as any other public body likely to be concerned by the proposed Development by reason of their specific environmental responsibilities. Notification was sent to The Highland Council ("the Planning Authority") as well as to NatureScot, SEPA and HES. A wide range of other relevant organisations were also notified and consulted ("the Application consultation"). The Application consultation was initiated on 19 February 2021.

Additional Information

The Company submitted additional information to the Scottish Ministers in August 2021 ("AI 2021") to address concerns raised during the consultation and included information on habitat management, carbon balance, ornithology, noise and landscape and visual impacts.

In accordance with Regulation 20 of the EIA Regulations, AI 2021 was made available for public inspection. Notices were published in the Edinburgh Gazette, the application website and in newspapers circulated in the respective local communities informing the public of AI 2021 and, if they wished to do so, how representations to the Scottish Ministers could be made. AI 2021 was also made available, for comment, to those consulted by the Scottish Ministers on 20 August 2021 ("the AI 2021 consultation").

The EIA Report and AI 2021 were advertised and consulted upon in accordance with the requirements of the EIA Regulations.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations, EIA Regulations and the Electricity Works (Miscellaneous Temporary Modifications)(Coronavirus)(Scotland) Regulations 2020 and are satisfied the general public as well as statutory and other consultees have been

afforded the opportunity to consider and make representation on the proposed Development.

Public Inquiry

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

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

In September 2022, additional information in respect of ornithology, golden eagle habitat management and landscape and visual effects ("AI 2022") was submitted by the Company, at the request of the Reporter. Notification of the AI 2022 was given to the Planning Authority and those originally sent a copy of the EIA Report and AI 2021, including NatureScot and Royal Society for the Protection of Birds. Given their interests in this matter, arrangements were made for Brora Community Council and Loth Residents to review AI 2022.

Inquiry and hearing sessions were held between 01 and 03 November 2022 and a second policy hearing session was held on 27 January 2023 to consider the National Planning Framework 4 ("NPF4") and its implications for the assessment of the Application.

The Reporter conducted unaccompanied site inspections between 26 September and 29 September 2022 and accompanied site inspections on 03 and 04 November 2022.

Pubic Inquiry Report ("the PI Report")

The report of the public inquiry ("the PI Report") was received by the Scottish Ministers on 10 May 2023.

In each chapter of the PI Report the Reporter has summarised the arguments for each party, taking account of the precognitions, hearing statements, hearing sessions, the discussion at the public inquiry and the closing submissions. The Reporter also took into account the environmental information included in the EIA Report, AI 2021 and AI 2022, consultation responses, representations and all of the other information supplied for the inquiry and hearing sessions. The chapters of the PI Report provide the following:

Chapter 1 – Background, consultations and representations;
Chapter 2 – Legislative and policy context;
Chapter 3 – Landscape character and visual amenity;
Chapter 4 – Ornithology;
Chapter 5 – Other considerations;

Chapter 6 – Proposed conditions;
Chapter 7 – Policy assessment, overall conclusions and recommendations.

The Reporters' overall conclusion was that despite many factors being in the proposed Development's favour, they would not outweigh its significant adverse landscape and visual effects and consequently it was inconsistent with NPF4 (policies 4 & 11) and inconsistent with the Highland Wide Local Development Plan (Policy 67 – renewable energy).

The Reporter's recommendation (Chapter 7 of the PI Report) is that consent under section 36 of the Electricity Act 1989 and deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 should be refused by the Scottish Ministers.

Summary of consultation responses

A summary of all consultation responses received by the Scottish Ministers is provided below. The full consultation responses area available to view on the Energy Consents Unit website www.energyconsents.gov.scot

Statutory consultees

The Planning Authority objects to the proposed Development due to its significantly adverse impact on the integrity of The Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, as well as it having a significant adverse impact on the Rounded Hills – Caithness and Sutherland Landscape Character Type. The Planning Authority considers the location, siting and design of the proposed Development would have significantly detrimental visual impact due to the development dominating view within and across this upland area.

The Planning Authority also objected due to the proposed Development having a significantly detrimental visual impact on residents, road users including tourists, and recreational users of the outdoors in the wider vicinity of the site to the north, south, and west. The Planning Authority considers the location, siting and design of the proposed Development would have significantly detrimental visual and cumulative impacts with other wind energy development due to it not respecting the pattern and character of existing wind farm development in the area.

The Planning Authority objection considers the proposed Development is contrary to Policy 28 (Sustainable Design), Policy 67 (Renewable Energy), Policy 57 (Natural, Built & Cultural Heritage), and Policy 61 (Landscape) of the Highland-wide Local Development Plan, the Onshore Wind Energy Supplementary Guidance and Scottish Planning Policy.

With regards to the session dealing with NPF4, the Planning Authority maintained its objection stating that its case has been strengthened by the greater protection given to Special Landscape Areas.

Historic Environment Scotland ("HES") did not object to the proposed Development because it "*does not raise issues of national interest sufficient to warrant an objection for our historic environment interests*".

NatureScot did not object to the proposed Development. NatureScot provided advice on peatlands, blanket bog and wet heath and welcomed the commitment of further botanical and peat surveys being completed pre-construction and the increase in size of the Habitat Management Area.

With regards to Golden Eagles NatureScot advised the potential for collision with turbines was underestimated in the EIA Report and that the removal of turbines within 2km of a specific nest site would substantially reduce collision and displacement risks.

NatureScot provided advice on landscape and visual effects and stated that due to its "*prominent siting*" the proposed Development "*would result in a range of significant landscape and visual effects*". NatureScot further stated that "*turbines would create a visually complex and poorly designed array which would neither relate to the existing pattern of wind farms nor the underlying character of the landscape. These effects would be difficult to mitigate by a smaller and/or fewer turbines scheme*". NatureScot concluded however, that whilst the landscape and visual impacts would be significant they would not affect the wider, regional distinctive part of Sutherland in which the proposed Development was sited.

SEPA did not object. In response to the application consultation SEPA submitted a holding object which would be re-considered after clarification justifying the use of peat to restore borrow pits and the volume of peat planned to be utilised for habitat restoration was provided. In their response to the application consultation SEPA requested that if consent was to be granted to the proposed Development there should be the imposition of a condition relating to micro-siting. Subsequent to the provision of the requested clarification, SEPA withdrew their holding objection requesting that a further planning condition be applied requiring a detailed Peat Management Plan to be agreed prior to the commencement of any construction work.

Internal Scottish Government Advisors

Ironside Farrar are advisors to the Scottish Ministers on Peat Landslide and Hazard Risk Assessment ("PLHRA"). Ironside Farrar advised that a revised PLHRA submitted by the Company was considered as being sufficient.

Marine Scotland Science did not respond to the Application consultation or to the AI 2021 consultation.

Scottish Forestry did not object to the proposed Development. In their response to the Application consultation they stated that the area of forestation to be lost was such that no compensatory replanting was required.

Transport Scotland did not object to the proposed Development subject to the imposition of conditions relating to abnormal loads, additional signage or other temporary traffic control measures, site access, and the provision of wheel washing facilities.

Non-statutory consultees

Defence Infrastructure Organisation did not object the proposed Development subject to the imposition of conditions requiring aviation lighting on turbines.

Brora Community Council objected to the proposed Development because of its adverse landscape and visual impacts both singularly and cumulatively with other existing wind farms. Detrimental impacts on tourism and detrimental impacts on traffic and transport were also stated as reasons for the objection.

Golspie Community Council objected to the proposed Development because of its adverse impacts on the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area and on the coastline between Helmsdale and Loch Fleet.

Helmsdale & District Community Council objected to the proposed Development because of its adverse impacts on the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area and would be visible across a large part of the Strath of Kildonan.

Loth Residents objected to the proposed Development because of its adverse impacts on the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, coastal settlements and the A9(T) tourist route. Detrimental impacts on tourism, peatland habitat, birdlife and traffic and transport were also stated as reasons for the objection.

RSPB Scotland did not object to the proposed Development but they had "*a number of significant concerns*" about the impacts its location would have on birdlife especially in relation to Golden Eagles. RSPB Scotland suggested that consideration should be given to the removal of turbines which lie within a 2km radius a Golden Eagle nest and that, in relation to impacts on Golden Eagles, a "*revised population model is produced to provide Counterfactual of Population Size (CPS) outputs*". RSPB Scotland also stated that they are against consent being granted in perpetuity as applied for by the Company.

The following consultees did not object to the proposed Development:

- Aberdeen International Airport;
- British Horse Society;
- BT;
- Crown Estate Scotland;
- Highlands & Islands Airports Ltd;
- Joint Radio Company;
- NATS Safeguarding;
- Scottish Water.

The following consultees did not submit a response to the application consultation or to the AI 2021 consultation:

- Brora District Salmon Fishery Board;
- Civil Aviation Authority;
- John Muir Trust;
- Mountaineering Scotland;
- Scottish Rights of Way & Access Society;
- Visit Scotland.

Public representations

All the public representations submitted to the Scottish Ministers in respect of the proposed Development are available to view in full on the Energy Consents Unit website www.energyconsents.gov.scot

The Scottish Ministers received a total of 256 public representations, 239 being objections to the proposed Development and 17 in support of it. Reasons stated for objecting were adverse impacts on the following:

- aviation;
- birdlife;
- built heritage;
- habitats including peatland;
- landscape character;
- residential amenity (noise);
- the proposed Flow Country UNESCO World Heritage Site;
- tourism;
- traffic and transport;
- visual amenity;
- wild land areas;
- wildlife.

Reasons stated for supporting the proposed Development were:

- climate change emergency;
- potential to make improvements to local road network;
- the need for renewable energy;
- socio-economic benefits.

The Planning Authority received a total of 245 representations to the Application 207 being objections and 38 being in support. The issues cited for objecting and supporting were essentially the same as those cited in the representation received by the Scottish Ministers. Only those public representations received by the Scottish Ministers were addressed by the Reporter.

The matters raised in the representations are noted by the Reporters at paragraph 1.18 and 1.19 of the PI Report. They were addressed by the Reporter in the respective relevant topic chapters.

All consultation responses and representations sent to the Scottish Ministers have been taken into account by the Scottish Ministers in reaching their decision on the proposed Development.

The Scottish Ministers' considerations

Environmental Matters

The Scottish Ministers are satisfied that the EIA Report, the AI 2021, AI 2022, have been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation requirements, laid down in EIA Regulations, have been followed.

The Scottish Ministers have considered fully and carefully the Application, including the EIA report, the AI 2021, consultation responses, representations, the findings, conclusions and recommendation of the PI Report and are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

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

Main Determining Issues

Having considered the Application, the EIA Report, the AI 2021, AI 2022 responses from consultees, representations, the PI Report as well as Scottish Government policies, the Scottish Ministers consider, in line with the Reporter, that the main determining issues in respect of the proposed Development are:

- landscape and visual effects, including cumulative effects and effects on wild land;
- the likely significant ornithological effects;
- other considerations (the potential effects on ecology, geology, hydrology and hydrogeology, noise, aviation, cultural heritage and archaeology, and traffic and transportation).
- the economic benefits of the proposed Development;
- contribution to Renewable Energy Policy Objectives; and

- the extent to which the proposed Development accords with Scottish Government policies, the local development plan and other relevant plans and guidance.

Assessment of the Determining Issues

Landscape and visual effects

In Chapter 3 of the PI Report the Reporter considers the landscape and visual impacts of the proposed Development. The Reporter's findings are set out under the following subheadings:

- Effects on landscape character;
- Effects on wild land;
- Siting and design of the proposed Development;
- Effects on visual amenity.

The Reporter takes account of the information submitted and presented by the Company, information submitted and presented by the Planning Authority and Loth Residents (incorporating matters of concern raised by Brora Community Council and in a public representation submitted by Dr Walentowitz) and information submitted by NatureScot. The Scottish Ministers note that many of the representations also cite the landscape and visual effects, including cumulative effects as reasons for objecting. A summary of the overall conclusions of the Reporter on the proposed Development's landscape and visual effects is set out at paragraph 3.48 of the Report.

Effects on landscape character

It is noted by the Scottish Ministers that the Reporter's conclusions in respect of effects on landscape character are the same or very similar to those which form the basis of the objections from of the Planning Authority and Loth Residents and to the concerns raised by NatureScot. The Scottish Ministers agree with the Reporter's conclusion that the proposed Development will "*result in a range of significant landscape and visual effects*" and "*give rise to significant adverse effects*" on the character of landscapes including the Rounded Hills – Caithness & Sutherland Landscape Character Type, the distinctive character of the East Sutherland Coast and the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area.

Effects on wild land

It is noted by the Scottish Ministers that the Reporter concluded that the proposed Development would not significantly affect the qualities of the Ben Klibreck – Armoine Forest Wild Land Area (WLA 35) or the Causeymire – Knockfin Flows Wild Land Area (WLA 36). It is also noted by the Scottish Ministers that there were no objections to the proposed Development on the grounds of that it would adversely effect either of these two wild land areas. Consequently, the Scottish Ministers agree with the Reporter's conclusion that the proposed Development would not significantly affect the qualities of these wild land areas.

Siting and design of the proposed Development

It is noted by the Scottish Ministers that the siting and design of the proposed Development was cited in objections from consultees including the Planning Authority and Loth Residents and although they did not object NatureScot considered it as being "*poorly sited and designed".* It is also noted by the Scottish Ministers that in respect of the siting and design of the proposed Development the Reporter states that it is being "*on significantly higher ground near other, more sensitive LCTs*" that "*renders*" the proposed Development "*unacceptable*". The Scottish Ministers agree with the Reporter's conclusions on the siting and design of the proposed Development as set out at paragraph 3.33 of the PI Report.

Effects on visual amenity

It is noted by the Scottish Ministers that in respect to effects on visual amenity there is conflict between the Company's assessment and that of consultees including the Planning Authority, NatureScot and Loth Residents. This is detailed in paragraphs 3.29 to 3.47 in the PI Report. It also noted by the Scottish Ministers that in much of the Reporter's assessment of effects on visual amenity, he prefers the assessment and conclusion of consultees over those of the Company. The Scottish Ministers agree with the Reporter's overall conclusion that the proposed Development would have significant adverse effects on visual amenity.

The likely significant ornithological effects

In Chapter 4 of the PI Report the Reporter considers the likely significant ornithological effects of the proposed Development. In doing so, the Reporter fully considered the information submitted in the EIA Report and subsequently submitted in AI 2021 and AI 2022 along with responses from Loth Residents (also on behalf of Brora Community Council and Dr Walentowitz), NatureScot and RSPB Scotland.

The species considered to have potential to experience significant effects are Golden Eagle, Golden Plover and Merlin. With regards to Golden Eagles it is noted by the Scottish Ministers that in their response to the Application consultation RSPB Scotland stated that they were "*not confident in the EIAR conclusion that the predicted impact on golden eagle would not be significant in the context of the NHZ population*" whereas in their response to the AI 2021 consultation they stated that they "*accept the EIAR conclusion that the predicted impact on golden eagle would not be significant in the context of the NHZ population*". It is also noted by the Scottish Ministers that proposed mitigation measures in respect of residual displacement effects on Golden Eagles, Golden Plover and Merlin are welcomed by NatureScot and RSPB Scotland.

The Scottish Ministers note the Reporter's conclusions on the likely significant ornithological effects as detailed in paragraph 4.11 – 4.12 of the PI Report. It is also noted by the Scottish Ministers that neither NatureScot nor RSPB Scotland object and that the Reporter does not dispute the Company's ornithological assessment as detailed in paragraph 4.10 of the PI Report. The Scottish Ministers agree with the Reporter's conclusions that the proposed Development "*would not give rise to significant residual*

effects in respect of important ornithological features resident at the application site" subject to mitigation measures proposed in the Outline Habitat Management Plan.

Other considerations (the potential effects on ecology, geology, hydrology and hydrogeology, noise, aviation, cultural heritage and archaeology, and traffic and transportation)

At Chapter 5 of the PI Report, the Reporter considers the impact of the proposed Development on ecology, geology, hydrology and hydrogeology, noise, aviation, cultural heritage and archaeology, and traffic and transportation. The Reporter takes account of the Application, AI 2021, AI 2022, consultation responses as well as representations from other parties who raised objections and concerns in respect of the potential impact of the proposed Development on these matters. The Reporter considers on each of these matters that there is no significant adverse effects from the proposed Development.

The Scottish Ministers agree with the Reporter that the proposed Development would not have a significant impact on ecology, geology, hydrology and hydrogeology, noise, aviation, cultural heritage and archaeology, and traffic and transportation subject to conditions and mitigation measures.

The economic benefits of the proposed Development

The Scottish Ministers note that the socio-economics, recreation and tourism effects of the proposed Development are considered at paragraphs 5.37 to 5.42 on Chapter 5 of the PI Report. It is noted by the Scottish Ministers that the Reporter concluded that the proposed Development would deliver economic benefits both locally and nationally by generating income and jobs, the most substantial being those "*associated with employment and local suppliers during the construction and operation*". The Scottish Ministers note and agree with the Reporter's conclusion at paragraph 5.42 of the PI Report that the proposed Development would not have significant adverse effects on recreation and tourism. The Scottish Ministers have taken account of appropriate sections of the EIA Report, consultation responses, public representations alongside the Reporter's considerations and subsequent conclusions, and whilst it is always difficult to precisely quantify overall net economic benefits, are satisfied that, through employment during the construction, operational and decommissioning phases and supply chain opportunities, the proposed Development has the potential to bring net positive economic benefits.

Contribution to Renewable Energy Policy Objectives

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

The Onshore Wind Policy Statement ("OWPS") was published in December 2022 and it reaffirms the vital role for onshore wind in meeting Scotland's energy targets within the context of the Scottish Government's 2045 net zero emissions commitment. The OWPS

sets out the Scottish Government's position for the ongoing need for more onshore wind development and capacity in locations across Scotland where it can be accommodated in appropriate locations.

The proposed Development, having a generating capacity of up to 63 MW based on current technology and an installed battery storage facility with capacity to store up to 60 megawatt hours of energy, will make a valuable contribution towards meeting greenhouse gas emission and renewable electricity targets.

The carbon payback figures for the proposed Development have been presented in appendices 15.1 and 15.2 of Chapter 15 of the EIA Report referencing the approved Scottish Government carbon calculator. It was also referenced in AI 2021 (*Section 2 Carbon Balance – Volume 1 – Report*). In overall terms the proposed Development, if built, would be expected to have a payback period of 1.6 years if it replaces the fossil fuel mix and 2.9 years if it replaces a grid mix of electricity generation. Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

The Reporter's consideration of the proposed Development's contribution to net zero targets are detailed in Chapter 7 of the PI Report. It is noted by the Scottish Minsters that the Reporter concluded that the proposed development "*would make a significant contribution to climate change mitigation and greenhouse gas emissions reduction targets*".

The Scottish Ministers have taken account of appropriate sections of the EIA Report, AI 2021, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions and agree that the proposed Development would make an important contribution in support of Renewable Energy Policy Objectives. The Scottish Ministers are satisfied that the deployment of the amount of renewable energy from the proposed Development is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045, and that significant weight should be placed on such contributions.

The extent to which the proposed Development accords with Scottish Government policies, the local development plan and other relevant plans and guidance

Chapter 2 of the PI Report sets out the legislative and policy context against which the proposed Development should be considered. Chapter 7 the PI Report sets out the Reporter's considerations and assessment of the proposed Development in the context of relevant national climate change and energy policy, national planning policy and other relevant local planning policy and guidance.

NPF4 was adopted by the Scottish Ministers on 13 February 2023. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of:

- sustainable places;

- liveable places; and
- productive places.

The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must contribute to making Scotland a more sustainable place.

The Scottish Government's Energy Strategy (2017) sets a 2030 target for the equivalent of 50% of Scotland's heat, transport and electricity consumption to be supplied from renewable sources (the Draft Energy Strategy and Just Transition Plan (2023) maintains this target). The OWPS in reaffirms the vital role for onshore wind in meeting Scotland's energy targets and it is acknowledged that a balance requires to be struck with environmental considerations to ensure that the right development is delivered in the right place.

The Application was submitted prior to the publication of OWPS in December 2022 and prior to the adoption of NPF4 on 13 February 2023. As stated in paragraph 2.8 of Chapter 2 of the PI Report "*the parties updated their hearing statements to take account of the new national planning and energy policy framework*".

At paragraph 2.7 of Chapter 2 of the PI Report the Reporter sets out that the Highland-wide Local Development Plan (2012) and its associated supplementary guidance, and NPF4 now forms part of the development plan.

At Chapter 7 of the PI Report, the Reporter sets out the policy assessment and the Reporter's conclusions on policy matters is provided at paragraphs 7.5 to 7.51 of the PI Report. It is noted by the Scottish Minister that in his conclusions within the context of Scottish Government policies, the local development plan and other relevant plans and guidance, the Reporter states, "*when all matters are considered together and weighed in the overall planning balance, I find that the benefits of the proposed development*, *even in the context of recently increased policy support for the type of development proposed, would not outweigh the significant adverse landscape and visual effects that would result*". The Reporter concludes that the proposed Development is "*inconsistent*" with NPF4 policy 11(e)(ii) and Highland-wide Local Development Plan policy 67 (renewable energy) and as such, he recommends that section 36 consent and deemed planning permission is refused. NPF4 Energy Policy 11(e)(ii) - recognises that significant landscape and visual impacts are to be expected for some forms of renewable energy but that where impacts are localised and/or appropriate design mitigation has been applied they will generally be acceptable. The policies within NPF4 require to be read as a whole and considered and balanced when reaching a decision on applications for wind energy development.

Taking account of the EIA Report, the AI 2021, AI 2022 consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, the Scottish Ministers agree, in accordance with the Reporter that the proposed Development is not fully supported by relevant national or local planning policies. The Scottish Ministers consider the proposed Development is contrary to Policy 11(e)(ii) of NPF4 in that there are

significant adverse landscape and visual effects and the predicted effects would be widespread and extend beyond distances predicted by the Company, and the effects would not be localised. The Scottish Ministers agree with the Reporter that the appropriate design mitigation has not been applied.

The Scottish Ministers' Conclusions

The Scottish Ministers are satisfied that the EIA Report and its AI 2021 and AI 2022 have been produced in accordance with the EIA Regulations and that the relevant procedures regarding publicity and consultation laid down in those Regulations have been followed.

The Scottish Ministers have fully considered the EIA Report, the AI 2021, the AI 2022, the consultation responses, representations, the findings, conclusions and recommendation of the PI Report and are satisfied that the environmental impacts of the proposed Development have been sufficiently assessed. The Scottish Ministers have taken the environmental information into account when reaching their decision.

Taking the above assessment into account the Scottish Ministers consider that the proposed Development would create significant adverse landscape and visual effects which cannot be mitigated and these would outweigh any benefits that would be derived from it.

The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion addresses the likely significant effects of the proposed Development on the environment. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

The Scottish Ministers Determination

As set out above, the seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. Scotland's renewable energy and climate change targets, energy policies and planning policies are all relevant considerations when weighing up the proposed Development. NPF4, Scotland's Energy Strategy and the Onshore Wind Policy Statement make it clear that renewable energy deployment remains a priority of the Scottish Government. These are all matters which should be afforded significant weight in favour of the proposed Development.

The Scottish Ministers consider that the proposed Development, if deployed, would create net economic benefits and deliver significant renewable energy benefits that would support climate change mitigation and are wholly in accordance with Scottish Government's climate change ambitions. The proposed Development in these respects would contribute to sustainable development and this has been taken into account when reaching a decision.

These benefits however must be considered carefully in the context of the negative impacts on the natural environment, as a result of the widespread significant adverse landscape and visual effects and lack of appropriate design mitigation being applied, and whether or not, on balance, they are acceptable.

The Scottish Ministers acknowledge, in accordance with both NPF4 and the OWPS, that meeting our climate ambitions will require a rapid transformation across all sectors of our economy and society, however this does not negate the continuing requirement to ensure that the right development happens in the right place.

The Scottish Ministers, having considered the Application, the EIA Report, the AI 2021, AI 2022, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, consider that although it would be acceptable in the context of the net economic benefits and the significant renewable energy benefits that would be delivered if the proposed Development were to be deployed, the significant adverse landscape and visual effects it would create would not be acceptable. The proposed Development would also fail to preserve natural beauty, which is one of the matters the Scottish Ministers are required to have regard to the desirability of by virtue of Schedule 9 of the Electricity Act.

Even taking into account the significant support assigned by NPF4 to the proposed Development and its status as national development, the significant adverse landscape and visual effects on the character of landscapes including the Rounded Hills – Caithness & Sutherland Landscape Character Type and the distinctive character of the East Sutherland Coast and the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area ultimately leads the Scottish Ministers to the conclusion that despite the many factors in favour of the proposed Development, this is not the right development in the right place and the proposed Development is therefore not acceptable overall.

The Scottish Ministers therefore consider the Application for consent under section 36 of the Electricity Act 1989 for the construction and operation of Kintradwell Wind Farm, wholly within the planning authority area of the Highland Council, should be refused.

In accordance with the EIA Regulations, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

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

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts:

https://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules

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

Yours sincerely

Ruth Findlay

Ruth Findlay
For and on behalf of the Scottish Ministers
A member of the staff of the Scottish Government

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Scottish Government
Riaghaltas na h-Alba
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Report of Inquiry into application under section 36 of the Electricity Act 1989 and deemed application for planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended)

The construction and operation of Kintradwell Wind Farm on land located approximately 7.7 kilometres north of Brora, 11.5 kilometres to the west of Helmsdale and 12 kilometres to the north-east of Golspie, Sutherland, Highlands

• Case reference	WIN-270-15
• Case type	Application for consent under s.36 Electricity Act 1989 and deemed planning permission under s.57 Town and Country Planning (Scotland) Act 1997
• Reporter as appointed by Scottish Ministers	Andrew A Sikes
• Applicant	Renewable Energy Systems Ltd
• Planning authority	The Highland Council
• Other Inquiry parties	Loth Residents
• Written Submission Process	Brora Community Council Royal Society for the Protection of Birds
• Date of application	2 February 2021
• Date case received by DPEA	27 January 2022
• Methods of consideration and dates	Inquiry session 1-3 November 2022 Hearing sessions 1 November 2022 Written submissions 1-29 September 2022
• Date(s) of site visit(s)	Unaccompanied inspections 26-29 September 2022 Accompanied inspections 3 and 4 November 2022
• Date of report	10 May 2023
• Reporters' recommendation	Refuse Section 36 consent and deemed planning permission

Acronyms used in the report	
AOD	Above Ordnance Datum
CD	Core Document
ETSU	The Assessment & Rating of Noise from Wind Farms (ETSU-R-97)
GWDTE	Ground Water Dependent Terrestrial Ecosystems
HES	Historic Environment Scotland
LCT	Landscape Character Type
LDP	Local development Plan
NPF	National Planning Framework
OWPS	Onshore Wind Policy Statement
RSPB	Royal Society for the Protection of Birds
SEPA	Scottish Environment Protection Agency
SLA	Special Landscape Area
SPP	Scottish Planning Policy
VP	Viewpoint
WLA	Wild Land Area

Summary of Report

The Site

The application site lies high on the East Sutherland coastal hills located approximately 7.7 kilometres north of Brora, 12 kilometres north-east of Golspie and 11.5 kilometres west of Helmsdale. The site extends across a range of upland habitats, principally shrub heath, semi-improved grassland, blanket bog and watercourses. A plantation woodland is located alongside the proposed point of access on the A9(T).

The site is located close to the operational Gordonbush and Kilbraur wind farms.

Background to the proposal

The application was submitted to the Scottish Government on 2 February 2021. It is supported by an Environmental Impact Assessment Report and other environmental information, which has been made available for consultation and public comment. The Highland Council objects to the application, resulting in it being the subject of this inquiry. Brora Community Council and Loth Residents also object to the application.

Description of the development

The application seeks consent for the development of up to 15 wind turbines and associated infrastructure, including a battery storage facility. Each turbine would have a maximum height of 149.9 metres. The development would have an installed capacity of approximately 63 megawatts. In addition, battery containers would have capacity to store up to 60 megawatt hours of energy. Vehicular access to the site would be via a new junction taken directly from the A9(T) at Kintradwell, north of Brora. Approximately 13.5 kilometres of access track would be built, incorporating five watercourse crossings. Consent is sought for 40-years. The development would take approximately 15 months to construct.

The applicant's case

The proposed Kintradwell wind farm is a National Development under the Fourth National Planning Framework (NPF4). In addition to renewable energy generation, the proposed development would deliver material biodiversity enhancements and economic benefits.

The landscape and visual effects of the proposed development would be spatially local; 4 kilometres for landscape effects within the host landscape character type; 5-9 kilometres within adjoining landscape character types; 9 kilometres for visual effects. Such impacts would be expected for any wind energy development of a similar scale. The maximum proposed tip height is, in 2023, at the lower end of tip heights currently being proposed by the industry.

The proposed development is supported by the Highland-wide Local Development Plan (Policy 67). Even if that were not the case, it is strongly supported by NPF4. Other than landscape and visual amenity concerns, there are no other adverse material considerations of consequence. As such, s.36 consent and planning permission should be granted to the proposed development.

The Highland Council's case

The proposed development would lie on a simple, sensitive skyline adjacent to a unique coastal strip close to the middle of a Special Landscape Area, the very opposite of an acceptable location for a wind farm. The proposed turbines are of a height that would diminish the scale of the hills on which they would sit.

The contrast between the proposed development and the operational wind farms of Gordonbush and Kilbraur is obvious. In general terms, both Gordonbush and Kilbraur are well located, shielded by the very hills on which the proposed turbines would sit on top of. Approval of the application would undermine the measures put in place to mitigate the landscape and visual effects of the Gordonbush and Kilbraur developments.

In short, the council contends that the applicant has understated the landscape and visual effects that would arise as a result of the proposed development. The council argues, the proposed development would result in unacceptable, significant and demonstrable adverse landscape and visual effects detrimental to the amenity of the area. As such, it states that the application does not accord with the Development Plan.

Loth Residents' case

Loth Residents support the council's assessment of the application and its decision to recommend that consent and planning permission should be refused. In doing so, it stresses the importance of the Special Landscape Area and the increased protection afforded to such areas by NPF4. It argues, the applicant has sought to downplay the effects of the proposed development on the qualities of The Loch Fleet, Loch Brora and Glen Loth Special Landscape Area

In short, Loth Residents consider that the development would have a significant impact on important high-quality peatland habitat; ornithological interests, including golden eagle, golden plover and merlin; and traffic during construction activities. It concludes that the proposed development would not be the right development in the right place.

Other Matters

Loth Residents dispute the applicant's findings on the predicted effects of the proposed development on ornithological interests. Following the submission of an updated bird survey, further comments were sought through an exchange of written submissions between the parties. NatureScot and Royal Society for the Protection of Birds do not object to the application.

Reporter's Conclusions

The proposed development attracts considerable support from the recently updated national planning and energy policy framework and would make a valuable contribution towards meeting climate change mitigation and emission reduction targets. However, due to its prominent siting and poor design, the proposed development would give rise to a range of significant landscape and visual effects. The identified effects would extend over a considerable distance and beyond that predicted by the applicant.

The proposed development would compromise the landscape function of the Rounded Hills by breaching the separation they provide between the settled coastal strip and the interior moorland hills, which contain and largely obscure the operational Gordonbush and

Kilbraur wind farms from view when travelling on the A9(T) and Far North railway. The design of the proposed development is such that it would neither relate to the existing wind farms nor be of a suitable scale to fit with the more sensitive coastal landscape.

The proposed development would also have adverse effects on the qualities of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, notably an appreciation of the combination and juxtaposition of the different landforms when travelling through the landscape. The socio-economic and environmental benefits identified by the applicant would not outweigh the harm that would ensue should the development proceed.

The poor siting and design of the proposed development would be particularly apparent when seen from elevated viewpoints, notably the summit of Ben Bhraggie, and when travelling east on the Rogart to Brora minor road; from Ben Bhraggie the proposed development would appear as a new focal feature and detract from the existing focal feature of the Duke of Sutherland Monument; from the minor road, the proposed turbines would appear to extend beyond the interior moorland and in so doing conflict with the existing pattern of wind farm development. The siting and design of the proposed development conflicts with aspects of Scottish Natural Heritage (NatureScot) guidance set out in 'Siting and Designing Wind Farms in the Landscape'.

The proposed turbines would also appear as imposing features when seen from lower lying areas, such as the settlements of Brora and Doll, and to a lesser extent Dornoch, from which the turbines would appear as large, prominent, moving features on the skyline. Users of Brora Beach, golf course and core paths would similarly experience significant visual effects.

The applicant's Landscape and Visual Impact Analysis consistently underplays the proposed development's landscape and visual effects.

It is for these reasons, when all matters are considered together and weighed in the overall planning balance, the benefits of the proposed development, even in the context of considerable policy support for the type of development proposed, would not outweigh the significant adverse landscape and visual effects that would result. Consequently, the proposed development is inconsistent with NPF4 policies 4 and 11 and Highland-wide LDP policy 67 (renewable energy). In conducting my assessment of the application, I have had regard to the considerations of Schedule 9 of the Electricity Act 1989.

Recommendations

I recommend that Section 36 consent and deemed planning permission is refused.

Scottish Government
Planning and Environmental Appeals Division
Hadrian House
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

DPEA reference: WIN-270-15

The Scottish Ministers
Edinburgh

Ministers

In accordance with my minute of appointment, dated 24 March 2022, I conducted a public inquiry in connection with an application to construct and operate the proposed Kintradwell Wind Farm, located approximately 7.7 kilometres north of Brora, East Sutherland. The Highland Council has lodged an objection to the application which has not been withdrawn.

The application has been submitted by Renewable Energy Systems Ltd and seeks consent under section 36 of the Electricity Act 1989 and a direction for deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 to develop up to 15 wind turbines up to a maximum height of 149.9 metres from base to blade tip. The indicative capacity of the proposed development is 63 megawatts.

I held a pre-examination meeting on 22 June 2022 to consider the arrangements and procedures for the inquiry. It was agreed that the effects of the proposed development on landscape character and visual amenity would be considered at an inquiry session and policy issues and proposed conditions at hearing sessions. I held a second pre-examination meeting on 8 September 2022 to confirm arrangements for the inquiry, including the prospect of holding a second policy hearing session to discuss the Fourth National Planning Framework (NPF4), should it be laid before Parliament after the conclusion of the inquiry. Oral evidence was presented at inquiry and hearing sessions held between 1 and 3 November 2022. A second policy hearing session was held on 27 Januray 2023 to consider NPF4 and its implications for the assessment of the application.

I issued a request for additional environmental information to assist the inquiry in respect of ornithology, golden eagle habitat management and cumulative landscape and visual assessment. Written submissions were invited from relevant parties on these issues, NatureScot, Royal Society for the Protection of Birds, and Loth Residents.

I conducted unaccompanied site inspections between 26 and 29 September 2022 and accompanied site inspections on 3 and 4 November 2022.

My report, which is arranged on a topic basis, takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the environmental assessment, additional information, other material submitted by the parties and the written representations made in connection with the proposal. Throughout the report, highlighted text indicates hyperlinks which direct the reader to the source material or reference to the relevant sections of this report.

CHAPTER 1: BACKGROUND, CONSULTATION AND REPRESENTATION

Site location and description

Relevant chapter in the Environmental Impact Assessment Report CD01.3: EIAR Volume 2, Figure 1.1: Site location CD01.3: EIAR Volume 2, Figure 1.2: Infrastructure layout

1.1 The application site is located on the Sutherland hills close to the Moray Firth coast. The site lies approximately 7.7 kilometres north of Brora, 12 kilometres north-east of Golspie and 11.5 kilometres west of Helmsdale. At its southern boundary, the site abuts the A9(T) trunk road and Far North railway corridor, from where the land rises steeply to the summit of Càrn Garbh in the north; rising from 20 metres to 545 metres above ordnance datum (AOD) over a distance of approximately 5 kilometres. The operational Gordonbush Wind Farm lies approximately 1.7 kilometres north-west of the summit. In total, the application site extends to approximately 2680 hectares.

1.2 The landcover of the site includes a range of upland habitats, principally shrub heath, semi-improved grassland, blanket bog and watercourses. A plantation woodland is located alongside the proposed point of access on the A9(T). Similar upland habitats lie immediately beyond the application site boundary.

Description of development

1.3 The application proposes the development of up to 15 wind turbines and associated infrastructure, including a battery storage facility. Each turbine would have a maximum height (base to blade tip) of 149.9 metres. The development would have an installed capacity of approximately 63 megawatts. In addition, battery containers would have capacity to store up to 60 megawatt hours of energy. Vehicular access to the site would be via a new junction taken directly from the A9(T) at Kintradwell, north of Brora. Within the site, approximately 13.5 kilometres of access track would be built and incorporate five watercourse crossings. Consent is sought for 40-years. The development would take approximately 15 months to construct. Proposals to decommission the proposed development and restore the application site would be lodged at least 12 months prior to operations ceasing and take six months to complete.

Environmental Impact Assessment Report

1.4 The application was submitted to the Scottish Government's Energy Consents Unit on 2 February 2021. It is supported by an Environmental Impact Assessment Report, which was advertised and made available for comment on 19 February 2021. The report includes the following information:

- Volume 1: Non-technical Summary;
- Volume 2: Written Statement;
- Volume 3: Landscape and Visual Impact Assessment - GIS output;
- Volume 4: Landscape and Visual Impact Assessment - NatureScot output;
- Volume 5: Landscape and Visual Impact Assessment - Highland Council output;
- Volume 6: Technical Appendices; and,
- Planning Statement.

1.5 To address specific comments raised by statutory and other consultees, the applicant prepared and advertised additional environmental information (Additional Information) on 19 August 2021. The Additional Information includes:

- Volume 1: Report, sections 1-4, which update and add to information on habitat management, carbon balance, ornithology and noise, respectively (as originally set out in Environmental Impact Assessment Report chapters 8, 9, 12 and 15);
- Volume 1: Report, section 5, which describes the background to the preparation of a revised set of visualisations (provided in separate volumes); and,
- Volumes 2 and 3: Landscape and Visual Impact Assessment Visualisations, which replace Environmental Impact Assessment Report volumes 4 and 5.

1.6 The applicant states that the design and layout of the proposed development remains unchanged from that originally submitted. As such, it considers all other information to remain extant.

1.7 At my request, as provided for by Regulation 20(6) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, additional environmental information in respect of ornithology, golden eagle habitat management and landscape and visual effects was submitted on 1 September 2022. Given that the information was formally requested for the purposes of the inquiry it was not advertised in the local press. However, notice of its preparation was given to the planning authority and those originally sent a copy of the Environmental Impact Assessment Report and Additional Information, including NatureScot and Royal Society for the Protection of Birds. In addition, given their interests in this matter, arrangements were made for Brora Community Council and Loth Residents to review the additional environmental information.

The council's position

1.8 The council considers that the proposed development, by virtue of its location and scale, would give rise to a number of significant adverse effects, some of which are acknowledged by the applicant in its assessment of the scheme. These effects are focussed on what it describes the distinctive landscape character of the area, including the special qualities and integrity of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area. The location of the site, and its raised elevation, would also give rise to significant adverse effects on the neighbouring Ben Kilbreck-Armine Forest Wild Land Area. The proposed development would also give rise to significant visual effects. The council comments that visibility of the proposed turbines would extend across the vast and remote areas to the north-east, vertically extending the influence of wind farm development across the skyline above the existing Gordonbush and Kilbraur wind farms; which sit lower in the landscape surrounded by Strath Brora, are set back from the coast and largely hidden from view by the Sutherland hills.

1.9 The council argues that the proposed development would have an uncomfortable relationship with the operational Gordonbush wind farm, being of an entirely different character. As such, despite its close proximity, it claims that it would not read as an extension. On this basis, it considers that the proposed development is of an inappropriate design and would not integrate well with existing wind farm development in the area. Nor has its design addressed the landscape and visual constraints of the area.

1.10 The council also argues that the proposed development would give rise to significant detrimental visual effects when viewed by residents, road users and those visiting the hills for leisure and recreational purposes. It adds, the proposed development would be visually prominent from 12 of the 18 representative viewpoints, from which significant adverse effects would arise. These effects would occur across a series of hill tops within a 13-kilometre radius of the site and be experienced from lower elevations by receptors in the nearby settlements of Brora, Doll, Greenhill and Dalchalm. They would also be experienced by receptors along the eastern coastal frontages at Embo and Dornoch out to a distance of approximately 23 kilometres.

1.11 With regard to cumulative effects, the council states that these would arise from several viewpoints and be experienced sequentially by those travelling on the A9(T), the attractive Brora to Rogart minor road and the rail network. In addition, significant visual effects would be experienced by those using the hills surrounding the application site for recreational purposes. The council believes that the applicant's assessment has failed to recognise these effects as being significant. It also argues that the proposed development in combination with the consented offshore Moray West Wind Farm would give rise to adverse cumulative effects; creating a perception of being encircled by wind energy developments when seen from hill tops lying to the south of the application site, by those travelling by road on the A9(T), Far North railway line, residents of Brora and those visiting leisure attractions along the coastline.

1.12 Over and above these concerns, the council notes that the proposed development would give rise to adverse effects on ornithological interests, notably Golden Eagle. Despite the prospect of extensive mitigation measures, the proposed development would lead to the loss of at least one Golden Eagle territory. Although not highlighted by Historic Environment Scotland, the proposed development may also compete with the scale, setting and prominence of the culturally significant Duke of Sutherland Monument.

1.13 The council's assessment concludes that the proposed development would result in unacceptable, significant and demonstrable adverse landscape and visual effects detrimental to the amenity of the area. As such, it states that the application does not accord with the Development Plan (in place at the time it was considered). There are no material considerations that lead the council to a different conclusion.

Consideration of the application by The Highland Council

1.14 Following the circulation of a handling report to elected members of the council, in line with its scheme of delegation, the Highland Council resolved to raise an objection to the application for the following reasons:

1. The application is contrary to Policy 67 (Renewable Energy), Policy 57 (Natural, Built and Cultural Heritage), and Policy 61 (Landscape) of the Highland-wide Local Development Plan, the Onshore Wind Energy Supplementary Guidance, and Scottish Planning Policy, as the development would have a significantly adverse impact on the integrity of The Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, as well as having a significant adverse impact on the Rounded Hills – Caithness and Sutherland Landscape Character Type. This is by virtue of the location, siting and design with the proposed development have a significantly detrimental visual impact, due to the development dominating view within and across this upland area [sic].

2. The application is contrary to Policy 67 (Renewable Energy) and Policy 28 (Sustainable Design) of the Highland wide Local Development Plan, the Onshore Wind Energy Supplementary Guidance, and Scottish Planning Policy as the development would have a significantly detrimental visual impact particularly as viewed by residents, road users including tourists and recreational users of the outdoors in the wider vicinity of the site to the north, south, and west of the proposed development, as demonstrated at, but not limited to, viewpoints VP1 (Doll), VP2 (Lower Brora), VP3 (Victoria Road (A9), North Brora), VP4 (Beinn Dhorain), VP5 (Creag Nam Fiadh), VP6 (Hope Hill), VP7 (Track to Ben Armine Lodge), VP8 (Brora to Rogart Minor Road near Sciberscross), VP9 (Brora to Rogart Minor Road near Dalreavoch), VP11 (Ben Horn), VP12 (Ben Bhraggie) and VP14 (Dornoch, Coastal Footpath near Royal Dornoch Golf Club). This is by virtue of the location, siting and design of the proposed development having a significantly detrimental visual and cumulative impacts with other wind energy development, and due to the development not respecting the pattern and character of existing wind farm development in the area.

Other consultation responses and representations

1.15 A number of organisations and individuals commented on the application. Set out below is a summary of responses from those that raised objection, provided information and advice relevant to the mitigation of effects that the proposed development would give rise to and the imposition of conditions. The responses appear in alphabetical order.

Brora Community Council

Brora Community Council objects to the application. It considers that the proposed development would have an adverse visual impact on the community, scenic coastline, and Special Landscape Area. It adds, in combination with existing wind farms, the proposed development would give rise to cumulative effects across Strath Brora. It also raises concerns in respect of peat habitat and birdlife, local tourism, access, traffic and transport.

Defence Infrastructure Organisation (MOD)

Defence Infrastructure Organisation does not object to the application. It notes, however, that the application site lies within ‘Low Flying Area 14’ which is used for low flight training and that the proposed development would cause a physical obstruction. To address this matter, conditions should be attached to a consent to secure aviation safety lighting and data necessary to chart the structures.

Although the provision of visible aviation lighting was initially sought, the MOD is content for infra-red lights and beacons to be attached to perimeter turbines.

Golspie CC

Golspie Community Council objects to the application. It considers that the proposed development would have adverse effects on the Special Landscape Area and the coastline between Helmsdale and Loch Fleet.

Helmsdale & District Community Council

Helmsdale and District Community Council objects to the application. It considers that the proposed development would have adverse effects on the Special Landscape Area and would be visible across a large part of the Strath of Kildonan.

Historic Environment Scotland (HES)

HES does not object to the application. It comments, however, that the proposed development would have adverse minor effects on six scheduled monuments and suggests that proposed turbine T15 is repositioned to reduce the visual impact of the proposed development on the setting of Carradh nan Clach (two standing stones). I consider this matter in Chapter 5 of the report.

Loth Residents

Loth Residents object to the application. It comments that the proposed development would significantly damage the integrity and interior qualities of the Special Landscape Area, including the setting it affords in views from the south. It adds, the development departs from the prevailing pattern of development and would give rise to significant negative effects on the Special Landscape Area, coastal settlements and the A9(T) tourist route.

Loth Residents also consider that the development would have a significant impact on important high-quality peatland habitat; ornithological interests, including golden eagle, golden plover and merlin; traffic during construction activities. It concludes that the proposed development would not be the right development in the right place.

NatureScot

NatureScot does not object to the application. It has, however, provided detailed comments on the effects of the proposed development on ornithology, peatland habitat, landscape character and visual amenity. A summary of its comments on each of these topics is provided below and addressed in the relevant chapters of this report.

- *Ornithology*

  NatureScot comments that Environmental Impact Assessment Report fails to fully consider the possible effects of the proposed development on golden eagles, noting that displacement of the birds could lead to the abandonment of a nest site. It also considers that the potential for eagles to collide with the proposed turbines has been underestimated. Nonetheless, it comments that the conservation status of the birds would remain in favourable status. It does, however, recommend that all turbines within 2 kilometres of the nest site should be removed or relocated.

  NatureScot accepts that increasing the area of habitat management could help mitigate the effects of the proposed development on golden eagles. However, it believes that there is potential to reduce effects further by removing or relocating all turbines within two kilometres of nest sites. I consider this matter in Chapter 4 of the report.

- *Peat and peatlands*

  NatureScot comments that more detailed peat and habitat surveys require to be undertaken prior to construction works to identify areas of deep peat and sensitive

habitat. It adds that infrastructure should be sited so as to avoid such areas. Also, habitat restoration areas (as originally proposed) would be insufficient to compensate for habitat losses likely to occur; NatureScot suggests that the area should be at least doubled. Finally, in terms of golden eagle foraging, NatureScot welcomes the proposal to cease muirburn (burning and cutting vegetation). However, to mitigate risk of wildfire, strategic cutting, or even burning of firebreaks on suitable habitats, may be required.

- *Landscape and Visual Impact*

  In summary, NatureScot advises that due to the prominent siting of the proposed development it would result in a range of significant landscape and visual effects. The turbines would create a visually complex and poorly designed array which would neither relate to the existing pattern of wind farms nor the underlying character of the landscape. These effects would be difficult to mitigate by a smaller and/ or fewer turbine scheme. Whilst the landscape and visual effects would be significant, NatureScot considers that they would not affect the wider, regional distinctive character of this part of Sutherland. I consider this matter in Chapter 3 of the report.

Rogart Community Council

Rogart Community Council objects to the application. It comments that the elevation of the proposed development would create a sense of encirclement, particularly from the heights of Rogart. It would also result in the degradation of peatlands, lead to the industrialisation of the landscape and traffic disruption.

Royal Society for the Protection of Birds (RSPB)

The RSPB does not object to the application. It comments, however, that it has significant concerns regarding the location of the proposed development due to its likely impacts, particularly in relation to golden eagle. It adds, bird activity in the area and the predicted effects of the proposed development, suggest that the application site is not an appropriate location for a wind farm.

The RSPB suggests that consideration should be given to removing turbines from the scheme that lie within a 2-kilometre radius of a golden eagle nest site. It notes that this would reduce collision risk and displacement of the birds. It also suggests that assessment of effects on golden eagle should be re-modelled to provide a 'counterfactual of population size' output. The RSPB advises strongly against consent being granted in perpetuity (as originally proposed by the applicant).

In response to the proposals of the Additional Information, the RSPB notes its disappointment that the scheme layout has not been revised to take account of effects on golden eagle. It reiterates its advice that turbines within 2 kilometres of a nest site should be removed. The RSPB accepts the conclusions of the 'counterfactual population' modelling that impacts on golden eagle would not be significant but adds that changes to the layout of the proposed turbines would reduce risks of collision and displacement of the birds.

Scottish Environment Protection Agency (SEPA)

SEPA does not object to the application. It does, however, recommend the imposition of conditions if consent is granted to minimise the effects of the proposed development on;

peat and carbon loss; protection of wetland and peatland habitats; and the water environment. It also recommends the imposition of conditions relating to construction works and the reinstatement and decommissioning of the proposed development.

Transport Scotland

Transport Scotland does not object to the application. It does, however, seek the imposition of conditions with respect to site access, deliveries, signage and temporary traffic management measures that may be required should consent be granted.

Representations

1.16 The council's report of handling includes a summary of the issues raised in representations to the application, some of which may have been submitted directly to the planning authority. In such instances, the planning authority notified the relevant individuals to submit their representations directly to the Scottish Ministers. It is only those representations, as made directly to the Scottish Ministers, which have been addressed in this report.

1.17 The report of handling notes that the council received 245 representations to the application; of which 207 were objections and 38 were in support. It also notes that the Energy Consents Unit received 256 representations; of which 239 were objections and 17 were in support.

1.18 In summary, those opposing the proposed development argue that it would give rise to adverse impacts on:

- landscape character and visual amenity;
- wild land areas;
- wildlife, including ornithology;
- habitats, including peatland;
- aviation;
- built heritage;
- residential amenity, as a consequence of noise;
- tourism;
- traffic; and,
- the proposed Flow Country UNESCO World Heritage Site.

1.19 Those supporting the application cited:

- climate change benefits, including the need for renewable energy;
- socio-economic benefits;
- ease of access; and,
- potential to improve local road network.

1.20 The matters raised in representations are addressed in the relevant topic chapters.

Inquiry

1.21 The requirement for an inquiry was triggered by the objection to the application by Highland Council. A letter was subsequently sent to all parties who had previously commented on the application explaining that the case had been transferred to the Scottish Government's Planning and Environmental Appeals Division (DPEA) for examination. The letter invited parties to confirm their further involvement or otherwise in the inquiry process.

Position Statements

1.22 The following parties were invited to submit position statements:

- the applicant;
- The Highland Council;
- Brora Community Council; and,
- Loth Residents.

1.23 The position statements received assisted in preparations for the inquiry, in particular the first pre-examination meeting held on 22 June 2022. The note of the meeting confirmed the detailed arrangements for the inquiry. A second pre-examination meeting was held on 8 September 2022 to consider whether the inquiry could be held in person and, if so, confirm the necessary arrangements. It was agreed to hold the inquiry in person (note of second pre-examination meeting).

Statement of Agreement

1.24 Following the pre-examination meetings, and prior to the submission of cases, the applicant and the council statement submitted a Statement of Agreement (CD17.01), dated 14 September 2022. The statement identified areas of agreement amongst the parties, as related to the proposed development, in respect of:

- landscape and visual matters; and,
- planning and energy policy matters.

CHAPTER 2: LEGISLATIVE AND POLICY CONTEXT

Legislative Context

2.1 Section 36 of the Electricity Act 1989 states that the construction or operation of a generating station whose capacity exceeds 50 MW shall only be undertaken in accordance with a consent granted by the Scottish Ministers.

2.2 Schedule 8(2) of the 1989 Act requires the Scottish Ministers to serve notice of any section 36 application on the relevant planning authority. Where the planning authority objects to the application, the Ministers are obliged to hold a public inquiry and to consider the objection and the report of the inquiry before deciding whether to grant consent.

2.3 Schedule 9, paragraph 3, of the 1989 Act sets out the obligation to have 'regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest.' In addition, Schedule 9, paragraph 3(3), states a further obligation, in exercising the relevant functions, to 'avoid, as far as possible, causing injury to fisheries or to the stock of fish in any waters'.

2.4 The power of the Scottish Ministers on granting consent under section 36 of the Electricity Act 1989 for an operation that constitutes development, and to direct that planning permission for that development shall be deemed to be granted, is reiterated in section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.5 Decision notices issued by the Scottish Ministers are required to provide, amongst other things, a reasoned conclusion on the significant effects of the development on the environment. In the event that consent is to be granted the decision should also state that the reasoned conclusion on significant effects is up to date.

2.6 Where there is a likely significant effect on a Special Protection Area (SPA) protecting rare or vulnerable birds or a Special Area of Conservation (SAC) protecting rare habitats or species the decision maker needs to carry out an Appropriate Assessment; which is required to determine whether the proposal would avoid an adverse effect on a site's integrity.

The policy context

The development plan and other guidance

CD06.20: Fourth National Planning Framework (NPF4)
CD06.22: Onshore Wind Policy Statement, December 2022
CD06.04.01: Highland-wide Local Development Plan, April 2012
CD06.04.02: Highland-wide Local Development Plan Proposals Map
CD06.06.01: Highland Council, Onshore Wind Energy Supplementary Guidance 2016

2.7 Since the application was lodged in 2021, the Scottish Ministers have adopted and published a Fourth National Planning Framework (NPF4). On its adoption and publication on 13 February 2023, NPF4 superseded National Planning Framework 3 and Scottish Planning Policy (2014); they no longer represent Scottish Ministers' planning policy. In

addition, a refreshed Onshore Wind Policy Statement was published in December 2022 (OWPS). Accordingly, I make no reference to National Planning Framework 3, Scottish Planning Policy (2014) or the OWPS (2017) in this report, other than to highlight differences and changes of emphasis where necessary. Importantly, with the Highland-wide Local Development Plan (2012) and its associated supplementary guidance, NPF4 now forms part of the development plan.

The position of the parties

CD01.03: EIAR, Volume 2, Chapter 5, Planning and Policy - text
CD01.09: Applicant's Planning Statement, February 2021
CD02.23 The Highland Council - Report of Handling, November 2021
Statement of Agreement between the applicant and council

2.8 Given the significance of NPF4 and the OWPS in the determination of the application, the parties updated their hearing statements to take account of the new national planning and energy policy framework. Consequently, the summary of the national planning and relevant UK and Scottish renewable energy policy context set out in the Environmental Impact Assessment Report and the applicant's Planning Statement have been superseded by commentary set out in the parties' hearing statements.

2.9 Prior to the inquiry the principal parties prepared a Statement of Agreement on a range of matters, including those relating to national planning and energy policy; the matters on which they agree are noted below. Thereafter, I briefly summarise the main points of contention. My overall conclusions on policy matters are set out in Chapter 7 of this report.

The Development Plan

2.10 The development plan comprises NPF4, the Highland-wide Local Development Plan (2012) and Caithness and Sutherland Local Development Plan (2018). The parties agree that the Caithness and Sutherland Local Development Plan does not contain any policies relevant to the consideration of the application. The council's Onshore Wind Energy Supplementary Guidance (2016) and Addendum (2017) form part of the development plan and provides additional guidance on the application of Highland-wide Local Development Plan Policy 67 (renewable energy).

Fourth National Planning Framework (NPF4)

2.11 NPF4 is the national element of the development plan. In short, the parties agree that it requires decision-makers to give significant weight to the global climate and nature crises when giving consideration to all development proposals. Furthermore, when considering the impacts of wind energy proposals, it requires significant weight to be placed on the contribution of the proposal to renewable energy generation targets and greenhouse gas emissions reduction targets. Other notable provisions include:

- the designation of on and offshore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity, as national development, that is, a significant development of national importance that will help deliver the Scottish Government's spatial strategy; and,

- the removal of the Spatial Framework for Onshore Wind Farms, although wind farms in National Parks and National Scenic Areas are not supported.

2.12 The parties agree that the relevant policy and other considerations of NPF4 are:

- Policy 1 (tackling the climate and nature crises), which gives significant weight to the global climate emergency to ensure that it is recognised as a priority in all plans and decisions. It also gives significant weight to the nature crises to ensure that it too is recognised as a priority in plans and decisions;
- Policy 3 (biodiversity), which seeks to protect biodiversity and natural assets, which in turn play a crucial role in carbon reduction;
- Policy 4 (natural places), which seeks to protect and enhance natural heritage;
- Policy 11 (energy), which supports renewable energy development; and,
- Annex B – National Developments Statements of Need. National Development 3, Strategic Renewable Electricity Generation and Transmission Infrastructure.

The Highland-wide Local Development Plan (2012) and supplementary guidance

2.13 The parties agree that the relevant Local Development Plan policy considerations are policies; 28 (sustainable development), 57 (natural, built and cultural heritage), 61 (landscape) and 67 (renewable energy developments). The parties also agree that the Onshore Wind Energy Supplementary Guidance (2016) is relevant. However, the Onshore Wind Energy Supplementary Guidance Addendum (2017) is not considered relevant as the application site presently lies beyond areas covered by a Landscape Sensitivity Appraisal.

2.14 While the parties dispute the compatibility of the proposed development with the policies noted above, they do agree that it complies with, or can be considered to comply with, all other Highland-wide Local Development Plan policies subject to appropriate conditions.

Energy policy

2.15 The principal parties agree that international, UK and Scottish Government energy and nature policy is established policy. The key renewable energy policy and nature conservation documents and relevant material considerations that informed the preparation of the application and Environmental Impact Assessment Report are listed in Appendix 2 to this report. Drawing upon the documents listed, the parties agree:

- the seriousness of climate change, its potential effects and need to cut carbon dioxide emissions;
- the legally binding nature of the 2045 net zero Green House Gas emissions and associated interim targets;
- the seriousness of the Scottish Government's intentions regarding deployment of renewable energy generation;
- the Scottish Government's intention to deliver renewable energy and energy infrastructure in the right places and with appropriate protection for the environment;

- the Scottish Energy Strategy (2017) sets a 2030 target for the equivalent of 50% of Scotland's heat, transport and electricity consumption to be supplied from renewable sources (the Draft Energy Strategy and Just Transition Plan (2023) maintains this target). The OWPS (2017) notes that to meet this target Scotland will continue to need more onshore wind development and capacity, a point reiterated in the OWPS (2022). The Climate Change (Emissions Reductions Targets) (Scotland) Act 2019 introduces further new targets of a 75% Green House Gas emissions reduction by 2030 and a target of 'net-zero' Green House Gas emissions by 2045;
- while there is policy support for wind energy development, policy also requires a balance to be struck to manage the development of land in the long-term public interest to deliver the right development in the right place; and,
- the Scottish Government's targets do not set any ceiling or cap on renewable energy.

2.16 The parties note in their hearing statements that the OWPS (2022) states a clear ambition to deliver a minimum level of installed capacity of 20GW by 2030. The applicant adds, Scottish Ministers expect environmental enhancement and biodiversity benefits as an integral part of wind farm proposals.

Other relevant policy and guidance

2.17 Siting and Designing Wind farms in the Landscape (Scottish Natural Heritage), Version 3, February (2017) provides advice on the siting and design of wind farms in Scotland's landscapes.

Reporter's conclusions

2.18 I consider the main issues in this case, taking account of the relevant legislative requirements and policy considerations are as follows:

- the predicted significant landscape and visual effects, including cumulative effects (Chapter 3);
- siting and design mitigation – (Chapter 3);
- potential significant effects on ornithology (Chapter 4);
- other considerations (Chapter 5);
    - climate change
    - ecology
    - geology, hydrology and hydrogeology
    - noise
    - traffic and transport
- compliance or otherwise with national and local planning policy and contribution to national energy policy (Chapter 7); and,
- the balance to be applied on all the above matters (Chapter 7).

CHAPTER 3: LANDSCAPE AND VISUAL EFFECTS

Relevant chapter in Environmental Impact Assessment Report:

CD01.3: EIAR Volume 2, Chapter 6: Landscape and Visual (text)

CD01.5: EIAR, Volume 4, Viewpoint analysis - links to individual representative viewpoint visualisations provided below where relevant.

Introduction

3.1 The predicted effects of the proposed development on landscape character and visual amenity were examined at an inquiry session at which the applicant, council and Loth Residents presented evidence. The evidence of Loth Residents incorporated matters of concern to Brora Community Council and Dr Walentowicz, who made representations on the application and opted-in to the inquiry process. Among the topics discussed was the consultation advice of NatureScot which, in addition to that of the parties, is summarised below.

The advice of NatureScot

CD03.11: Additional Information, consultation response of NatureScot 29.10.21
CD07.03: Siting and Designing Wind Farms, Version 3a, (SNH) 2017

3.2 In summary, NatureScot advises:

- due to the prominent siting of the proposal, it would result in a range of significant landscape and visual effects. The turbines would create a visually complex and poorly designed array which would neither relate to the existing pattern of wind farms nor the underlying character of the landscape. These effects would be difficult to mitigate by a smaller and/ or fewer turbines scheme. Whilst the landscape and visual effects are significant, they are not considered to significantly affect the wider, regional distinctive character of this part of Sutherland.

3.3 NatureScot's more detailed landscape advice is:

Effects on landscape character and regional distinctiveness

- the Rounded Hills – Caithness and Sutherland Landscape Character Type creates an upland backdrop which physically and visually contains the more settled lower lying coastal strip;
- whilst the proposed development would be located on the Rounded Hills (which is of lower sensitivity and has greater potential to accommodate development) its proximity to, and influence on, the narrow coastal shelf landscape character types, which are of a higher sensitivity and have little potential to accommodate development of the scale proposed, makes the application site a challenging one on which to site large scale turbines;
- as such, there is an inherent landscape sensitivity of the Rounded Hills landscape character area to the proposed development of large-scale vertical structures, in particular where the area abuts a much lower lying and narrow geographic extent of landscape character. This is confirmed in the general sensitivity assigned in the

Landscape and Visual Analysis, which concludes that the Coastal Crofts and Small Farms Landscape Character Type is of medium to high sensitivity to the proposed development and that there would be significant effects between 5-9 kilometres;

- the relationship between a narrow corridor of land, strongly defined by inland hills to the west, and open sea to the east, is distinctive at the regional scale within Scotland and the experience of this landscape is dominated by both;
- existing wind farms in the landscape, such as Gordonbush and Kilbraur, relate strongly to and are contained within the Rounded Hills landscape character area in which they sit (due to their siting and scale) and do not impose upon the coastal strip. The proposed development, however, would be an incongruous addition to the landscape as the turbines would neither relate to the existing wind farms, nor are of a suitable scale to fit in with the more sensitive coastal strip. This would be the case when seen from viewpoint 12 (Ben Bhraggie) where the proposal would appear as a very prominent feature which extends both vertically and horizontally across the backdrop of hills, and viewpoint 14 (Dornoch) where the proposed turbines would interrupt the currently unbroken and relatively undeveloped skyline backdrop of hills;
- in summary on this matter, the proposed development would result in significant adverse effects on the character of the sensitive coastal strip which, due to its prominent siting, would be difficult to mitigate by a smaller and/ or fewer turbine scheme. The impacts would be relatively localised and would not significantly affect the wider, distinctive regional character;

Cumulative landscape effects

- the cumulative effects of the proposed development within scenario 1[1] would be detrimental and significant. The proposed development would not achieve compatibility with the existing or consented and in-planning wind farms in the area.

Visual effects and impacts on visual amenity

- visibility of the proposed development would be extensive, especially from the south around Strath Fleet, Strath Brora and across Wild Land Area 135 (Ben Kilbreck-Armine Forest);
- to the south, theoretical visibility would gradually intensify surrounding the settlement of Brora, then again at Dornoch and again ay Portmahomack. This would largely be as a result of both the height of the turbines and their location on higher ground (430-530m AOD) in comparison to the ground sloping down to the coast to the south and east, and large areas of open expansive moorland rising to the west and north;
- the Landscape and Visual Analysis concludes that there would be significant visual effects at three of the 15 representative viewpoints located within 9 kilometres of the application site, including locations in Brora, Doll and peak of Ben Dhorain. NatureScot considers that the applicant's assessment does not

[1] Scenario 1 assumes that other consented (but as yet unbuilt) wind farms are operational – in this case the Gordonbush Extension (now operational). Scenario 2 assumes all other schemes in the planning process are also operational – in this case South Kilbraur (planning permission refused and appeal dismissed), EIAR, Volume 2, Chapter 6, paragraph 6.12.8

adequately reflect the degree of visual effects which would arise as a result of the proposed development;

- the proposed development would result in an array of significant visual effects due to the application site being located on the hills that lie both above the coastal strip to the east and south, and above the expansive areas of moorland to the west and north;
- in some instances, the proposed turbines would not appear as a unified group, nor would they read as a single wind farm, for example, from Ben Bhraggie (viewpoint 12) and Dornoch (viewpoint 14) there would appear as two groupings broadly split into those which sit high on the backdrop hills (turbines T1-T8) and those which would breach the hills and appear to spill over into the coastal shelf (T9-T15). In closer views from the coastal edge, it would be the latter turbines which would intrude, for example viewpoint 13 (minor road near Skelbo Castle), whereas in views from the east and north of the application site, for example viewpoint 8 (Brora to Rogart minor road near Sciberscross) it would tend to be the first grouping of turbines that would be more imposing;
- the turbines would present as imposing features from within the lower lying areas, such as Brora and Doll – the turbines would appear as large, prominent moving features on the skyline set within the surrounding moorland setting;
- the elevation of the landform which forms the backdrop to the coastal strip emphasises the height of the proposed turbines on the skyline. The scale of the proposed turbines would in many instances dominate and/ or diminish the scale of the hills upon which the development would be located. This effect would not only be limited to viewpoints which are close to the application site, such as Doll (viewpoint 1) at 8 kilometres, but also those at greater distances, such as Dornoch (viewpoint 14) at 23 kilometres;
- from elevated viewpoints the poor siting of the proposed development would be apparent. From the locally popular and accessible hill of Beinn Dhorain (viewpoint 4) the proposal would dominate the experience where presently existing wind farms appear contained within the much lower expansive moorland where views rise over above the turbines;
- the larger turbines of the proposed development would compete for attention at eye level, thereby drawing the focus away from the wider panorama. From Ben Bhraggie (viewpoint 12) the proposal would form a new focal feature, which due to its size and moving blades, would detract attention away from the monument, which is the existing focal point. The size of the proposed turbines would also apparently diminish the scale of the ridgeline, effectively reducing its prominence. From Ben Horn (viewpoint 11), the proposed development would appear as a more disjointed grouping of turbines, once again diminishing the scale of the hills, whilst distracting from more distant and distinctive lone hills of Scaraben and Morven;
- the proposed development would create a new focal feature in the landscape which would of sufficient size and presence, involve moving blades and large vertical structures, to draw and hold the eye. In addition, from some of the minor roads and straths, for example, viewpoint 8, the proposed turbines would appear to breach the moorland and conflict with the pattern of wind farms – these locations have not been identified as significant in visual terms, however, collectively they demonstrate that the proposed development has been poorly designed both on its own and cumulatively with other wind farms in the landscape;

- the proposed development would introduce significant adverse visual impacts on a wide range of views, including:
    - the approach to, and views from the settlements of Doll, Brora and to a lesser extent Dornoch, the proposed wind farm would appear as an obvious and uncharacteristic feature situated on relatively undeveloped hills, which form an intrinsic part of their landscape setting;
    - the proposed turbines would detract from the panoramas obtained from locally important elevated viewpoints; and,
    - the proposed turbines would appear to impose upon and in some instances dominate experiences within lower lying straths;
- in summary, the proposed development would result in significant adverse visual impacts from the settlement settings of Brora and Dornoch, which would be difficult to mitigate by a smaller scheme (significantly reduced height and fewer turbines).

Wild Land Areas (WLA)

- the proposed development would be visible across large swathes of the Ben Kilbreck-Armine Forest WLA. However, much of its visibility would coincide with views of the operational Gordonbush and Kilbraur wind farms. As such, it is the additional effects that would arise as a result of the proposed development and their impact on the experience of WLA qualities that are relevant in this case; and,
- effects on the Ben Kilbreck-Armine Forest WLA would not significantly affect experience of its qualities. Similarly, the effects of the proposed development on the strength of wild land qualities across the Causeymire-Knockfin Flows WLA, over and above those already experienced as a result of existing wind farms in the area, would be minimal and not significant.

3.4 I consider these matters and NatureScot's advice in my conclusions below.

The applicant's case on Landscape and Visual Assessment

CD11.01: Inquiry Report of Frances Horne - the applicant's witness
CD11.02(i): Inquiry Report appendices A2 to A7
CD11.02(ii): Inquiry Report Appendix A8
CD11.02(iii): Inquiry Report Appendix A8 A1 Figure - access track long section
CD11.03: Inquiry Plan
CD11.04: Precognition of Frances Horne
CD17.01: Statement of Agreed Matters
Applicant's closing submissions on landscape and visual effects - section C

Landscape character

3.5 The Environmental Impact Assessment Report describes the baseline conditions of the application site and the local landscape in Chapter 6, paragraphs 6.6.50 - 6.6.68, which is shown graphically, out to 5 kilometres, in CD01.04, Figure 6.7 and out

to 10 kilometres in Appendix A3.1 to Ms Horne's inquiry report CD11.02(i), appendices A2 to A7). In summary, the applicant contends:

- the proposed development would result in an inevitable direct effect (moderate, significant during its construction and major, significant when in operation) on landscape character across part of the Rounded Hills – Caithness and Sutherland Landscape Character Type (LCT135), within which it would be located;
- the landscape effects would be localised, with significant effects being experienced up to 4 kilometres from the proposed development, which includes a landscape already influenced by the Gordonbush Wind Farm;
- beyond 4 kilometres, and within other parts of the landscape character type within the study area, overall effects would not be significant;
- the proposed turbines would be located approximately 3 kilometres from the Coastal Crofts and Small Farms Landscape Character Type (LCT144). Theoretical visibility of the proposed turbines would intensify around the settlement of Brora giving rise to significant indirect effects upon landscape character. However, effects would be limited to areas within and immediately surrounding Brora, with the landscape character type unaffected to the east and north-east of the application site;
- there would be no significant effect upon the Sandy Beaches and Dunes Landscape Character Type (LCT140) within 5 kilometres of the proposed turbines. However, to the south beyond 5 kilometres, theoretical visibility would begin to intensify on the approach to Brora, giving rise to significant effects upon landscape character. Beyond 8 kilometres, these effects would cease to be significant; and,
- all other predicted effects upon landscape character types within the study area would not be significant.

Effects on landscape designations

- the site lies outwith any national landscape designations. It also lies outwith any Wild Land Area designations, Inventoried Gardens and Designed Landscape – see CD01.04: Figure 6.2 (landscape designations with 35 kilometres);
- the Dornoch Firth National Scenic Area lies approximately 23 kilometres to the south the application site. The proposed development would be visible from Dornoch Firth Bridge when looking north-eastwards. The principal parties agree that there would be no significant landscape or visual effects in relation to the National Scenic Area and its special qualities;
- the application site lies entirely within the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area. The parties agree that it is the only Special Landscape Area where significant effects on landscape character or visual amenity would occur (CD17.1, paragraph 4.34 refers);

Cumulative effects

- the cumulative assessment indicates that there would be no additional landscape or visual effects over and above those associated with the proposed development when considered in combination with:
    - the consented Gordonbush Extension (which is now built and operational); and,

- the proposed South Kilbraur Wind Farm (for which planning permission has been refused and an appeal dismissed);

- the addition of the Gordonbush Extension to the baseline serves to reinforce the effects of wind energy development on Wild Land Areas, particularly on the Ben Kilbreck-Armine Forest Wild Land Area which lies in immediate proximity;
- the council agrees with the applicant's conclusions of the cumulative landscape and visual analysis;

Effects on visual receptors

- the Environmental Impact Assessment Report concludes that there would be significant visual effects at three of the 18 representative viewpoints, namely, viewpoints 1 (Doll), 2 (Lower Brora) and 4 (Beinn Dhorain). The council concludes differently, noting in its Report of Handling:

  - *"…unsurprisingly, as visual impact assessment combines objective and subjective aspects through the application of professional judgement, there is a difference between the applicant's assessment and the appraisal undertaken* [by the council]*."* [2]

  - *"…albeit that for several viewpoints there remains only a single step change in either the sensitivity of the receptor or magnitude of effect, resulting in a significant adverse effect."* [3]

- the 'step changes' referred to above result in the council concluding that effects at 12 viewpoints would be significant. The differences in assessment are set out in the Statement of Agreed Matters (CD17.01, paragraph 4.48);
- the Environmental Impact Assessment Report also concludes that there would be significant effects for residents in Doll and Brora, people following the Brora Village Trail (within Brora), users of, or visitors to, Brora Golf Course, Brora Beach, approximately 8 kilometres south-west of the proposed development, and part of the John O'Groats Trail (approximately a 2 kilometres section) where it passes through Brora. All the locations where significant visual effects would arise are located within approximately 9 kilometres of the proposed turbines; and,
- there would be significant visual effects when the totality of effects of cumulative schemes and the proposed development are considered. This would be experienced at Creag nam Fiadh (viewpoints 5), Hope Hill (viewpoint 6) and the track to Ben Armine Lodge (viewpoint 7).

Response to objection 1

- the council states 'the development would have a significantly adverse impact on the integrity of The Loch Fleet, Loch Brora and Glen Loth Special Landscape Area'. In response, the applicant argues:

  - the proposed development would not have the significant adverse impact on the Special Landscape Area to the degree suggested by the council.

2 The Highland Council, Report of Handling, paragraph 8.108 (CD02.23)
3 The Highland Council, Report of Handling, paragraph 8.131 (CD02.23)

Furthermore, none of the policies cited by the council refer to an 'integrity' test in relation to local designations;

- while there would be some direct and indirect effects arising from the proposed development within the Special Landscape Area up to approximately 4 kilometres from the proposed turbines, it would not have a significant effect on the special qualities and integrity of the Special Landscape Area - a position which the council disputes;
- views of existing and consented developments which lie immediately adjacent to the Special Landscape Area, including Gordonbush Extension, are an established characteristic of the Special Landscape Area landscape;
- there are notable differences between the proposed development and previous wind energy developments refused consent elsewhere in the Special Landscape Area, located in more sensitive parts of the Special Landscape Area;

- the primary difference between the parties on the effects of the proposed development on landscape character relates to the Rounded Hills – Caithness and Sutherland Landscape Character Type (LCT135) and the extent of significant effects within it, including how the Landscape Character Type is perceived from adjoining coastal landscapes;
- whilst there would be significant effects within the adjoining landscape character types, the effects upon the character of the Rounded Hills – Caithness and Sutherland Landscape Character Type (LCT135) would be limited to 4 kilometres from the application site. The council's position is that moderate, significant landscape effects would extend up to 15 kilometres within areas A, B and D of the Landscape Character Type (see CD01.04: Figure 6.5)
- the approximate extent of significant effects upon landscape character are shown in Appendix A4 to Ms Horne's inquiry report (CD11.02(i), appendices A2 to A7).
- the proposed turbines would appear in a simple landscape where wind energy development would not appear unusual, indeed it is proposed where wind energy development can already be seen and where the proposed development would comprise part of expansive views;
- in relation to the representative viewpoints, the applicant does not agree with the council that the proposed development would dominate views within and across the upland areas;

Response to objection 2

- the council states 'the proposed development would have a significantly detrimental visual impact, particularly as viewed by residents, road users, including tourists and recreational users of the outdoors in the wider vicinity of the site to the north, south and west of the proposed development...' In response, the applicant argues:
  - the extent of significant visual effects within coastal locations would be limited to those south of the application site – in a few locations within Lower Brora, Brora Golf Course, Brora beach and Doll;
  - from the coast the proposed turbines would be set away from the first hilltops, placing them well within the simple landscape of the rolling hills

that extend inland and in either direction along the coast for some 30 kilometres;

- the foreground and middle-ground coastal landscapes would remain evident and be appreciated within their existing context;

- the council adds, 'by virtue of the location, siting and design of the proposed development, it would have significantly detrimental visual and cumulative impacts with other wind energy development.' The applicant disagrees with the council's position, adding that it describes the character of the landscape in which the proposed development would be located as being of lower sensitivity, with a greater potential to accommodate development of the scale proposed, than nearby Landscape Character Types;
- the council also claims that the proposed development would not respect the pattern and character of existing wind farm development in the area. Again, the applicant disagrees with the council's position on this matter noting that the design of the proposed development has taken account of reporters' recommendations when recommending that wind development proposals in the local area should be refused consent. The key differences with the development being promoted by the applicant in this case is that the proposed turbines would be located further inland within a landscape of common character with that of existing and proposed wind farm development; and,
- furthermore, the layout of the proposed turbines responds positively to the Scottish Natural Heritage (NatureScot) guidance 'Siting and Designing Wind Farms in the Landscape (CD07.03), whereby the layout relates to the specific characteristics of the landscape.

The Highland Council's case on Landscape and Visual Effects

CD12.02: Inquiry report of Anne Cowling – the council's witness on landscape effects
CD12.03: Precognition of Anne Cowling
CD12.04: Inquiry report of Peter Wheelan – the council's witness on visual effects
CD12.05: Precognition of Peter Wheelan
CD17.01: Statement of Agreed Matters
Highland Council's closing submissions on landscape and visual effects – Annex A

Landscape effects

3.6 The council contends that an assessment of a development's effects on a landscape should not be limited to effects on individually identified areas of the same defined landscape character, rather it should include effects on the sense of place that arise from the particular combination of such areas in each locality. With regard to predicted effects of the proposed development on the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, the council comments:

- it has considered the potential impacts of development proposals on the integrity of the Special Landscape Area, including its wider setting;[4]

[4] Highland-wide Local Development Plan, Appendix 2, page 153

- while not disputing the applicant's technical findings or the Landscape and Visual Analysis in respect of the extent of visibility from the A9(T) or degrees of views subtended by the turbines, the council does not consider that such a quantitative summation adequately captures the qualitative experience of impacts on the Special Landscape Area for receptors as they travel through the transport corridor;
- the council considers that Explanation 1[5] (CD07.25: Special Landscape Area citation, 'An Integrated Combination of landforms', page 53, first bullet) is best understood by consideration of the effect on receptors of their experience of the Special Landscape Area as a 'diverse yet connected landscape composition which is experienced in sequence from the transport corridor', rather than a tight focus on the extent of visibility [of the proposed development] within it;
- the applicant claims that visibility of the proposed turbines would not coincide with a 'gateway' location, as was the case for proposals at West Garty [6]. While this may be so, the council contends that there are notable transitional qualities to be experienced, for example, where the A9(T) emerges from woodlands close to the eastern edge Dunrobin Castle Gardens and Designed Landscape Area where a transition from Coastal Farmlands and Woodlands to the more open Coastal Crofts and Small Farms Landscape Character Type occurs. Similar experiences occur further south on the A9(T) and railway, where elements of Strath Fleet and the tidal basin can be experienced, at Doll where open views of the rolling moorland hills can be seen, and further to the north, where the well-defined coastal strip can be appreciated - these are examples of sequential experiences referred to in Explanation 1.
- visibility of the proposed development would tend to occur where the A9(T) and railway line run further from the foot of the rolling moorland hills, allowing their seaward face to be more fully experienced;
- the Special Landscape Area contains a variety of diverse landscapes, which at times are experienced in combination. It is this experience that would be affected by visibility of the proposed turbines, reducing the integrity of the sequential experience from the transport corridor;
- with regard to Explanation 2, the proposed turbines would create a new focus in the landscape which would contrast with the more homogenous character of the hills – this focus would tend to undermine the existing composition to its detriment;
- with regard to Explanation 3, the applicant claims that an iterative design process has ensured that the proposed development would work well in isolation of the Gordonbush Wind Farm and is not reliant upon the presence of other nearby wind farm development to validate its design rationale. While the council accepts that a development's design should be able to work in isolation of cumulative developments which may be decommissioned or repowered, it remains the case that a development's design should be sympathetic to the design of development already in the landscape while they persist. Given the proximity of Gordonbush, it is not sufficient for the proposed development to 'appear as an additional wind farm development in a location where such development is already a characteristic' if its siting and design does not share the same siting and design characteristics of the existing development;

5 CD07.25: Assessment of Special Landscape Areas, Special Qualities, page 53, 'An Integrated Combination of Landforms', first bullet point

6 Proposed West Garty Wind Farm, DPEA Ref: WIN-270-6

- the applicant describes the proposed development as one which would not appear incongruous within its underlying landscape context, part of which is already characterised by existing turbines. The council disagrees with the applicant, adding that its description as such fails to recognise the significant differences between what is being proposed and existing developments, for example, their siting and relationship to the landscape. Accordingly, it is considered that the proposed development would undermine the clarity of contrasting landscapes within the Special Landscape Area, as referred to in Explanation 3;
- in conclusion, a considerable proportion of the Special Landscape Area would experience some degree of visibility of the proposed development, and further visibility would affect surrounding areas where designated landscape forms an important part of the landscape environment. The proposed development would impair a receptor's appreciation of the sequence of landscape compositions when travelling on the A9 and railway. The disparity in siting and design between the proposed development and that which exists on its periphery would diminish the clarity of the moorland hills which form the backbone of the Special Landscape Area and set it apart from the sweeping moorland and flows to its landward side. Together these effects create a significant effect on the special qualities of the Special Landscape Area and weaken the integrity of the designation.

Effects on the Rounded Hills–Caithness and Sutherland Landscape Character Type

- contrary to the applicant's assertion, the application site is not of an appropriate character in which to accommodate the proposed development – it is the site's specific location that gives rise to the severity of its predicted adverse effects. The council believes that a significant change in the characteristic relationship of wind energy developments to the Rounded Hills – Caithness and Sutherland Landscape Character Type, more extensive than the significant effects identified in the Landscape and Visual Analysis within 4 kilometres would occur, which would be detrimental to the Landscape Character Type; and,
- the Rounded Hills Landscape Character Type is extensive in Caithness and Sutherland and wind energy development has been consented on similar sites within it. However, the sensitivity of the application site, due to a combination of existing wind energy development in the vicinity, its relationship to other landscape character types, the coast and coastal strip, is such that the site does not have the capacity to accommodate the nature of the development proposed.

Cumulative impacts with other wind energy developments

- whilst the proposed development would not introduce a new form of development in the landscape, adverse effects would arise as it would be experienced differently in the landscape – the pattern of existing development benefits from the spatial containment afforded by the higher summits of the coastal hills which limit visibility. Where the existing turbines can be seen they appear contained and inferior in scale and prominence to the coastal hills. There is a clear separation between the principal broad peripheral hills and wind energy development. The proposed development would, in contrast, appear in a prominent location on the broad rounded summits of the Landscape Character Type. The convex slopes limit visibility of the development from locations close to the base of the hills, but

from more elevated and open locations the development would be clearly seen on the skyline and relate to the summits rather than the lower hills;

- from locations where the proposed development would be seen in combination with existing turbines, it would be clear that the development occupied a site that was characteristically different, thus reducing the sense of development being sited in a logical and consistent way throughout the area;

Effects on landscape composition

- existing wind energy development strongly relates to, and is contained by, a landscape of rounded hills and does not impose on the coastal strip. The proposed development, as accurately described by NatureScot, would be an incongruous addition to the landscape, as the proposed turbines would neither relate to the existing wind farms, nor are of a suitable scale to fit with the more sensitive coastal strip.

Visual effects of the proposed development

- the applicant and the council have drawn different overall conclusions on the visual impacts of the proposed development at 13 of the 18 representative viewpoints. The council's assessment of the sensitivity of receptors differs at three viewpoints and the magnitude of impact at seven viewpoints;
- whilst the applicant predicts that the proposed development would result in significant visual effects at three viewpoints within a distance of 8.4 kilometres, the council believes that significant visual effects would occur at 12 viewpoints out to a distance of approximately 23 kilometres;
- no wind energy development proposals have been consented within the Special Landscape Area to-date. The council disagrees with the applicant's contention that past proposals were refused consent due to their location on the more sensitive lower hills close to the coastal edge of the Special Landscape Area. Neither does the council agree with the applicant's suggestion that this is one reason NatureScot did not object to the application;
- NatureScot states that the proposed turbines would create a visually complex and poorly designed array which would neither relate to the existing pattern of wind farms nor the underlying character of the landscape. The council believes that while NatureScot has not objected to the application, its concerns should be afforded significant weight;
- underlying topography of the application site is clearly different to that on which nearby consented wind energy developments are located. The elevated nature of the site is such that it would result in the proposed turbines being distinctively different in character to the Gordonbush Extension. Despite being the same in scale, the proposed turbines would appear on the skyline;
- the pattern of existing wind farm development is well-set back from the eastern coastline, situated inland and largely hidden from settlements and the transportation corridor. While embedded design measures would help mitigate the visual effects of the proposed development to some extent, when viewed from the settled coastline, the setback from the coast is wholly insufficient – the vertical and horizontal protrusion of the proposed turbines above the smooth rolling eastern Sutherland hills skyline would draw the eye and have a high magnitude of impact.

Although the extent and severity of visual impacts is in dispute, the parties agree that the proposed development would result in significant adverse visual effects when viewed from Brora and Doll, as well as from Brora Golf Course and Brora beach;

- overall, the embedded siting and design mitigation of the proposed development is considered inadequate. The application site is considered incapable of accommodating a commercial scale wind farm without giving rise to significant visual impacts for a high number of receptors across a wide area, both along the settled eastern coastline and inland;
- the proposed development would extend the theoretical visibility of turbines beyond that already experienced, including:
    - across sections of the A9(T) to the south of the application site;
    - throughout Brora and the smaller settlement of Doll, where there are open views to the north; and,
    - further south, interrupting more distant norther coastal views from Embo and Dornoch;
- the council disputes the conclusions of the applicant's assessment of effects on residential receptors as set out in the Landscape and Visual Analysis, adding that visual impacts on residential areas has been underplayed;
- most of the viewpoints assessed in the Landscape and Visual Analysis are representative of views experienced by hill walkers and cyclists using the local road network, including five recreational hill summit viewpoints. The proposal would also affect visual amenity at more accessible coastal recreational facilities, including golf courses, paths and beaches;
- the proposed development would also have significant adverse cumulative visual impacts from several viewpoints, including users of the Rogart to Brora minor road. The proposed development in combination with the construction of the Moray West (offshore) and South Kilbraur wind farms would also give rise to cumulative effects, although planning permission has recently been refused and an appeal dismissed for the latter proposal; and,
- the council concludes, the proposed development would give rise to significant adverse effects that would be detrimental to visual amenity. It would also affect the way in which the area is experienced, particularly by residents, road and rail users, as well as recreational users of the outdoors. These effects would arise from a combination of site location and the scale and design of the proposed development.

Loth Residents' case on Landscape and Visual Effects

CD13.12(i): Inquiry report of Michelle Bolger
CD13.12(ii): Supporting landscape report - document 1
CD13.12(iii): Supporting landscape report - document 2
CD13.13: Precognition of Michelle Bolger
Loth Residents closing submissions – see also closing submissions of the council

3.7 The evidence of Loth Residents is presented alongside that of the Highland Council and has sought to avoid duplication. In summary, Loth Residents contend:

- national and local policies stress the importance of finding appropriate locations for wind turbine development. Protecting and enhancing the distinctive character of the Scottish landscape is stressed at a national and local level, especially for landscapes that are values, have special qualities or provide the local setting for outdoor recreation and tourism;
- the application site is mostly located in the Rounded Hills LCT and partly in the Coastal Crofts and Small Farms landscape character types. The former type is extensive in Caithness and Sutherland. The landscape surrounding the application site can only be understood when considered in its overall composition; that is, the juxtaposition of the Rounded Hills LCT with the Coastal Crofts and Small Farms LCT and the Sandy Beaches and Dunes LCT. This combination only occurs in this part of Caithness and Sutherland and the contrast between the settled, relatively busy landscape formed by the Coastal Crofts and Small Farms LCT, the empty undeveloped backdrop of the hills and the coast result in a unique and distinctive landscape;
- the application site is located entirely within the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area. The designation, and the value placed on the unique composition of sea, land and hills, indicates that it is a landscape of high value;
- the applicants Landscape and Visual Impact Analysis considers each landscape character type in isolation and does not identify the importance of the overall landscape composition. Loth Residents consider this a fundamental flaw in the Landscape and Visual Impact Analysis as it consequently fails to identify the value of the composition and subsequently fails to consider or assess the effect of the turbines on the distinctive landscape that results from this composition;
- while the applicant's landscape witness has given some consideration to the issue of composition in her inquiry report, it only relates to effects on the Special Landscape Area. She does not identify its importance in contributing to the distinctiveness of the landscape;
- the proposed development would be located within an area of rounded hills to the west of Glen Sletdale in a landscape that is typical of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area. It consists of an open mosaic of heather and grass moorland in which there a few detractors in the landscape. The application site includes several hills separated by small valleys. Proposed turbine T1 would be located on the highest hill in the area;
- neither the Landscape and Visual Impact Analysis or the applicant's landscape witness identify that the elevated character of the site is fundamental to understanding the impact of the proposed development and its relationship to existing wind farm development. The description of the Kintradwell being 'slightly more elevated' than existing developments' is a clear understatement, as can be seen in inquiry report figure 4;[7] and,
- Loth Residents believe that there is a clear similarity between the proposed development and the refused application at West Garty [8] – they are located within

[7] CD13.12(ii), Supporting Landscape Document 1, Figure 4: Wind Turbine Diagram, page 8
[8] WIN-270-6, refused consent 19.10.2019

the coastal hills (not set back as suggested) and on elevated land. Consequently, the proposed development would be visible from the coast above the distinctive skyline of the coastal hills.

Scottish Natural Heritage (NatureScot) Guidance

- The proposed development does not follow the guidance set out Siting and Designing Wind Farms in the Landscape (CD07.03). It offends advice regarding:
  - siting turbines on steep slopes;
  - siting wind farms on skylines
  - the need for care when siting turbines in coastal areas; and,
  - the importance of not dominating or negatively affecting settlements.
- the applicant comments that the Scottish Natural Heritage advice is contradictory, as it would be difficult to avoid views where turbines would be seen against the skyline. This is not what the guidance says. It says 'distinctive and prominent skylines should not be interrupted by turbines.[9] The skyline of the coastal hills is both distinctive and prominent and is not currently interrupted by turbines.

Landscape effects

- the proposed development would give rise to the following effects:
  - the proposed turbines would be prominent and disrupt the strong consistent backdrop to the coast, provided by the profile of the hills. This effect would be experienced from the A9(T) and other tourist destinations, for example, Brora beach and golf course;
  - the proposed turbines would disrupt the current harmonious pattern of development between the Rounded Hill Landscape Character Type and the Coastal Crofts and Small Farms Landscape Character Type (as seen in viewpoint 1);
  - the proposed development would diminish the distinctiveness of the current landscape composition (as seen in viewpoint 12);
  - the scale of the interior hills and their wildness qualities would be diminished (as seen in viewpoint 4); and,
  - the proposed turbines would diminish the sense of remoteness and tranquillity within the coastal hills, as experienced within Sletdale Valley.
- the proposed development would neither protect nor enhance the landscape characteristic or special qualities of the Special Landscape Area. The magnitude of change would be high – there would be a major adverse effect on the Special Landscape Area and its integrity would be harmed;
- the applicant claims that none of the policies cited by the council in its first reason for objection refer to an 'integrity test in relation to local designations'. However, the reporter in the Carn Gorm Wind Farm case (CD07.03), concluded that Policy 57 of the Highland-wide Local Development Plan does require a consideration of a Special Landscape Area's integrity (paragraph's 37 and 38 refer); and,

[9] CD07.03, paragraph 3.28

- there would be a major adverse effect on the landscape setting of Brora. While the applicant acknowledges the significant harm to residents and visitors to the village, it fails to assess the effects of the proposed development on the setting of the village. Loth Residents find it difficult to see how the predicted effects could avoid having a negative effect on the settlement, which Scottish Natural Heritage guidance warns against (CD10.53), paragraph 3.43 refers);

Visual effects

- there would be significant adverse impacts at 15 of the Landscape and Visual Analysis viewpoints,[10] as well numerous locations not represented in the Landscape and Visual Analysis photomontages. This would be because:
    - the sensitivity of residents and visitors within a landscape of dramatic, distinctive views;
    - the prominence of the proposed turbines on the skyline;
    - the foreshortening that results when turbines are seen across water with little intervening landscape; and,
    - the clear weather conditions in Sutherland that allow extensive views.
- the proposed development would have a significant adverse impact on the visual amenity of residents and visitors to the landscape surrounding the application site by disrupting the current highly valued and harmonious views of the sea, settled coast and undeveloped hills. Also, there would be significant adverse effects on the visual amenity of tourist locations, in particular, Brora beach and golf course;
- there would be a series of significant adverse effects for those travelling along the on the A9(T). The applicant downplays these effects by comparing the percentage of the route affected to the length of the route within 20 kilometres of the application site. However, Loth Residents rely on the approach of the reporter in the West Garty case who looked beyond mere arithmetical analysis (CD10.39, paragraph 3.185).

Site selection and design iteration

- the applicant describes the application site as having 'many attributes that make an excellent wind farm site' (CD11.01, paragraph 2.8). The basis for this conclusion appears to be the criteria set out the Environmental Impact Assessment Report, Chapter 3, Section 3.3, which supposedly included a consideration of international, national and local designated sites. The application site is located in a locally designated area (Special Landscape Area). However, Figure 3.1 (combined constraints and infrastructure layout) does not include the Special Landscape Area as a constraint. Either the Special Landscape Area was intentionally or inadvertently omitted;
- there is no indication in the Environmental Impact Assessment Report that any consideration was given to refused applications in the site selection process and how that might have informed site selection;
- following a flawed site selection process, the applicant prepared an initial site feasibility turbine layout. It was only at this point (June 2019) that the applicant

[10] CD13.12(iii), Supporting Landscape Document 2, Part 4, page 26

appointed consultants to review landscape and visual aspects of the proposed development, particularly in light of the reporter's conclusions at West Garty. It does appear that the conclusions of the reporter in the West Garty case had any influence on site selection;

- the applicant describes the landscape and visual aspects of the design evolution as aiming to ensure 'that the layout and site design would relate well to landscape character and local context.' However, fundamental to designing a wind farm that relates well to local character and local character is choosing the right site. It is not a coincidence that the Scottish Natural Heritage Wind Farm guidance is called '*Siting* and Designing Wind Farms in the Landscape' (Loth Residents emphasis);
- the reduction from a potential 37 to 15 turbines is an improvement. Similarly, the reduction from 175 to 149.9 metres is an improvement. However, neither of these changes alter the fundamental characteristics of the proposal:
    - it is located within a landscape of high value (the Special Landscape Area);
    - it is on elevated land, higher than any of the nearby operational/ consented schemes;
    - it is located within the Coastal Hills and would be visible from a highly valued part of the coast; and,
    - it would interrupt a prominent and distinctive landscape;
- the applicant fails to address the consequences of the elevated nature of the scheme either in terms of visibility or compatibility with the pattern of existing wind farm development in the area - it simply notes that the proposed development is 'slightly more elevated than the existing turbines' but does not consider this to be an issue.

Conclusions of Loth Residents

- the proposed turbines could not be accommodated within the landscape without major adverse impacts on a highly valued and distinctive landscape and major adverse impacts on the visual amenity of residents and tourists, these include major impacts on a Special Landscape Area;
- the adverse impacts would be contrary to national and local planning policies which stress the importance of siting of wind energy development in appropriate locations; and,
- previous reporters have considered that the landscape and visual harm of wind energy development in this landscape unacceptable.

Reporter's conclusions

Introduction

3.8 I am satisfied that the potential effects of the proposed development have been thoroughly considered and that the methods used to assess the landscape and visual effects of the proposed development have followed relevant guidance and good practice. The Landscape and Visual Impact Analysis contained in the Environmental Impact Assessment Report has been supplemented with further environmental information, including additional individual and cumulative wireline drawings to address the comments of statutory consultees, Brora Community Council and Loth Residents. Below, I set out my

conclusions on the predicted effects of the proposed development on landscape character and visual amenity.

Effects on landscape character

3.9 The principal parties agree that the proposed development would give rise to significant effects on three landscape character types (LCTs), namely; LCT135 (Rounded Hills – Caithness and Sutherland); LCT140 (Sandy Beaches and Dunes) and LCT144 (Coastal Crofts and Small farms). However, they disagree on the extent of significant effects and whether they can be described as 'localised'. They also disagree on the value and distinctiveness of the wider landscape; which is derived from the close association of different LCTs and lack of detractors.

3.10 For its part, Loth Residents comment that the proposed development would be prominent on the skyline and disrupt the strong, consistent backdrop to the coast and that it would diminish the distinctiveness of the landscape composition, the scale of the interior hills and wildness qualities. In short, Loth Residents argue that the proposed development would neither protect nor enhance the landscape characteristics or special qualities of the Special Landscape Area. It adds, there would be a high magnitude of change that would have major adverse effects on the landscape.

3.11 The landscape is formed of broad subtly rounded summits with some more pronounced hills which feature steeper slopes along the coast or where truncated by deep glens.[11] Also, some hills are cut by numerous narrow burns and small lochans which lie within dips, corries and plateau summits. The ground cover is predominantly dense heather and moorland grasses, with some areas of bog. Operational wind farm development is present on the landward slopes of lower rounded hills, where the peripheral hills transition into the adjacent Sweeping Moorland and Flows Landscape Character Type (LCT134). The convex nature of the hills is such that the pattern of existing wind farm development is contained by the higher summits of the coastal hills, which also limit distant visibility and views of the hill tops when travelling through the landscape; characteristics that I was able see and experience for myself when inspecting the application site and its surroundings.

3.12 The majority of the application site lies within the Rounded Hills – Caithness and Sutherland LCT (LCT135). Due to its geographical extent, the Landscape and Visual Impact Analysis divides the LCT into a series of areas (A to H); the proposed turbines would be located entirely in Area A.[12] In addition to Area A, the assessment concludes that areas B and D would experience some effects, albeit not significant.

3.13 The proposed point of vehicular access from the A9(T) lies within the Coastal Crofts and Small Farms Landscape Character Type (LCT144); a narrow, settled and farmed coastal fringe that runs along the coast from Golspie to Helmsdale and beyond. The landscape is described as complex, set between the Rounded Hills and the sea.[13] The Sandy Beaches and Dunes Landscape Character Type (LCT140) consistently occurs along the Sutherland coast between Dornoch Firth and Brora; while no part of the application site lies within the LCT, there would be visibility of the proposed turbines from some areas close to Brora.

[11] SNH Landscape Character Assessment, LCT135, Key Characteristics (CD07.23)
[12] Environmental Impact Assessment Report, Volume 3, LVIA Figures, Figure 6.27: Landscape Character Types within 20 kilometres (Study Area) with Zone of Theoretical Visibility
[13] SNH Landscape Character Assessment, LCT144, Key Characteristics (CD07.23)

3.14 The application site is not subject to any national landscape designations. It is, however, part of the locally designated Loch Fleet, Loch Brora and Glen Loth Special Landscape Area; an extensive area recognised, in part, for its combination and juxtaposition of rolling moorland hills, linear glens, coastal shelf and tidal basin. Together they create a diverse yet connected landscape composition which is experienced in sequence when travelling through the landscape.[14] There are presently no operational wind farms within the Special Landscape Area; all previous proposals have been refused consent, including proposals at West Garty.

3.15 In light of landscape characteristics described above, I agree with NatureScot's assessment that the existing pattern of wind farm development and the inherent sensitivities of the landscape make the area a challenging one in which to design a commercial wind farm. It adds in its consultation response, designing a wind farm for an expansive moorland which may be able to accommodate large scale turbines is quite different to designing a wind farm for a more intimate coastal shelf where smaller proposals of perhaps domestic scale would be more appropriate. The application site, it observes, demands both.

Predicted effects on landscape character

3.16 The council's evidence describes the existing landscape composition, the role that the Rounded Hills play within it and the effects that the proposed development would have upon it.[15] It explains, the Rounded Hills play a key spatial role in providing separation between the settled coastal strip and the moorland interior. On their interior, the Rounded Hills transition into the Sweeping Moorland and Flows LCT and their presence ensures that the existing operational wind farms have little or no effect on the perception of landscape scale and distance within the coastal strip. Existing wind farm development, it adds, is generally perceived as being inferior in scale to the coastal hills. Having reviewed the evidence, visited the viewpoints and travelled throughout the area, I agree with the council's broad assessment of landscape character and effects, in particular:

- the proposed development would compromise the landscape function of the Rounded Hills by breaching the separation they provide;
- the introduction of large turbines, as proposed, would diminish perception of the scale of the coastal hills;
- experience of the landscape is derived from on the combination of landscape character types and how they coalesce locally to create a sense of place; and,
- the development's design does not successfully resolve its influence on each of the landscape character types.

3.17 NatureScot arrives at the same conclusion, noting that the proposed development would be an incongruous addition to the landscape as the proposed turbines would neither relate to the existing wind farms, nor would be of a suitable scale to fit with the more sensitive coastal strip. I consider this matter further in my analyses of viewpoints 12 (Ben Bhraggie) and 14 (Dornoch coastal path) below. In short, however, I agree that it would be difficult to accommodate any large-scale onshore wind farm in the overall composition of landscape character types without significantly detracting from their essential characteristics.

[14] Assessment of Highland Landscape Areas, Map 9 and citation, page 53
[15] CD12.2, inquiry report of Ms Cowling, paragraphs 17 to 20

3.18 NatureScot does not object to the application. The applicant considers this position important given that it objected to proposals at West Garty, located a short distance to the north-east within the same LCT and Special Landscape Area. Nevertheless, its advice identifies shortcomings with the Landscape and Visual Impact Analysis, noting that it does not fully capture the degree of effects that the proposed development would give rise to, including effects on the character of the East Sutherland Coast, which it recognises as being regionally distinctive owing to the relationship of LCTs in the vicinity of the application site. The council and Loth Residents make similar submissions on this matter.

3.19 NatureScot concludes, however, that the effects of the proposed development would be relatively localised and would not significantly affect the wider, regional distinctive character of the coast. Even so, it recognises that there is an inherent landscape sensitivity to the introduction of large-scale vertical structures where the Rounded Hills adjoin the much lower lying narrow landscape. Loth Residents add, such a combination only occurs in this part of Caithness and Sutherland and results in a unique and distinctive landscape.

3.20 NatureScot does not expand on its use of the term 'relatively localised'. As noted by the council, NatureScot comments that the proposed development would appear as a very prominent feature which extends both vertically and horizontally across the backdrop hills and Dornoch (viewpoint 14) where the turbines would interrupt the currently unbroken relatively undeveloped skyline backdrop of hills; viewpoint 14 is located over 23 kilometres from the nearest proposed turbine.[16] The applicant contends the extent of significant effects would be no more than expected for a wind farm of the scale proposed.[17] While I make no judgement what 'relatively localised' might mean in terms of distance, NatureScot's has considered this matter in the context of the wider East Sutherland Coast. While it describes impacts as being relatively localised, they would nonetheless be experienced over a considerable area.

Effects on the Local Fleet, Loch Brora and Glen Loth Special Landscape Area

3.21 The application site lies entirely within the Local Fleet, Loch Brora and Glen Loth Special Landscape Area.[18] It is agreed that this would be the only Special Landscape Area where significant effects on landscape character (and visual amenity) would occur. The proposed development would be seen from a number of locations within the Special Landscape Area and areas beyond its boundaries where it would be seen in the context of the designated landscape. The special qualities of the Special Landscape Area are described in CD07.25, the most pertinent being those under the heading 'an integrated combination of landforms' – these are the four 'explanations' referred to in evidence.

3.22 The applicant claims that the proposed development would give rise to significant effects on the Rounded Hills LCT up to a distance of 4 kilometres from the proposed turbines, particularly to the south and east. Also, it adds, significant effects would occur on the Coastal Crofts and Small Farms and Sandy Beaches and Dunes LCTs out to between 5 and 9 kilometres. It comments, existing wind farm development lies immediately adjacent to the Special Landscape Area and is an established characteristic

[16] NatureScot consultation response, dated 29 October 2021, paragraph 3.4

[17] Applicant's closing submission, paragraph 30

[18] Environmental Impact Assessment Report, Volume 6, Technical Appendix 6.4.1: Effects on Special Landscape Areas (CD01.07)

of the landscape. The council and Loth Residents believe that predicted effects have been understated and consider that significant landscape and visual effects would extend within the Special Landscape Area up to 13 kilometres, for example, as far out to Ben Bhraggie (viewpoint 12) and outwith the Special Landscape Area from lower elevations including the A9(T) and the settlements of Doll, Brora and Dornoch to the south.

3.23 The council states that the proposed development would introduce new areas of wind farm visibility across the Special Landscape Area where there is none at present. Whilst not readily apparent from the viewpoint photomontages taken within the Special Landscape Area; which reveal at least theoretical visibility of Gordonbush and/ or Kilbraur wind farms, I travelled to the application site via the proposed access track from the A9(T) to the point where proposed turbine T1 would be located, and agree that this would be the case, particularly on approach to the summits of the interior hills and when seen from more central and eastern locations of the Special Landscape Area. Also, the elevated location of the application site and prominence of the proposed turbines lends weight to the council's claim.

3.24 From where there is existing visibility of the Gordonbush and/ or Kilbraur wind farms, I also agree that the proposed development would add to the horizontal and vertical spread of turbines and thus strengthen the influence of wind energy development on the landscape within the Special Landscape Area - this is particularly apparent from viewpoint 12. Given their location and predicted effects, the high magnitude of change and the high sensitivity of the landscape, I agree with the council and Loth Residents that the proposed development would have a significant adverse effect on the qualities of the Special Landscape Area and impair its integrity, that is, the ability to experience and appreciate the special landscape as a whole in the absence of the predicted significant adverse effects.

3.25 With regard to impacts on the integrity of the Special Landscape Area, contrary to the statement in the applicant's evidence that relevant Highland-wide LDP policies do not contain an 'integrity' test in respect of special landscape areas, I am satisfied that this is not the case; policy 57 (natural, built and cultural heritage) and the preamble to Appendix 2 (definition of natural, built and cultural heritage features) to the LDP make clear that the council will consider the potential impacts of development proposals on the integrity of special landscape areas.

3.26 Finally on this matter, should the proposed development proceed, the applicant claims the landscape as a whole would remain attractive and legible, with much of the Special Landscape Area either having no view of the proposed development, or only minor views of the turbines at a distance, within a much wider overall panorama. While I accept that the proposed development would not have a significant impact on the Rounded Hills LCT as a whole, it would nonetheless become a dominating feature in panoramic views, including those across central areas of the Special Landscape Area. It is primarily for this reason I find that the proposed development would give rise to significant adverse effects.

Effects on Wild Land

3.27 There are no objections to the proposed development of the grounds that it would significantly affect the qualities of the two designated Wild Land Areas that lie close to the application site. NatureScot is broadly content with the applicant's assessment of predicted effects on the experience of their qualities and is in agreement with the conclusions of the assessment. It advises, the proposed development would not

significantly affect the qualities of WLA35 (Ben Kilbreck – Armine Forest) and, with regard to WLA36 (Causeymire Knockfin Flows), predicted effects over and above those already experienced as a result of current wind farms in the area, would be minimal and not significant.

3.28 On this matter, CD01.07, Technical Appendix 6.5.4, shows that within 20 kilometres of the application site, visibility of the proposed development on its own would be extremely limited in both Wild Land Areas (see areas of yellow wash on plan), whereas, when seen in combination with the operational Gordonbush and Kilbraur wind farms, visibility from each area would be extensive (see green wash). On this basis, I agree with the conclusions of NatureScot; the additional effects that would result from the proposed development (over and above those in the baseline) would not significantly affect the qualities of WLA35 and WLA36.

Siting and design of the proposed development

CD01.03: EIAR, Volume 2, Chapter 3 Design evolution
CD11.02: Inquiry report of Frances Horne, Appendices A2-A7 - figures and wirelines
Siting and Designing Wind Farms in the Landscape, Version 3a, SNH, February 2017
CD03.11: NatureScot response (landscape and visual), 29.10.21

3.29 The parties opposing the application consider the proposed development poorly sited and designed. Conversely, the applicant claims that it has given detailed consideration to its design taking into account the coastal landscape and visual receptors. It adds, regard has been had to the planning history of wind farm development in the area, including proposals at West Garty.

3.30 The council challenges the extent to which the applicant has considered the location of the proposed development within a Special Landscape Area in the design of the proposed development. It notes an absence of reference to the designation in the Environmental Impact Assessment Report, Chapter 3 (design evolution) and lack of meaningful assessment of the proposed development's effects on its characteristics in Chapter 6 (landscape and visual). Nor does the Environmental Impact Assessment Report make reference to past proposals at West Garty or matters raised in that case. Despite the shortcomings of the Environmental Impact Assessment Report in this regard, I have no evidence before me that demonstrates whether the application site was chosen in the knowledge that it is located in the Special Landscape Area or if the reporter's findings in the West Garty case have been taken into account in the design of the proposed development. Whatever the case may be, the parties have presented sufficient information, including environmental information prepared for the West Garty case, which allows me to assess the effects of the proposed development on the characteristics and sensitivities of the Special Landscape Area.

3.31 As I note above, NatureScot has not objected to the application. However, it makes clear that it regards the proposed development as being poorly sited and designed, particularly when seen from elevated viewpoints. In arriving at my conclusions on this matter, I place importance on NatureScot's appraisal of effects on landscape character as set out in paragraph 3.4 of its 29 October 2021, which I briefly rehearse at paragraph 3.17 above. NatureScot remarks that the siting of the proposed development on elevated ground and the choice of large turbines of 149.9 metres are in marked contrast with the

existing wind farms, which are sited on lower ground and extend to 110-125 metres to blade tip.[19]

3.32 As I observed from the summit of Ben Bhraggie (viewpoint 12), the proposed development would appear as a prominent feature which extends both vertically and horizontally across and above the backdrop hills. Also, from Brora beach and the coastal path at Dornoch (viewpoint 14), apart from the Duke of Sutherland Monument, the proposed turbines would interrupt the currently undeveloped skyline backdrop hills. As such, NatureScot concludes that the proposed development would result in significant adverse effects on the character of the sensitive coastal strip. The council and Loth Residents arrive at similar conclusions.

3.33 I accept that further wind farm development within the Rounded Hills LCT would not be a new or unusual feature, as argued by the applicant. However, despite lying within the same LCT as existing wind farm development, it is the siting and design of the proposed development on significantly higher ground near other, more sensitive LCTs that renders it unacceptable, as demonstrated clearly by Loth Residents (CD13.12(ii), Figure 1). Neither do I accept the applicant's contention that the proposed development responds positively to Scottish Natural Heritage (NatureScot) guidance as set out in 'Siting and Designing Wind Farms in the Landscape' (relevant paragraphs identified below). Having reviewed the evidence, including that presented at the inquiry, I conclude:

- the proposed development would appear to overwhelm the distinctive character and scale of the prominent coastal hills due to its scale and extent – the applicant does not believe the hills to be prominent or distinctive landform when considered in the wider context (Siting and Designing Wind Farms in the Landscape, paragraph 3.25);
- despite the applicant's contention to the contrary, the skyline when viewed from the coast is part of a distinctive landform which is simple in nature (paragraphs 3.26 and 3.28);
- the proposed development would dominate and negatively affect the settlements of Doll and Brora (paragraph 3.43);
- the proposed development would create a new focal feature which would detract from the distinctive coastal landform, the coastal settlement of Brora and areas valued for recreation such as the Brora coastal path and golf course (paragraph 3.52); and,
- looking east along Strath Brora (viewpoints 8, 9 and 10), the proposed development would 'compete' with Beinn Smeòrail (the conical shaped hill seen in the centre of viewpoint 8), which is a focal point in the landscape – while generally agreeing with the guidance, the applicant notes that the proposed turbines would be seen behind the hill and recede in the view (paragraph 4.14).

3.34 With regard to comparisons between the siting of the proposed development with that previously proposed at West Garty, located a short distance to the north-east of the application site, the applicant claims that it has had regard to the findings of the reporter in that case and her recommendation that consent should be refused (CD10.39: Case reference WIN-270-6). However, as noted by the council and Loth Residents, no mention

[19] The proposed turbines would be located on land ranging from 405-536 metres AOD. Gordonbush and Gordonbush Extension lie on land between 214-400 metres AOD and Kilbraur and Kilbraur Extension between 180-326 metres AOD

is made of the West Garty proposals or the Reporter's findings in the Environmental Impact Assessment Report.

3.35 The applicant states, while there are parallels between the proposed development and previous development proposals at West Garty, there are also notable differences, for example, the application site is located further inland beyond the first band of coastal hills, is not sited in a 'gateway' location and would have limited visibility by those using the A9(T) and Far North railway. While there may be some merit in these statements, the proposed turbines would be considerably larger than those proposed at West Garty and located on much higher ground. Consequently, as highlighted by the council and Loth Residents, they would diminish the scale of the hills from a number of viewpoints and appear as prominent features in panoramic views.

Effects on visual amenity

CD11.03: A2 Inquiry Plan, showing the representative viewpoint locations in relation to the application site, operational wind farms, wild land areas and landscape character types, amongst other things.

3. 36 The parties disagree on the predicted visual effects of the proposed development. In addition, NatureScot comments that, in its view, the applicant's Landscape and Visual Impact Analysis does not adequately reflect the degree of visual effects that the proposed development would give rise to. Below, I consider the matters in dispute between the parties and the comments of NatureScot. I also provide my own assessment of visual effects from each of the representative viewpoints with reference to the application, evidence presented at the inquiry and observations from my unaccompanied and accompanied site inspections. In doing so, I consider the visual effects of the proposed development when seen from; lower lying areas; elevated viewpoints; distant viewpoints. Where relevant, I consider the following matters:

- the prominence of the proposed turbines on the skyline;
- the siting and design of the proposed development with reference to guidance contained in 'Siting and Design of Wind Farms in the Landscape (2017);
- the significance of visual effects on the settlements of Doll, Brora and Dornoch; and,
- the concern that the proposed development would contribute to, and result in, cumulative visual effects.

3.37 The Landscape and Visual Impact Analysis visualisations are shown in the Environmental Impact Assessment Report (2021), volumes 2 (NatureScot output) and 3 (The Highland Council output). A link to the relevant pages in each document is provided for each viewpoint.

Viewpoint analysis

3.38 The principal parties agree that the proposed development would result in significant visual effects when seen from viewpoints 1 (Doll), 2 (Lower Brora) and 4 (Ben Dhorain). In addition, while disputed by the applicant, the council considers that there would be significant visual effects at viewpoints noted below.

VP3 A9(T), Victoria Road	VP9 Brora to Rogart minor road near Dalreavoch
VP5 Creag Nam Fiadh	VP11 Ben Horn;
VP6 Hope Hill	VP12 Ben Bhraggie
VP7 Track to Ben Armine Lodge	VP14 Dornoch coastal footpath near Royal Dornoch Golf Club
VP8 Brora to Rogart minor road near Sciberscross	

3.39 The principal parties also agree that visual effects of the proposed development from all other viewpoints would not be significant, that is, viewpoints 13 (Skelbo Castle), 15 (Portmahomack), 16 (Dornoch Firth Bridge), 17 (A897, Kinbrace) and 18 (B871).

3.40 Furthermore, the applicant and the council agree that the proposed development would result in significant visual effects on:

- the settlements of Brora and Doll;
- users of the core path network, particularly northerly views from paths which follow routes across southern parts of Brora Golf Course and to the south of the application site;
- parts of the Brora Village Trail (viewpoint 2); and,
- a 2-kilometre length of the John O'Groats Trail and southern parts of Brora beach and Brora Golf Course.

3.41 In addition, the council claims that there would be significant visual effects for users of the Royal Dornoch Golf Course, east and north bound users of the A9(T) and east bound users of the Rogart to Brora minor road.

3.42 Loth Residents believe that there would be major or moderate/ major adverse effects at six of the representative viewpoints, namely, viewpoints 1 to 5 and 8 (as noted above). It also considers that major or moderate/ major effects would be experienced at Brora beach and Brora Golf Course. Furthermore, Loth Residents claim that the proposed development would have a significant adverse impact on the visual amenity of the landscape surrounding the site by disrupting the current highly valued harmonious views; the effects would be major adverse.

Views from lower lying areas

3.43 NatureScot comments that the turbines would present as imposing features from within lower lying areas, such as the settlements of Brora and Doll, as the turbines would appear as large, prominent, moving features on the skyline. It adds, the elevation of the landform which forms the backdrop to the coastal strip in this part of the Highlands, emphasises the height of the turbines on the skyline. The scale of the turbines would dominate and/ or dimmish the scale of the hills upon which the proposed development would be located. This effect, it further adds, would not only be limited to viewpoints which are close to the proposal, such as Doll (viewpoint 1) at 8 kilometres, but also those at greater distances, such as Dornoch at 23 kilometres (see commentary on viewpoint 14 below).

- ***Viewpoint 1: Doll***

  CD01.12: Doll - NatureScot output
  CD01.13: Doll - THC output

  The viewpoint is located on a minor road providing access to residential properties to the north of Doll - 8.4 kilometres to the south of the nearest proposed turbine (T8). From the viewpoint, 6 hubs and 4 blade tips would be theoretically visible.

  The Landscape and Visual Impact Analysis states that a number of the proposed turbines would be seen above the backdrop hills, most notably turbines T11, T12, T13 and T15, which would appear as cluster, with turbine T14 seen behind T13. The turbine bases would not be visible due to the landform. The hub of turbine T8 would also be seen above the hill tops to the left of the view. There would also be glimpsed views of the blades belonging to four other turbines. All views of the proposed turbines would be seen above a line of residential development which, along with an overhead power line, occupy the middle ground of the view. Trees and roadside vegetation dominate the foreground framed by a telegraph pole and wires.

  The principal parties agree that the proposed development would in its own right result in significant visual effects when seen from the viewpoint. They disagree, however, on the level of effect that would occur; the applicant considers that it would be 'moderate', given that intervening landform would obscure or limit views to a single cluster of turbines, while the council believe that it would be 'major to moderate' due to the high visibility of turbines. Loth Residents agree with the council's assessment and add that the applicant has marginally underplayed the magnitude of change.

  Taking all the above into account, I find:

  - the proposed turbines would appear as prominent features on the skyline - their prominence accentuated by being seen atop steeply rising hills well-above housing, trees and roadside vegetation;
  - the visibility of the hub of turbine T8, which is set some distance apart from turbines T11-15, belies the applicant's claim that the proposed development would appear as a cluster from the viewpoint;
  - the trees and low-lying roadside vegetation would not limit the magnitude of change to the view to the extent suggested by the applicant; and,
  - overall, taking account of the magnitude of change and the sensitivity of receptors (high), I agree with the council and Loth Residents that the level of effect would be 'Major to Moderate' and 'Significant'.

  Finally, I note that existing wind farm development located a similar distance from the viewpoint cannot be seen. By siting turbines on much higher ground, the council argues that the proposed development would undermine mitigation measures related to that development. It adds, this demonstrates that the proposed development fails to respect the pattern of existing wind farm development in the area.

- ***Viewpoint 2: Lower Brora***

  CD01.12: Lower Brora - NatureScot output
  CD01.13: Lower Brora - THC output

  The viewpoint is located close to a coastal car park and picnic area on the south-eastern edge of Brora - 8.1 kilometres to the south of the nearest proposed turbine (T13). From the viewpoint, 11 hubs and 3 blade tips theoretically visible.

  The viewpoint is located within public open/ amenity space close to housing and is popular with visitors. It is located alongside the Brora Village and John O'Groats trails from which extensive views of the hills and coastline to the north can be enjoyed.

  There is no dispute between the parties that when seen from the viewpoint the proposed development would give rise to significant visual effects - the hubs of 11 turbines and the blade tips of another would be clearly visible on the skyline and dominate the view. There would also be theoretical visibility of the blade tips of two other turbines (T4 and T5). Only turbine T3 would be completely obscured by the intervening landform.

  With particular reference to the 27º viewpoint photomontage prepared for the council (CD01.13, VP2), the proposed turbines would appear to sit on or behind the hill tops. Turbines T8, T11, T12, T13 and T15 would stand prominent in the view, with T11 seen almost at full height. The proposed turbines would spread horizontally and widely across the skyline. They would appear evenly spaced. Other than for a few chimney pots breaking the skyline in the foreground, views of the proposed turbines would be uninterrupted.

  Taking these factors into account, I find:

  - as described NatureScot, the proposed turbines would appear as an obvious and uncharacteristic feature situated on relatively undeveloped hills which form an intrinsic part of Brora's landscape setting;
  - the proposed turbines would dominate views to the north;
  - the steep rising hills would emphasise the height of the proposed turbines;
  - the proposed turbines would appear:
    - to sit on or behind the hill tops, their bases obscured by the landform;
    - to extend horizontally and occupy much of the view – turbines T11, 12, 13 and 15 would not appear as a cluster as suggested by the applicant; and,
    - evenly spaced on the skyline;
  - overall, the proposed development would result in a 'major' level of effect on the views and visual amenity experienced by receptors at the viewpoint, which, as acknowledged by the applicant, would be 'significant'.

- ***Viewpoint 3: Victoria Road, Brora, A9(T)***

  CD01.12: Victoria Road (A9), north Brora - NatureScot output
  CD01.13: Victoria Road (A9), north Brora - THC output

The viewpoint located on Victoria Road (A9(T)), adjacent to a petrol filling station, north Brora - 7 kilometres to the south of the nearest proposed turbine (T13). From the viewpoint, 5 hubs and 5 blade tips would be theoretically visible.

The viewpoint is located on the A9(T) at the northern edge of Brora looking towards the moorland hills. The foreground view is dominated by a petrol filling station and associated canopy and signage, roadside signage, lighting columns and vegetation. Seen against the steeply rising hillside, housing, hillside tracks, pylons and transmission lines occupy the middle ground of the view. Moorland hills, free of any man-made features along their tops, form the background to the view.

The A9(T) in this location forms part of the North Coast 500 and other tourists and recreation routes. The applicant acknowledges that the view is highly sensitive to change.

At my accompanied site inspection, at the request of the council and Loth Residents, I walked a short distance beyond the petrol filing station to consider the view uninterrupted by buildings and signage. While this may have been a more appropriate representative viewpoint location, my assessment focuses on the visualisations presented in the Landscape and Visual Impact Analysis.

The applicant does not consider the predicted visual effects of the proposed development to be significant when seen from the viewpoint, principally due to the presence of urban features in foreground views. Similarly, while a number of the proposed turbines would be seen prominently on the skyline, it considers that the presence of vertical elements in the foreground would serve to limit views.

The council and Loth Residents disagree with the applicant's assessment. They argue that too much reliance has been placed on the fact that the proposed turbines would be seen in the context of man-made features. This, they claim, has led to the magnitude of the change that would be experienced by receptors being underplayed. They believe that the visual effects would be significant.

Taking these factors into account, I find:

- as described by NatureScot, and in the absence of any other wind turbines being visible, the proposed turbines would appear as an obvious and uncharacteristic feature situated high on relatively undeveloped hills which form an intrinsic part of Brora's landscape setting;
- proposed turbines T8 and T11-T15 would appear prominent on the skyline, T13 in particular;
- although the foreground is dominated by man-made features, only two lighting columns and a tree to the right of the view would breach the skyline when seen from the viewpoint. Neither would the lighting columns mask or limit views of the proposed turbines, as suggested in the Landscape and Visual Impact Analysis. For these reasons, I agree with the council and Loth Residents that the magnitude of change that would be experienced by receptors from the viewpoint has been underplayed; and,
- I also agree with the council and Loth Residents that the overall level of effect would be significant.

- ***Additional wireline drawings at three locations from the coast north of Brora***

  CD01.17: Golf Club Wirelines A-C (corrected)

  The additional wirelines are located at:

  - *a point close Clynemilton Burn to the east of the A9(T) (location A) – 5.2 kilometres to the south of the nearest turbine (T15). From location A, 3 hubs and one blade tip would be theoretically visible;*
  - *Brora Caravan Site (B) – 5.9 kilometres to the south of the nearest turbine (T13). From location B, 4 hubs and 4 blade tips would theoretically be visible; and,*
  - *Brora Golf Course (C) – 6.7 kilometres to the south of the nearest turbine (T13). From location C, 5 hubs and 6 blade tips would be theoretically visible.*

  The applicant acknowledges that users of the golf club, core paths and beach would experience significant visual effects, notably at their southern ends. However, it considers that views towards the proposed development would be limited, in part, by built forms within Brora. The Landscape and Visual Impact Analysis notes, as users of the golf course, paths and beach would be undertaking a slow-paced recreational activity, the pleasure of which is enhanced in part by an appreciation of the landscape setting, the sensitivity of those using them is deemed high.

  The wireline drawings clearly demonstrate the extent to which users of the golf course, paths and beach would experience views of the proposed turbines as they play and walk northwards; they would appear as prominent features on the skyline, particularly turbines T11, T12, T13 and T15. As highlighted by the council, turbine T13, would be seen atop a hill summit, while the others would appear to sit further inland behind ridgelines. The hub of turbine T8 would also be visible. Generally, the number of visible turbine and their prominence would reduce as golfers and walkers moved northwards. However, I find that proposed turbine T13 would remain visible and prominent on the skyline at each location.

  At my site inspections, I was able to see for myself the dramatic views of the landscape that can be enjoyed from the golf course, paths and beach; as referred to by Loth Residents and described in the Special Landscape Area citation. In particular, I was able to appreciate the narrowness of the coastal strip at the foot of the hills and its contrast with the moorland hills. Undoubtedly, the introduction of turbines would disrupt the unspoilt views that can presently be appreciated and enjoyed.

- ***Views from A9(T) and Far North railway on approach to Brora and beyond***

  The proposed development would be visible to those travelling on the A9(T) and adjacent railway line on approach to Brora and beyond.[20] The parties dispute the extent to which the proposed development would be visible and its effects on receptors - CD01.16: Additional Information, Volume 3, Part 2, Figure 3.2.3, and

[20] The extent of visibility is shown in Additional Information, Volume 3, Part 2, AI Figure 3.2.3 (CD01.16)

associated wirelines, show the theoretical visibility at various points from the A9(T).

As noted by the council, and confirmed at my site inspection, there would be theoretical visibility of the proposed turbines for a distance of 6.5 kilometres; on approach to Brora from Doll between 8 and eleven turbines would be visible; between twelve and fifteen when passing through Brora; between 1 and 3 to the north of the settlement towards Kintradwell. While I accept that roadside vegetation and buildings within Brora would in places partially or fully mask views of the proposed turbines when travelling north, where visible, the proposed development would be clearly visible and have a significant adverse visual effect on users of the A9(T) and railway line.

I note that from viewpoint locations 1-3, proposed turbines T11, T12 and T13 would appear particularly prominent – as was demonstrated during my site inspection at viewpoint location 2. At viewpoint locations 4 and 5, a good portion of the towers, hubs and blade tips of turbines T13 and T15 of the proposed turbines would be visible - as also demonstrated at my inspection at both viewpoints. While at viewpoint location 6, most of the proposed turbines would be masked by landform. However, from the viewpoint proposed turbine T13 would be clearly visible and appear prominently in a cleft between two hills. The blade tips of turbines T11, T12, T14 and T15 would also be theoretically visible.

Views from elevated viewpoints

3.44 NatureScot comments, from elevated viewpoints the poor siting of the proposed development would be apparent. It advises:

- from the locally popular and accessible Beinn Dhorain (viewpoint 4) the proposed development would dominate the experience where currently existing wind farms appear contained within the much lower expansive moorland and views rise over and above the turbines. The larger turbines of the application would compete for attention at eye level, thereby drawing the focus away from the wider panorama;
- from Ben Horn (viewpoint 11) the proposed development would appear as a more disjointed grouping of turbines, once again diminishing the scale of the hills, whilst detracting from more distant and distinctive lone hills of Scaraben and Morven; and,
- from Ben Bhraggie (viewpoint 12) the proposed development would be a new focal feature, which due to the size of the proposed turbines and their moving blades, would detract attention away from the existing focal point of the monument. The size of the proposed turbines would also apparently diminish the scale of the ridgeline, effectively reducing its prominence.

3.45 The proposed development would create a new focal feature in the landscape which would be of sufficient size and presence, involving moving blades and large vertical structures, to draw and hold the eye.

- ***Viewpoint 4: Beinn Dhorain***

  CD01.12: Beinn Dhorain - NatureScot output
  CD01.13: Beinn Dhorain - THC output

The viewpoint is located at the summit of Beinn Dhorain (628m AOD) – 3.9 kilometres to the north-east of the nearest proposed turbine (T14). From the viewpoint, 15 hubs theoretically visible.

NB. The photomontages do not show any associated project infrastructure, for example, access tracks, ancillary buildings and borrow pit.

There is no dispute between the parties that the proposed development would give rise to significant visual effects; the level of effect would be 'major' and 'significant.' The viewpoint photomontages and wireline drawings contained in the Landscape and Visual Impact Analysis show:

- the proposed turbines would appear prominent on the opposing hills, break the skyline and dominate views to the south-west;
- proposed turbine T1 as being more elevated than others in the array;
- most turbines would be seen whole, including towers and associated infrastructure. The proposed borrow pit would also be visible from the viewpoint (not shown on photomontages);
- the difference in scale between the proposed turbines and those in operation, which is described by the council as being a 'step change;'
- the existing turbines of the Gordonbush and Kilbraur wind farms contained within the interior lower moorland landscape; and,
- the ability to see over existing operational turbines and experience panoramic views.

The viewpoint lies within the Special Landscape Area.

Taking the above factors into account, I agree with the conclusions of the Landscape and Visual Impact Analysis that the proposed development would have a 'major' effect on views and visual amenity experienced by walkers at the summit of Ben Dhorain. The level of effect, as noted, would be significant.

- ***Viewpoint 5: Creag nam Fiadh***

CD01.12: Creag nam Fiadh - NatureScot output
CD01.13: Creag nam Fiadh - THC output

The viewpoint located at the trig point on Creag nam Fiadh (387m AOD) – 11 kilometres to the north-west of the nearest proposed turbine (T1). From the viewpoint, 9 hubs and 4 blade tips theoretically visible.

The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate' and 'not significant,' while the council and Loth Residents argue that effects would be 'major/ moderate' and significant.

The applicant's viewpoint assessment describes proposed development as appearing to laterally extend the Gordonbush wind farm. However, as demonstrated by the photomontages and wireline drawings, the proposed turbines would appear to stand clearly behind and above the existing array; where the existing array would be seen against background hills, the proposed turbines would rise above the skyline with some appearing to sit upon a raised plateau.

Although located further away, as highlighted by the council, the proposed turbines would appear more dominant than the existing turbines. Furthermore, whilst there would be theoretical visibility of the blade tips of proposed turbines T12 and T13, turbine T1 would appear to stand apart from others and 'bookend' the proposed development part way along the plateau.

For these reasons, notwithstanding the fact that the proposed development would be seen in the context of other turbines, I agree with the council and Loth Residents that the applicant's assessment underplays the magnitude of change that would occur in views from the viewpoint.

The viewpoint is located within the Ben Kilbreck-Armine Forest Wild Land area.

Taking the above factors into account, notwithstanding the presence of the Gordonbush array in south/ south-easterly views, I agree with the council and Loth Residents that the proposed development would give rise to a 'major/ moderate level effect which would be 'significant.'

- ***Viewpoint 6: Hope Hill***

  CD01.12: Hope Hill - NatureScot output
  CD01.13: Hope Hill - THC output

  The viewpoint is located at the trig point on Hope Hill (253m AOD) – 12 kilometres to the north-west of the nearest proposed turbine (T3). From the viewpoint, 9 hubs and 4 blade tips theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate' and 'not significant,' while the council and Loth Residents argue that effects would be 'moderate' and 'significant'.

  From the viewpoint the operational turbines of the Gordonbush array are seen extending across middle ground views. While generally seen against distant hills, a cluster of turbines rise above the skyline at the northern end of the array (to the left in photomontages).

  All the proposed turbines would be seen behind the existing array and, notably, rise above the distant hills. A number of the turbines would appear to sit atop hill ridges (turbines T1, T2, T3, T5, T6, T7 and T8). As noted by the council, from the viewpoint, the addition of the proposed turbines would appear to extend the depth and height of wind energy development. Nor would landform contain the proposed turbines, unlike existing development.

  The operational turbines of Kilbraur wind farm would be seen in the periphery of the view (to the right of the NatureScot output viewpoint photomontages).

  The viewpoint is located within the Ben Kilbreck-Armine Forest Wild Land Area.

  Taking the above into account, I find,

  - despite being seen in combination with existing wind energy development, the proposed development would result in a greater magnitude of change than that suggested by the applicant, principally due to the proposed turbines being seen clearly above the existing array; and,

- accordingly, the significance of the predicted effects on views and visual amenity would be 'significant'.

- ***Viewpoint 7: Track to Ben Armine Lodge***

  CD01.12: Track to Ben Armine Lodge - NatureScot output
  CD01.13: Track to Ben Armine Lodge - THC output

  The viewpoint is located on a track leading to Ben Armine Lodge, approximately 4.75 kilometres from a minor road at Sciberscross – 12.9 kilometres to the west of the nearest proposed turbine (T3). From the viewpoint, 11 hubs and 4 blade tips theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate' and 'not significant,' while the council and Loth Residents argue that effects would be 'moderate' and 'significant'.

  The viewpoint is located a relatively short distance south of viewpoint 6 (Hope Hill) within the same moorland landscape. As such, the visual effects would be similar to those that would be experienced from Hope Hill; the proposed turbines would be seen behind and above the existing Gordonbush array. However, rather than be seen wholly within the parameters of the existing array, the majority of the proposed turbines (T6-T15) would extend beyond the array further to the south (to the right on the photomontages) and appear more elevated. Also, a number of the turbines would appear to sit atop hill ridges (T1-T8), while others would appear set back and located on more distant hills. The location of the proposed turbines would be such that they would appear to be different in height, for example, see proposed turbines T1 and T14.

  Given the height at which the proposed turbines would be seen above the existing array, I do not agree that they would read as an extension to the Gordonbush array, as suggested in the Landscape and Visual Impact Analysis. As such, I consider that there would be a greater magnitude of change than indicated by the applicant.

  Taking the above into account, I find,

  - despite being seen in combination with existing wind energy development, the proposed development would result in a greater magnitude of change than that suggested by the applicant, principally due to the proposed turbines being seen clearly above the existing array and laterally extending it to the south;
  - the proposed development would not read as an extension to the Gordonbush array; and,
  - the significance of the predicted effects on views and visual amenity would be 'significant'.

Views from Brora to Rogart minor road

3.46 NatureScot comments, from some minor roads and straths, for example, viewpoint 8 (Rogart to Brora near Sciberscross), the proposed turbines would appear to

breach the moorland and conflict with the existing pattern of wind farms. While these locations have not been identified by the applicant as being significant in visual terms, NatureScot believe that collectively it demonstrates the poor design of the proposed development both on its own and cumulatively with other wind farms in the landscape. I address these comments in my assessment of viewpoint 8, 9 and 10 below.

- ***Viewpoint 8: Brora to Rogart minor road near Sciberscross***

  CD01.12: Brora to Rogart minor road near Sciberscross - NatureScot output
  CD01.13: Brora to Rogart minor road near Sciberscross - THC output

  The viewpoint located on a minor single-track road between Pittentrail and Brora, near Sciberscross – 10.4 kilometres to the west of the nearest proposed turbine (T8). From the viewpoint, 7 hubs and 3 blade tips theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate to minor' and 'not significant,' while the council and Loth Residents argue that effects would be 'major to moderate' and 'significant'. Also, the council argues that the sensitivity of the viewpoint and minor road should be regarded 'high,' owing to its use by cyclists moving between Pittentrail and Brora. The applicant assesses their sensitivity as 'medium'.

  The proposed turbines (T1-T6) would be seen mainly to the north of Beinn Smeòrail (the conical shaped hill seen at the centre of the photomontage), while T8 would be seen in isolation to the south. The blades tips of T7, T11 and T13 would also be theoretically visible on the skyline. The proposed turbines would be prominent and spread at irregular intervals across the skyline.

  From the viewpoint, the proposed development, Gordonbush and Kilbraur wind farms would read as three distinct developments in the landscape. I do not consider that the proposed development would appear as an extension to the Gordonbush wind farm, as suggested in the applicant's visual assessment – the proposed development would be seen some distance further away, at a different elevation and behind distant hills.

  While I accept the general premise that the greater the number of turbines in a baseline view, the less significant the addition of others would be, it is nonetheless the case that additional effects may arise that alter an assessment of overall effects. In this case, given the location, prominence and spread of turbines on the skyline, and their unsatisfactory relationship with Beinn Smeòrail, described as a distinctive pinnacle hill by Loth Residents, I consider that the magnitude of change would be greater than that concluded by the Landscape and Visual Impact Analysis.

  With regard to the nature and sensitivity of the view, my site inspection confirmed the accuracy of the description contained in the Landscape and Visual Impact Analysis. However, while I encountered very few other road users, I can appreciate its attraction to cyclists and others exploring the area. As such, the sensitivity to changes in the view may be greater than that suggested in the Landscape and Visual Impact Analysis.

Taking all the above into account, I find:

- despite being seen in combination with Gordonbush wind farm, the proposed development would result in a greater magnitude of change than that suggested by the applicant, principally due to the location and prominence of the turbines on the skyline and their relationship with Beinn Smeòrail;
- the proposed development would not read as an extension to the Gordonbush array; and,
- the proposed development would result in a level of effect that would be 'major/ moderate' and 'significant' on views and the visual amenity of users of the minor road.

- ***Viewpoint 9: Brora to Rogart minor road near Dalreavoch***

  CD01.12: Brora to Rogart minor road near Dalreavoch - NatureScot output
  CD01.13: Brora to Rogart minor road near Dalreavoch - THC output

  The viewpoint is located on a minor single-track road within the River Brora valley – 13.5 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 6 hubs and 1 blade tip theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'minor' and 'not significant', while the council and Loth Residents argue that effects would be 'moderate' and 'significant'.

  The viewpoint is located a short distance west of viewpoint 8 on the same minor road and shares similar characteristics. At the viewpoint, intervening landform narrows the frame of view towards the application site. The proposed development would appear atop the distant hills, with Gordonbush wind farm seen situated on lower interior hills and for the most part seen against backdrop hills. As such, they would appear as separate wind farms. A number of the proposed turbines would stand prominently on the skyline (T1-T6), with turbines T6 and the blade tips of T7 seen either side of the tip of Bienn Smeòrail. I agree with the council that from the viewpoint the proposed development would appear to extend the vertical spread of wind energy development. The council acknowledges, however, that visual effects would be mitigated to some extent by distance.

  The applicant comments that the council does not state the distance over which it considers effects on views and visual amenity would occur. From my site inspection, I estimate that views of the proposed development close to Dalreavoch travelling east would be available for less than a kilometre before being masked by landform and roadside vegetation. However, I take the council's remarks to refer to the sensitivity of the minor road for users as a whole when travelling east from Pittentrail through the strath to the coast.

  In short, I find:

  - the applicant's assessment of the change that would occur in views and visual amenity, and the significance of that change, are understated;
  - for walkers and cyclists, views of the proposed development would not be 'glimpsed', as suggested, but remain part of the view for some time;

- the proposed turbines would appear prominent on the skyline; and,
- the proposed development would appear as a separate wind farm and extend the vertical spread of turbines. Consequently, the proposed development would result in a level of effect that would be significant.

- ***Viewpoint 10: Craggie Beg***

  CD01.12: Craggie Beg - NatureScot output
  CD01.13: Craggie Beg - THC output

  The viewpoint is located on a minor road close to a property known as Craggie Beg – 15.4 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 10 hubs and 3 blade tips theoretically visible.

  The principal parties agree that the proposed development would not give rise to significant visual effects from the viewpoint. However, Loth Residents disagree and argue that significant effects would arise due to the elevation and location of turbines in an area of undeveloped open landscape between two existing wind farms (Gordonbush and Kilbraur). This, it adds, would be contrary to Scottish Natural Heritage (NatureScot) guidance.

  The viewpoint lies a short distance to the west of the Rogart to Brora minor road, which gives access to a number of isolated properties. As such, I agree that its sensitivity to change is not as high as that at viewpoints 8 and 9. Furthermore, the view is presently strongly influenced by the operational wind farms of Gordonbush and Kilbraur; the former extending across moorland to the north (left in the photomontage), the latter to the south.

  The proposed development would appear prominently atop distant hills in the centre of the view, extending each side of Beinn Smeòrail and between Gordonbush and Kilbraur wind farms. As highlighted by Loth Residents, NatureScot notes the importance of achieving a balance between wind farms and undeveloped open landscape retained between them – adequate separation helps to maintain wind farms as distinct entities.[21]

  Taking all the above into account, I find:

  - despite being strongly influenced by operational wind farms, the magnitude of change in the view would be greater than that suggested by the applicant due to the elevation and location of the proposed turbines;
  - the proposed development would appear within an undeveloped open and elevated landscape between two operational wind farms, hence eroding their distinctiveness as separate entities, contrary to Scottish Natural Heritage guidance;
  - the distance between the viewpoint and the proposed development would lessen the visual effects of the proposed development; and,
  - overall, I consider that the proposed development would have a 'moderate' level of effect on views and visual amenity experienced by users of the minor road on which the viewpoint is located. Due to the elevation and

[21] Siting and Designing Wind Farms in the Landscape - Guidance, Version 3, Scottish Natural Heritage (2017), paragraph 4.11

location of the proposed turbines between two operational turbines, however, I agree with Loth Residents that the effect would be 'significant'.

- ***Viewpoint 11: Ben Horn***

  CD01.12: Ben Horn - NatureScot output
  CD01.13: Ben Horn - THC output

  The viewpoint is located at the summit of Ben Horn (520m AOD) – 9.5 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 12 hubs and 3 blade tips theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate' and 'not significant', while the council and Loth Residents argue that effects would be 'moderate' and 'significant'.

  The viewpoint is located at the summit of Ben Horn from which 360º views of the surrounding landscape can be enjoyed. The Gordonbush wind farm is visible to the west of the application site, the turbines of which, for the most part, are seen below the skyline. The Moray Firth is seen to the east (to the right of the photomontage). The proposed development would be seen on top of the hills that separate the lower lying interior moorland and the sea.

  Whilst the proposed development would be seen in conjunction with the turbines of Gordonbush, they would occupy much higher ground separated by the lower lying Meallan Laith hills. As such, there would be a poor relationship between existing and proposed turbines. For these reasons, I do not agree that the proposed development would appear as an extension to Gordonbush, as suggested by the applicant in its viewpoint assessment.

  Furthermore, a number of the proposed turbines would breach the skyline, notably turbines T1-T3 and T7-T10). As noted by the council, the turbines would appear spread irregularly and broadly across the hill tops. Also, some of the proposed turbines would appear clustered while others would be free-standing. The proposed development would occupy a significant part of the panorama.

  The viewpoint lies within a Special Landscape Area.

  Taking all the above into account, I find:

  - the proposed development would not appear as an extension to the Gordonbush wind farm, despite being part of the same panorama;
  - the proposed turbines would be prominent, spaced irregularly across the hill tops and relate poorly to the turbines of the Gordonbush wind farm;
  - the proposed development would be seen on top of the hills that separate the lower lying interior moorland and the sea; and,
  - the proposed development would result in a moderate level of effect on views and visual amenity experienced by those at the summit of Ben Horn and result overall in a level of effect that would be 'significant' despite the presence of Gordonbush wind farm in north-easterly views.

- ***Viewpoint 12: Ben Bhraggie***

  CD01.12: Ben Bhraggie - NatureScot output
  CD01.13: Ben Bhraggie - THC output

  The viewpoint is located at the summit of Ben Bhraggie (397m AOD) – 13 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 13 hubs and 2 blade tips theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate' and 'not significant', while the council and Loth Residents argue that effects would be 'moderate' and 'significant'.

  The popular viewpoint is located adjacent to the Duke of Sutherland Monument and is accessible by a series of core paths and trails. The viewpoint lies within the Special Landscape Area.

  The visual effects from the viewpoint would be similar to those experienced at viewpoint 11. Looking north-east, the turbines of Gordonbush would be seen set low within the landscape to the west of the application site, although some of turbines and their blades break the skyline. While not shown on the photomontages, the operational turbines of Kilbraur wind farm would be seen further to the west, closer to the viewer. The proposed turbines would appear tall and prominent atop the higher hills and generally seen above the skyline in the centre of the view. As noted in the Landscape and Visual Impact Analysis, the proposed turbines would appear as two distinct clusters standing in a line either side on Col-bheinn. The proposed development would also give rise to cumulative effects and substantially increase the horizontal spread of turbines, although broken in part by intervening landform.

  More generally, NatureScot comments, the proposed development would appear as a new focal feature, which due to their size and moving blades, would detract attention away from the existing focal point of the Duke of Sutherland Monument. It adds, the size of the turbines would apparently diminish the scale of the ridgeline, effectively reducing its prominence.

  Taking these factors into account, I find:

  - The proposed turbines would appear tall and prominent on the hill tops, the effect of which would be to diminish the scale of the ridgeline and reduce its prominence;
  - the size and location of the proposed turbines would substantially increase the horizontal spread of turbines when seen from the viewpoint, leading to cumulative effects;
  - the proposed development would be located on the high coastal hills that separate the lower lying interior moorland from the sea; and,
  - due to the distance from the application site, the proposed development would result in a moderate level of effect on views and the visual amenity experienced by those at the summit of Ben Bhraggie. It would, however, result in a level of effect that overall would be 'significant', despite the presence of Gordonbush and Kilbraur wind farms in north-easterly views.

Distant viewpoints

3.47 The commentary below focuses on the predicted effects that the proposed development would give rise to from more distant viewpoints.

- ***Viewpoint 13: Car park off minor road near Skelbo Castle***

  CD01.12: Car park off minor road near Skelbo Castle - NatureScot output
  CD01.13: Car park off minor road near Skelbo Castle - THC output

  The viewpoint is located at a car park off a minor road a short distance to the north of Skelbo Castle, Dornoch – 18.9 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 4 blade tips theoretically visible.

  There is no dispute between the parties on the level of effect that the proposed development would give rise to when seen from the viewpoint. They agree that it would result in a 'moderate to minor' level of effect on views and visual amenity when experienced by visitors to the viewpoint. Despite the high sensitivity of the viewpoint, the overall level of effect would not be significant, principally due to the distance between the viewpoint and the application site and intervening landform.

  From the viewpoint, I note there would be limited glimpsed views of four turbine blades above the hills. As such, I agree with the positions of the parties on this matter.

- ***Viewpoint 14: Footpath near Royal Dornoch Golf Club***

  CD01.12: Footpath near Royal Dornoch Golf Club - NatureScot output
  CD01.13: Footpath near Royal Dornoch Golf Club - THC output

  The viewpoint is located on a coastal footpath adjacent to the Royal Dornoch Golf Club – 23.4 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 12 hubs and 3 blade tips theoretically visible.

  The parties disagree on the significance of the predicted visual effects that would arise from the viewpoint; the Landscape and Visual Impact Analysis concludes that the level of effect would be 'moderate to minor' and 'not significant', while the council and Loth Residents argue that effects would be 'moderate' and 'significant'.

  Despite being more than 23 kilometres from the application site, most of the turbines would be visible to some extent above the distant hills. The proposed turbines would appear in the centre of the view in two clusters grouped together behind two separate hills. The council argues, the horizontal spread of the proposed turbines and the positioning of the eastern-most turbines close to the coastline, heightens the magnitude of change in the view that would be experienced by users of the coastal path to 'medium'; not 'medium to low' as suggested by the applicant.[22]

[22] Environmental Impact Assessment Report, Volume 2, Chapter 6, Table 6.18: summary of operational effects on recreational and tourism activity

Apart from the Duke of Sutherland Monument, seen to the west (left in the photomontage), the rolling hill tops are presently free of any development. Therefore, the proposed turbines would be seen as a new focal feature in the landscape. Notwithstanding their distance from the viewpoint, NatureScot comments that the scale of the proposed turbines would dominate and diminish the scale of the hills upon which they would be located.

Taking the above into account, I find:

- views from the coastal path are highly sensitivity to change;
- due to the prominence and positioning of the proposed turbines, the magnitude of change that would occur in views from the path, despite the nature of the view and the distance of the viewpoint from the application site, would be greater than that suggested by the applicant;
- the proposed development would create a new focal feature on the distant rolling hill tops and dominate and diminish their scale;
- the proposed development would result in a moderate level of effect in views and visual amenity experienced by those using the path and playing golf. The overall level of effect would be significant.

- ***Viewpoint 15: Portmahomack***

CD01.12: Portmahomack - NatureScot output
CD01.13: Portmahomack - THC output

The viewpoint is located on a minor road on the north-west edge of Portmahomack village – 26.9 kilometres to the south of the nearest proposed turbine (T13). From the viewpoint, 14 hubs and 1 blade tip theoretically visible.

The principal parties agree that the proposed development would not give rise to significant visual effects when seen from the viewpoint. Loth Residents also agree that the predicted effects would not be significant if the viewpoint is considered in isolation. However, if the viewpoint is consider as being representative of the changes that would occur in views across the Dornoch Firth towards the skyline of East Sutherland, it argues that the predicted effects would be 'moderate' and significant'.

As noted in the viewpoint assessment, the view over Dornoch Firth is open and panoramic. Distant hills form the skyline above the coastline. The settlement of Brora is visible directly below the application site. Most of the proposed turbines would be visible to some extent above the distant hills. To the west of the application site (left in the photomontage) the operational turbines of Gordonbush and Gordonbush extension are visible in a gap between higher hill tops.

The council comments, the photomontage (Sheet C) demonstrates how dominating the proposed turbines would appear situated high above Brora. However, it adds, the focal point of the view is further to the west to the Dornoch Firth National Scenic Area and not the Special Landscape Area. The council also adds, while there is limited difference in the overall findings of effect, it considers that the applicant has underplayed the magnitude of change that would occur in the view due to the prominent siting of the turbines which would dominate lower lying built development in Brora.

With regard to changes in views across the Dornoch Firth towards the skyline of East Sutherland more generally, Loth Residents argue that moderate and significant effects would occur as a result of:

- the sensitivity of receptors living or visiting a landscape of dramatic distinctive views;
- the prominence of the turbines along the skyline;
- the foreshortening of the view as a result of the proposed turbines being seen across water with little intervening landscape; and,
- the clear weather conditions in Sutherland that allow extensive views.

It believes these factors all exacerbate the visual intrusion of the proposed turbines.

Taking these factors into account, I find:

- the proposed turbines would appear prominent on the skyline, despite the distance between the viewpoint and the application site;
- the proposed development would give rise to a magnitude of change greater than that suggested by the applicant, due principally to the prominence of the proposed turbines on the skyline when seen across the firth;
- the focal point of the view lies further west towards the Dornoch Firth National Scenic Area; and,
- the proposed development would result in a 'moderate' level of effect on views and visual amenity when experienced by local residents and visitors to Portmahomack adjacent to the coastline. Overall, despite the comments of Loth Residents on this matter, I conclude that the level of effect would not be significant.

- ***Viewpoint 16: Dornoch Firth Bridge (A9(T))***

CD01.12: Dornoch Firth Bridge (A9) - NatureScot output
CD01.13: Dornoch Firth Bridge (A9) - THC output

The viewpoint is located on a southbound lay-by on the A9(T) as it crosses the Dornoch Firth – 28.9 kilometres to the south-west of the nearest proposed turbine (T8). From the viewpoint, 9 hubs and 6 blade tips theoretically visible.

Similar to the assessment of viewpoint 15, the principal parties agree that the proposed development would not give rise to significant visual effects when seen from the viewpoint. Likewise, Loth Residents agree that significant effects would not arise if the viewpoint were considered in isolation. However, as a representative viewpoint of the changes that would occur in views across the Dornoch Firth towards the skyline of East Sutherland, it considers that the effects would be moderate and significant.

From the viewpoint most of the proposed turbines would be visible to some extent above the distant hills. The turbines would appear in two groups, with turbines T11-T15 separated from the others. The Duke of Sutherland Monument is visible to the west of the application.

With regard to changes in views across the Dornoch Firth towards the skyline of East Sutherland more generally, Loth Residents argue that moderate and significant effects would occur as a result of:

- the sensitivity of receptors living or visiting a landscape of dramatic distinctive views;
- the prominence of the turbines along the skyline;
- the foreshortening of the view as a result of the proposed turbines being seen across water with little intervening landscape; and,
- the clear weather conditions in Sutherland that allow extensive views.

Loth Residents add that the Dornoch Firth Bridge is not only a gateway to East Sutherland but also within the Dornoch Firth National Scenic Area; the only National Scenic Area on the east coast of Scotland.

Taking these factors into account, I find:

- due to the distance of the viewpoint from the application site and the nature of the view, the proposed development would give rise to a low magnitude of change;
- the Duke of Sutherland Monument would remain the focal point of the view; and,
- the proposed development would result in a 'minor' level of effect on views and visual amenity when experienced by those travelling north on the A9(T) or using the lay-by. Overall, despite the comments of Loth Residents on this matter, I conclude that the level of effect would not be significant.

- ***Viewpoint 17: A897, Kinbrace***

CD01.12: Viewpoint 17, A897, Kinbrace - NatureScot output
CD01.13: Viewpoint 17, A897, Kinbrace - THC output

The viewpoint is located on a single-track road (A897) to the south of Kinbrace – 17 kilometres to the north of the nearest proposed turbine (T1). From the viewpoint, 7 hubs and 5 blade tips theoretically visible.

The parties agree that the proposed development would not give rise to significant effects. Whilst the applicant's assessment concludes that the level of effect would be 'moderate to minor', the council and Loth Residents believe that they would be a 'moderate' level of effect.

From the viewpoint, ten of the proposed turbines would be visible to some extent on the skyline of the distant hills (T1-T10). There would also be theoretical visibility of the blade tips of turbines T12 and T13. Those turbines that would be visible would appear as a single cluster.

The council considers the applicant has understated the sensitivity of the baseline view, commenting that the route is regular used by tourists, cyclists, and those fishing along the River Helmsdale. During my site inspection I witnessed several cyclists using the route and a considerable number of people fishing. As such, I am inclined to agree with the council's assessment of this matter.

Taking these factors into account, I find:

- landform would limit views of the turbines;
- the proposed development would result in moderate level of effect on views and the visual amenity experienced by users of the road when travelling in a south-easterly direction; and,
- the level of effect would not be significant.

- ***Viewpoint 18: B871***

  CD01.12: Viewpoint 18, B871 - NatureScot output
  CD01.13: Viewpoint 18, B871 - THC output

  The viewpoint is located on a single-track road between Syre and Kinbrace – 30.4 kilometres to the north-west of the nearest proposed turbine (T1). From the viewpoint, 9 hubs and 4 blade tips theoretically visible.

  The parties agree that the proposed development would give rise to a minor level of effect that would not be significant.

  From the viewpoint most of the proposed turbines would be visible on the skyline, although views would be limited by intervening landform. Views of the turbines would be experienced looking over large areas of the Ben Kilbreck-Armine Forest Wild Land Area (WLA35). Visibility of the proposed turbines would, however, coincide with views of the operational Gordonbush and Kilbraur wind farms. As noted at paragraphs 3.27 and 3.28 above, NatureScot concludes that the additional effects attributable to the proposed development would not significantly affect the qualities of Wild Land Area 35.

  Taking the above into account, I find:

  - due to its distance from the application site and wider panoramic views from the road, there would be a low magnitude of change to the view;
  - the additional effects attributable to the proposed development would not significantly affect the qualities of the Wild Land Area; and,
  - the proposed development would result in a minor level of effect on views and visual amenity of those travelling along on the B871 in a south-easterly direction. Overall, the level of effect would not be significant.

Conclusions on landscape and visual effects

3.48 Drawing all the above together leads me to the following conclusions on landscape and visual effects:

Landscape character

- due to the prominent siting of the proposed development, it would result in a range of significant landscape and visual effects;
- experience of the landscape is derived from on the combination of landscape character types and how they coalesce locally to create a sense of place;

- the proposed development would compromise the landscape function of the Rounded Hills by breaching the separation they provide between the settled coastal strip and interior moorland hills (see viewpoint 11);
- the proposed development would result in significant adverse effects on the character of the sensitive coastal strip;
- given the simplicity of the backdrop hills, the height and location and the proposed turbines would diminish perception of the scale of the coastal hills;
- the proposed development would affect the character of the distinctive East Sutherland Coast, extending over a considerable distance;
- the proposed development would result in significant cumulative effects;
- the proposed development would have an adverse effect on the qualities of the Special Landscape Area; and,
- the proposed development would not significantly affect the qualities of WLA35 and WLA36.

Siting and design

- the proposed development is poorly sited and designed, particularly when seen from elevated viewpoints;
- the proposed development would not appear as an extension to existing wind farm development in most views;
- from viewpoints 12 (Ben Bhraggie) and 14 (Dornoch coastal path) the proposed development would appear as two distinct clusters;
- the development's design fails to successfully resolve its influence on each of the landscape character types affected;
- the proposed turbines would interrupt the currently undeveloped skyline backdrop hills and create a new focal point;
- the proposed development would overwhelm the distinctive character and scale of the prominent coastal hills due to its scale and extent; and,
- the siting and design of the proposed development conflicts with aspects of Scottish Natural Heritage (NatureScot) guidance set out in 'Siting and Designing Wind Farms in the Landscape'.

Visual amenity

- the turbines would appear as imposing features from within lower lying areas, such as the settlements of Brora and Doll, as the turbines would appear as large, prominent, moving features on the skyline;
- the proposed development would result in significant visual effects at 13 of the 18 representative viewpoints – not three as concluded by the Landscape and Visual Impact Analysis;
- from Ben Bhraggie, the proposed development would appear as a new focal feature, which due to its size and moving blades, would detract attention away from the existing focal point of the Duke of Sutherland Monument;

- when seen from the Rogart to Brora minor road, the proposed turbines would appear to extend beyond interior moorland and in so doing conflict with the existing pattern of wind farm development;
- users of Brora Beach, golf course and core paths would experience significant visual effects, particularly at their southern ends in the vicinity of Brora;
- the proposed development would be clearly visible and have a significant adverse visual effect on users of the A9(T) and railway line on approach to Brora, through the settlement and towards Kintradwell; and,
- the Landscape and Visual Impact Analysis consistently underplays the visual effects of the proposed development.

3.49 My overall conclusions on acceptability are set out in Chapter 7 of this report.

CHAPTER 4: ORNITHOLOGY

Relevant chapter in Environmental Impact Assessment Report and Additional Information:

CD01.3: EIAR Volume 2, Chapter 9: Ornithology (text only, see relevant figures below)
CD01.11: Further Environmental Report, Volume 1, Report (see Section 3: Ornithology)
CD01.14: Additional Information, August 2022, Volume 1 (Breeding Bird Survey)
CD01.15: Additional Information, August 2022, Volume 2 (updated outline habitat management plan)

Introduction

4.1 The applicant's position on predicted effects of the proposed development on important ornithological features during its construction and operation is set out in the Environmental Impact Assessment Report (Volume 2, Chapter 9). To address the concerns of NatureScot and the Royal Society for the Protection of Birds (RSPB), raised in consultation responses, the applicant undertook further analysis of predicted effects on important ornithological features, with a focus on golden eagle and enhanced mitigation measures to address identified effects; the analysis and findings are set out in Additional Information (Volume 1, Section 3) (August 2021). In addition, the results of updated breeding bird and flight activity surveys, including collision risk, and further mitigation measures, are set out Additional Information (Volume 2, Section 2) (August 2022) and an updated Outline Habitat Management Plan (August 2022).

4.2 Below I provide a summary of the main findings and conclusions of each document. I also summarise the responses of NatureScot, RSPB and Loth Residents on this matter and the applicant's response to each before setting out my own conclusions.

Applicant's position on ornithology

The Environmental Impact Assessment Report

- the important ornithological features considered to have the potential to experience significant effects as a result of the proposed development are golden eagle, golden plover, and merlin;
- a review of statutory designations with 20 kilometres, taking into account the comments of NatureScot advice, indicates that there is no connectivity between the species assemblage recorded at the application site and:
    - Moray Firth Marine Protection Area;
    - Caithness and Sutherland Peatlands Special Protection Area;
    - Lairg and Strath Brora Lochs Special Protection Area;
    - East Caithness Cliffs Special Protection Area;
    - Dornoch Firth and Loch Fleet Special Protection Area; and,
    - Strath Carnaig and Strath Fleet Moors Special Protection Area.
- consequently, the Environmental Impact Assessment Report predicts that there would be no likely significant effects on any of the identified designations. As such, a Habitats Regulations Appraisal to inform an Appropriate Assessment is not required. Rather, effects on golden eagle, golden plover and merlin have been considered in the context of their relevant wider countryside populations;

- a summary of predicted effects, taking account of habitat loss, construction disturbance and displacement, operational displacement, collision risk and cumulative effects, on golden eagle, golden plover and merlin is set out in the Environmental Impact Assessment Report at Chapter 9, Table 9.22; and,
- residual and cumulative effects of the proposed development are assessed as 'minor and not significant' within the context of Environmental Impact Assessment Regulations.

Additional Information (August 2021)

- in accord with the advice of the RSPB (Chapter 9, Table 9.1: Consultation responses), the proposed turbines would be located at least a kilometre distance from golden eagle nest sites to help reduce the likelihood of significant displacement and/ or collision risks;
- areas of land away from turbines would be enhanced for eagle foraging as part of a Habitat Management Plan;
- a programme of carcass removal/ relocation around turbines would be implemented to reduce collision risk and the importance of the wind farm site to eagles;
- Counterfactual of Population Size/ Growth Rate analyses suggest that the conclusions of the Environmental Impact Assessment Report of effects being 'minor and not significant' remain valid;
- a further cumulative assessment, incorporating additional proposals, in relation to the effects on golden eagle and other species would not change the conclusion of 'non-significant effects' at a population level as presented in the Environmental Impact Assessment Report; and,
- as sought by the RSPB, further areas of the application site have been identified for bog restoration to provide breeding habitat for golden plover.

Additional Information (August 2022)

- further analysis of golden eagle collision risk using 2022 survey data shows an annual rate of one collision every 3.03 years – which is an increase in frequency over that predicted in the Environmental Impact Assessment Report of one every 5.08 years;
- based on an increase in the number of occupied territories within natural Heritage Zone 5 (NHZ5) between 2003 and 2019, and a similar mean productivity rate to 2003, the current NHZ5 golden eagle population is likely to be in favourable conservation status – in the absence of the proposed development population growth would continue until the NHZ5's theoretical carrying capacity of 31 pairs is reached after nine years;
- when theoretical additional mortality associated with collisions with the proposed turbines at Kintradwell is taken into consideration, population growth would still likely take place until theoretical carrying capacity is met, albeit at a lower annual growth rate, reaching carrying capacity after 12 years - three years later than otherwise would have been the case;
- taking into account consultee comments and results of the 2022 survey, revisions have been made to the Outline Habitat Management Plan to include measures to

further aid breeding and foraging for golden eagles. It also includes an additional management area which would provide a clear improvement in overall territory quality and may potentially provide opportunity for an additional nest site once forestry is removed; and,

- additionally, a low intervention area would be implemented within one kilometre of known nest sites which would restrict muirburn (seasonal burning of heather to promote new growth) and other activities during breeding season and enhance conditions for nesting and foraging golden eagles.

Comments of NatureScot

4.3 NatureScot does not object to the application. It has, however, provided comments on the predicted effects of the proposed development on ornithology, as set out in its responses to the Environmental Impact Assessment Report (CD02.16), Additional Information (CD03.10) and updated Breeding Bird Survey (CD04.04). In summary, NatureScot comments:

- there are two active golden eagle territories within six kilometres of the site – as shown on confidential Figure 9.2.7;
- there is potential for golden eagles to collide with the proposed turbines;
- the most significant effect of the proposed development would be the possible displacement of golden eagles leading to the abandonment of a territory (EA1);
- notwithstanding the possible abandonment of territory EA1, the population of golden eagles would remain in favourable conservation status;
- on a precautionary basis, proposed turbines within two kilometres of an active nest should be removed or relocated;
- the proposal to increase the size of habitat management areas as a means of reducing potential impacts on golden eagles (as described in the Additional Information) is welcome;
- the updated bird survey indicates that the number of recorded (golden eagle) flights has not changed markedly (since the 2019 survey), the flights, however, were either longer or appeared at collision risk heights. As such, this leads to a revised collision risk estimate with consequent impact on population modelling and suggests that attaining what might be termed territory carrying capacity is reached later. Nonetheless, the growth rate would remain positive; and,
- mitigation of possible displacement of golden eagle focuses on improving habitat away from proposed turbines (through forestry felling) as well as the removal of attractants (deer carcases) from locations near to the proposed turbines. While clearing forestry would have positive effects it may take many years for this benefit to be realised.

Comments of the Royal Society for the Protection of Birds (RSPB)

4.4 The RSPB does not object to the application. It does, however, raise concerns regarding the predicted effects of the proposed development. In particular; the potential loss of a golden eagle territory; the possible loss of a second golden eagle territory due to cumulative effects with other developments; and a modelling exercise that indicates that the golden eagle population would continue to increase despite the effects of the proposed development.

4.5 To address its concerns, the RSPB recommended (see CD02.19):

- that to reduce the risk of golden eagles colliding with the proposed turbines and/ or being displaced, the turbine layout should be reviewed, and consideration given to removing turbines from the scheme located within a two-kilometre radius of the territory centre - turbines T1, T2, T4 and T12 to T15 are considered particularly problematic in this regard; and,
- the population modelling exercise should be revised to provide Counterfactual of Population Size outputs – an assessment of population assuming in the absence of the proposed development.

4.6 Notwithstanding the proposed increase in the area of land to be restored for habitat management purposes and a revised population modelling exercise, the RSPB reiterated its concerns in response to the Additional Information and expressed its disappointment that the proposed turbine layout had not been revised (CD03.12). The RSPB, however, accepts that the Environmental Impact Assessment Report conclusion that the predicted impact on golden eagles would not be significant in the context of the wider Natural Heritage Zone (NHZ) population.

4.7 Finally, despite the population modelling exercise indicating that the golden eagle population within the wider NHZ would be sustained, albeit over an increased period, the RSPB argues that the applicant should have attempted to avoid the loss of golden eagle territories by first reviewing the turbine layout. Adding, while additional and increased habitat management areas would be beneficial, the mitigation hierarchy requires that measures should first be taken to avoid impacts before mitigation and compensation is sought (CD04.02).

Comments of Loth Residents

4.8 Loth Residents argue that the site is of important ornithological interest and that the proposed development would impact upon three important species of bird. Furthermore, the proposed development would compound the adverse effects of adjacent wind farms and accelerate the loss of golden eagles, golden plover and merlin within the local environment (CD02.14). In its response to the Additional Information, Loth Residents noted that the applicant had not addressed the concerns of NatureScot and RSPB and maintained its objection to the application of the grounds that the proposed development would disturb and lead to the loss of precious habitats, with inevitable consequences for golden eagles and other important species (CD03.08).

4.9 In responding to the additional ornithological information, Loth Residents did so also on behalf of Brora Community Council and Dr Walentowicz; both parties had previously made representation on the application. In its response (CD04.03), Loth Residents argue that the proposed development would have an adverse impact of golden eagles, noting the unacceptably high predicted collision risk and the probable abandonment of two territories. Rather than follow mitigation hierarchy guidelines designed to limit impacts on biodiversity, Loth Residents comment that the applicant has made no attempt to limit or avoid the anticipated impacts of the proposed development. Instead, in mitigation, habitat management proposals have been steadily increased as a means of compensating for the predicted harm to ornithology. Adding, peat and blanket bog habitat restoration is not easy, and the applicant has made no allowance for failure. Loth Residents believe that the harmful cumulative effects (with Gordonbush and its extension) on golden eagles has been considerably understated. As such, it is unable to

support the conclusion of the Environmental Impact Assessment Report that the adverse effects would be 'minor adverse and not significant.'

Applicant's response to comments of NatureScot, RSPB and Loth Residents

4.10 In response to comments on ornithology, the applicant explains (see CD04.09):

NatureScot

- the risk of golden eagles being displaced from foraging habitat is included in the Environmental Impact Assessment Report (Chapter 9, paragraphs 9.9.42 to 9.9.54), the conclusions of which remain valid;
- the focus of the additional survey work and subsequent report was to fill limited gaps in the coverage of previous flight activity surveys. Accordingly, Additional Information, Volume 1, focusses on the interpretation of the 2022 data in the context of collision risk effects only; and,
- clearing forestry would have beneficial effects, although it would take many years for such effects to be fully realised and become optimal for golden eagles. A range of other measures contained in the Outline Habitat Management Plan would improve conditions over a shorter period.

RSPB

- studies suggest that despite a potentially high exposure risk, collisions are rare - in over 20 years the applicant is aware of only three golden eagle collision fatalities in Scotland. As such, it is possible that collision rates predicted at Kintradwell are overestimates of actual risk. Whilst it is acknowledged that there may remain some residual collision risk around the outermost turbines in particular, the application site is unlikely to function as an ecological trap or sink to the extent that the RSPB suggests; and,
- evidence indicates that collision risk is unlikely to be significant at the appropriate reference population level.

Loth Residents

- unmitigated adverse effects due to the proposed development are predicted on one golden eagle territory (EA1) only, with a worse-case scenario being the abandonment of the territory due to effective loss of habitat. It is incorrect for Loth Residents to state that *'the operational effects of the development are recognised to have potentially significant impacts on eagle territories which may lead abandonment'* – Environmental Impact Assessment Report, Chapter 9, paragraphs 9.942 to 9.9.54 refer;
- residual displacement effects on golden eagle, golden plover, and merlin, once proposed mitigation measures are taken into account are considered minor adverse and not significant – the proposed mitigation measures are welcomed by NatureScot and RSPB;

Golden Eagle

- applicant acknowledges, as per Loth Residents' comments, that coastal golden eagle territories in the east of Scotland are relatively uncommon, however, it does not agree that they are unique in the UK;

- the significance of an effect on a receptor should be assessed against the correct reference population, in this case Natural Heritage Zone: Peatlands of Caithness and Sutherland) (NHZ5);
- overall evidence suggests that NHZ5 is currently in favourable conservation status;
- contrary to Loth Residents' assertion that the Scottish golden eagle population is under pressure, with threats to survival rates, evidence suggests otherwise – the national population estimate of 508 pairs in 2015 represents a 15% increase in population from 442 pairs in 2003;
- recent published studies of satellite-tagged golden eagle behaviour in relation to operational wind turbines in Scotland show that, contrary to other countries, golden eagles are almost wholly displaced within and immediately around operational wind farms – it is considered that displacement is the primary risk to golden eagles, rather than collision risk;
- use of the application site by breeding and non-breeding birds resident within the Special Protection Area is considered likely to be minimal, with territories being defended by resident pairs;
- acknowledge that there is uncertainty as to the level of success of habitat management measures over the long-term and that habitats would not be immediately optimal for golden eagles. The applicant, however, would commence habitat restoration at the earliest opportunity to allow habitats to start to establish as quickly as possible; and,
- when considering mitigation, in particular that proposed in the Kintradwell Habitat Management Plan aimed at improving conditions for golden eagles, the likelihood of territory abandonment EA1 is reduced.

Golden Plover

- the Environmental Impact Assessment Report undertook a comprehensive cumulative assessment of displacement effects of the proposed development on golden plover, including the worst-case scenario of 79% reductions at the application site and other wind farms on the breeding population. This would represent a predicted reduction in NHZ5 of 1.7%, which is considered a minor adverse cumulative effect and not significant.

Merlin

- effects on merlin were fully considered and assessed in the Environmental Impact Assessment Report, the conclusions of which remain valid.

Mitigation/ Habitat Management Proposals

- the selection of habitat management areas for peatland restoration have been determined primarily based on degraded peat locations which offer the best opportunity for improvement.

Conclusions

- the conclusion of effects in the Environmental Impact Assessment Report are based on the magnitude of impacts on, and level of sensitivity of the appropriate reference populations. Whilst impact may be significant at a site or local level, it may not be significant at a NHZ population level. This has been found to the case in respect of golden eagle, golden plover, and merlin. Accordingly, the finding of

minor adverse and not significant effect is clearly supported by evidence. The argument advanced by Loth Residents that effects are understated are therefore not accepted by the applicant.

Applicant's overall conclusions

- the applicant considers that there is sufficient evidence to suggest that the conclusions of the Environmental Impact Assessment Report remain valid, in that the residual effects on all ornithological features would be no more than 'minor adverse' and 'not significant' at a population level. The improvements proposed in the planned Habitat Management Plan, as outlined in Additional Information Volume 2, would further reduce the likelihood of significant effects on individual birds at the site level, and therefore at a population level.

Reporter's conclusions on ornithology

4.11 Together, I find that the Environmental Impact Assessment Report, Additional Information, and response to the concerns of NatureScot, RSPB and Loth Residents present a thorough assessment and consideration of the predicted effects of the proposed development on important ornithological features resident at the application site. The evidence presented draws upon the advice of NatureScot and the RSPB, census data and studies to demonstrate that should development proceed, with mitigation, golden eagle, golden plover, and merlin would remain in favourable conservation status when assessed against the correct reference population. Despite some concerns, I note that neither NatureScot nor the RSPB object to the application. In short, I find no reason to dispute the applicant's assessment of predicted effects on ornithology. With regard to the matters in dispute, I find:

- there is no connectivity between the application site and the Caithness and Sutherland Peatlands Special Protection Area in respect of golden eagles. Based solely on the distance between the two, Loth Residents contend that this may not be the case, particularly for immature birds. However, I note that NatureScot consider that any connectivity between the site and the special protection area is unlikely. It adds that the two golden eagle territories that may overlap the site are not part of the Special Protection Area and any usage of the site by breeding or non-breeding birds from within Special Protection Area would be minimal, with territories defended by resident pairs. The applicant also cites evidence [23] of satellite tagged juvenile golden eagles in Scotland which has shown that natal dispersal can range widely, and so it is not necessarily the case that young resident pairs would contribute to the adjacent special protection area population. In summary, having reviewed the evidence, I agree with the applicant that there is no proof of connectivity to support the assertion of Loth Residents on this matter;
- despite suggesting that proposed turbines within two kilometres of golden eagle nest sites should be removed, the RSPB's formal scoping consultation response of 26 September 2019 sought the creation of a one-kilometre buffer zone from the nests – the closest turbine would be located 1.3 kilometres to a nest site. The advice of NatureScot on this matter is that, on a precautionary basis, potential impacts through collision and displacement would be substantially reduced if turbines within two kilometres of nest sites were removed or relocated. Given the

[23] Whitfield & Fielding, 2017. Analyses of the fates of satellite tracked golden eagles in Scotland (Scottish Natural Heritage commissioned report no. 982)

terms of the advice at that time, I do not consider it unreasonable for the applicant to have proceeded based on applying a one-kilometre buffer zone from the nest sites. Subsequent detailed assessment has addressed the potential for collision risk and displacement and suitable mitigation measures to reduce predicted effects are promoted by the applicant in its Outline Habitat Management Plan;

- the Environmental Impact Assessment Report correctly adopts NHZ5 as the correct reference population to assess the significance of predicted effects of the proposed development on receptors. The applicant's approach is consistent with NatureScot advice. Furthermore, the determination of golden eagle conservation status in Scotland is based on such an approach;
- based on 2003 and 2015 national censuses and extrapolated data, evidence suggests that the NHZ5 golden eagle population is currently in favourable conservation status;
- claims that the Scottish golden eagle population is under pressure, as suggested by Loth Residents is not supported by evidence before the inquiry – the national population estimate of 508 territorial pairs in 2015 represents a 15% increase in population from 442 pairs in 2003;
- predicted effects of the proposed development on golden eagles is likely to be primarily associated with its displacement from areas suitable for foraging rather than collision risk, despite theoretical additional mortality estimated from the 2022 breeding season data;
- the claim by Loth Residents that the applicant considers the loss of two territories to be acceptable is incorrect. NatureScot advised the applicant that the loss of two territories (EA1 and EA2) should be assessed as a worst-case scenario. The Environmental Impact Assessment Report concludes that unmitigated effects are only likely to affect pair EA1 to the extent that, as a worse-case, territory abandonment may occur, and that pair EA2 is unlikely to be significantly affected by the proposed development itself;
- the mitigation measures set out in Outline Habitat Management Plan, which are broadly welcomed by NatureScot and RSPB, would reduce the likelihood of territory abandonment at nest location EA1;
- while the full benefits of forestry clearance to improve golden eagle nesting and foraging areas would only likely be achieved over the medium to long-term, the applicant proposes shorter-term opportunities which would provide immediate benefits to reduce the likelihood of territory abandonment, for example, low management intervention areas round nest sites, supplementary feeding in winter and monitoring; and,
- the Environmental Impact Assessment Report and Additional Information fully consider the potential effects of the proposed development on golden plover and merlin during its construction and operation. It has also considered cumulative effects. I have no detailed evidence before me that challenges the applicant's summary of predicted effects in relation to each species of bird as set out in Chapter 9, tables 9.22 and 9.23, that residual effects would be minor and not significant.

4.12 Taking all the above into account, I conclude that the proposed development, subject to mitigation measures proposed in the Outline Habitat Management Plan, which would be secured by condition of consent, would not give rise to significant residual effects in respect of important ornithological features resident at the application site.

CHAPTER 5: OTHER CONSIDERATIONS

Introduction

5.1 In addition to the principal matters discussed in previous chapters of this report, the Environmental Impact Assessment Report (2021) and Additional Information (August 2021 and 2022) describe other aspects of the proposed development that without mitigation have the potential to give rise to significant effects, namely in respect of; ecology; geology, hydrology and hydrogeology; and noise. They also describe other matters upon which the proposed development has been assessed as having no significant adverse effects, namely in respect of; aviation; cultural heritage and archaeology; socio-economics, recreation, and tourism; traffic and transport. Finally, the assessments describe the benefits of the proposed development in respect of climate change and socio-economics. I address each of these topics below starting with those assessed as being likely to give rise to significant effects without mitigation. Finally, I address matters raised in representations and not addressed elsewhere in this report under the relevant topic headings.

Ecology

Relevant chapter in Environmental Impact Assessment Report and Additional Information:

CD01.03: EIAR Volume 2, Chapter 8: Terrestrial Ecology (text)
CD01.07: EIAR Volume 6, Technical Appendix 8.6: Outline Habitat Management Plan
CD01.11: Additional Information, August 2021, Volume 1 (Section 1)
CD01.15: Additional Information, August 2022, Volume 2 (Sections 1 and 2)

The applicant's case on ecology:

5.2 An assessment of the predicted effects of the construction and operation of the proposed development on ecology is set out in Chapter 8 (Volume 2) of the Environmental Impact Assessment Report and Additional Information (August 2021 and 2022). The proposed turbines would be located on land free of any ecological designations. There are, however, five designated nature conservation sites located within 5 kilometres of the proposed turbines (Figure 8.1), including overlapping designations, which are recognised for their ecological interest:

- Moray Firth Special Area of Conservation (SAC), designated for its subtidal habitats and population of bottlenose dolphin, lies adjacent to the application site to the east;
- Caithness and Sutherland Peatlands SAC, Special Protection Area (SPA) and RAMSAR site, including the Coir' an Eoin SSSI, one of the largest and intact areas of blanket bog in the world, lies approximately 4 kilometres to the north-west of the nearest proposed turbine;
- Loth Gorge SSSI, a nationally important site of upland birch woodland, lies on the application site boundary approximately 3.3 kilometres to the east of the nearest proposed turbine;
- Ballinreach SSSI, a site of national geological interest due its exposed Jurassic sedimentary rocks and upland birch woodland, lies immediately beyond the

application site boundary, approximately 1.4 kilometres north-east of the proposed access off the A9(T); and,

- Carroll Rock SSSI, an important site of upland birch woodland, lies approximately 4.6 kilometres to the south-west of the nearest proposed turbine.

5.3 Of these sites, the ecology impact assessment has only assessed the impacts of the proposed development on the Moray Firth SAC; due the nature and potential lack of connectivity of other designated sites. In short, the assessment predicts that the proposed development would not give rise to significant effects on the designated features of the Moray Firth SAC due to its distance from the coast and the implementation of best practice and mitigation measures during construction works. The assessment concludes that with such measures in place, effects of the proposed development would be negligible and not significant in terms of the Environmental Impact Assessment Regulations.

5.4 The application site has been surveyed to establish an ecological baseline (2019). The baseline surveys included, vegetation, protected mammals, bat and fish surveys. The proposed development would result in the direct loss of 9.5 hectares of habitat, including a relatively small area of dry dwarf shrub heath – acid (0.42 hectare), wet dwarf shrub heath (5.67 hectare) and blanket bog (2.47 hectare), principally through the construction of turbines and associated tracks; hard-standings; laydown areas; compounds; sub-station; the winning of materials from borrow pits.

5.5 Much of the proposed infrastructure would be permanent, although land taken for the temporary creation of compounds and borrow pits, including access tracks, would be restored once development was complete. Despite the intended restoration of land, the assessment assumes that land-taken temporarily also represents a permanent loss of habitat due to the time it would take to re-create some habitat types. The estimated direct and indirect loss of habitat is presented in Chapter 8, Table 8.10. In brief, the significance of effect on each habitat is assessed as being low adverse and not significant in terms of the Environmental Impact Assessment Regulations.

5.6 The applicant is committed to the preparation of Habitat Management and Species Protection Plans. A Habitat Management Plan would be implemented during the construction and operation phases of development and focus on the enhancement and restoration of blanket bog through the re-profiling of peat hags and gullies. In support of the application, the applicant has prepared an Outline Habitat Management Plan (CD01.15, Figure 2.1), which describes proposals to create four habitat management areas extending in total to approximately 132 hectares; these areas would be in addition to the golden eagle habitat management areas discussed in Chapter 4 of this report. A final version of the plan would be agreed with stakeholders prior to the commencement of development should the application receive consent.

5.7 A Species Protection Plan, or plans, would be prepared and agreed prior to the commencement of construction activities and implemented as construction work progressed. The plan(s) would include measures to safeguard protected species known to be present at the application site, including protected mammals, bats and fish. A suitably qualified Ecological Clerk of Works would oversee the implementation of best practice and mitigation measures. The Habitat Management and Species Protection plans would form part of a Construction Environmental Management Plan (CEMP), which itself would form part of a construction contract.

5.8 The Environmental Impact Assessment Report does not predict any significant cumulative effects on important ecological features. The significance of residual effects on all important ecological features are predicted at worst to be low adverse and not significant and, following the implementation of measures described in the Outline Habitat Management Plan, blanket bog habitats are predicted to experience an overall low beneficial impact. The significance of residual effects is described in Chapter 8, Table 8.13.

Reporter's conclusions on ecology

5.9 I find no reason to dispute the findings of the Environmental Impact Assessment Report and Additional Information with respect to the predicted effects of the proposed development on important ecological features. There are no outstanding objections to the application from the relevant statutory consultees on this matter, including NatureScot and SEPA. They do, however, recommend the imposition of conditions to secure the measures set out in the Schedule of Environmental Mitigation (CD01.03, Chapter 18, Table 16.1) and Outline Habitat Management Plan, including the restoration and enhancement of land to improve wetland and peatland habitats.

5.10 Helpfully, the Additional Information (August 2021 and 2022) responds directly to the comments of key consultees on ecological matters and sets out a series of actions to address their concerns. Notably, it clarifies the anticipated land which would be lost to development and that which would be enhanced to aid wetland and peatland restoration; increasing from 48 hectares to approximately 132 hectares – this would be in addition to that dedicated to improving nesting and foraging areas for golden eagles. NatureScot, SEPA and the RSPB welcome the proposals set out in the updated Outline Habitat Management Plan. Subject to the imposition of conditions, as set out in Appendix 1[24], I am content that there would be no significant residual effects arising from the proposed development.

Geology, hydrology and hydrogeology

Relevant chapter in Environmental Impact Assessment Report:

CD01.3: EIAR Volume 2, Chapter 10: Geology, Hydrology and Hydrogeology (text)
EIAR Volume 6, Technical Appendix 10.1: Peat Landslide Hazard and Risk Assessment
EIAR Volume 6, Technical Appendix 10.2: Outline Peat Management Plan
EIAR Volume 6, Technical Appendix 10.3: GWDTE Assessment
EIAR Volume 6, Technical Appendix 10.4: Watercourse Crossings
EIAR Volume 3, Chapter 10, Figure 10.1
EIAR Volume 2, Chapter 16: Schedule of Environmental Mitigation

The applicant's case on geology, hydrology and hydrogeology

5.11 An assessment of the potential effects of the proposed development on geology (including peat and soils), hydrology, and hydrogeology has been undertaken by the applicant. The assessment has been informed by a detailed programme of peat depth probing; the results of which have informed the design of the proposed development. A

[24] See Appendix 1, conditions 12, 14, 15, 16 and 27.

peat landslide and hazard risk assessment and an outline peat management plan have been prepared to demonstrate that areas of deep peat can be avoided, and peat resources safeguarded should the proposed development proceed.

5.12 The application site does not lie within a floodplain. No drinking water protection areas or designated sites dependent on water, or those with hydraulic connectivity, lie within 1 kilometre of the site. Sites protected for their geological interests would not be affected by the proposed development. The layout of access tracks has been designed to minimise the requirement for watercourse crossings; the five proposed crossing points are identified in Volume 3, figure 10.1. Where practicable all construction activities and infrastructure would lie beyond 50 metres of watercourses.

5.13 Sustainable Drainage Systems (SuDS) are proposed to ensure that the rate of run-off from the site during the construction and operation of the proposed development would be no greater than that prior to its development, so as not to increase flood risk. The proposed SuDS measures would allow the quality of water to be managed at source before being discharged. The Outline Habitat Management Plan that accompanies the application, subsequently updated, includes a programme of ditch blocking, where appropriate, and culvert improvements which would reduce the rate and volume of peak water flows, thus reducing flood risk when compared to existing conditions.

5.14 A summary of likely effects, proposed mitigation measures and a schedule of environmental mitigation are set out in Environmental Impact Assessment Report (2021) Chapter 10, Table 10.8 (summary of effects) and Chapter 16 (schedule of environmental mitigation), respectively. There are no predicted cumulative effects associated with the proposed development.

Reporter's conclusions on geology, hydrology and hydrogeology

5.15 I find no reason to dispute the findings and conclusions of the Environmental Impact Assessment Report, Additional Information and other supporting information relating to geology, hydrology and hydrogeology. Subject to good construction practice and mitigation measures, secured by condition of consent, NatureScot, SEPA and Scottish Water do not object to the application.

5.16 With the imposition of conditions, as set out in Appendix 1[25], I am content that the predicted effects of the proposed development during its construction and operation on geology, hydrology and hydrogeology would be minor and not significant.

Noise

Relevant chapter in Environmental Impact Assessment Report and Additional Information:

EIAR Volume 2, Chapter 12: Noise
EIAR Volume 6, Appendix 12.1: Assessment of Energy Storage Facility
Additional Information Volume 1, Report (see Section 4: Noise)

[25] See Appendix 1, conditions 11, 12, 14, 15, 16 and 27.

The applicant's case on noise

5.17 The applicant has undertaken an acoustic assessment of the potential noise effects associated with the construction and operation of the proposed development. With regard to the construction phase, the assessment has considered noise effects from the construction of turbines bases, the erection of turbines, the excavation of minerals and trenches and increased traffic. The assessment indicates that predicted noise levels likely to be experienced at the nearest residential properties would exceed acceptable construction noise levels for a short period of time. To address this matter, the applicant is committed to the implementation of good working practices and appropriate mitigation measures.

5.18 The acoustic assessment of operational noise concludes that noise levels at all nearby residential properties would be within acceptable levels; both in isolation and in combination with all other operational, consented and proposed wind farm schemes.

5.19 The acoustic assessment of the proposed storage facility concludes that noise levels would be significantly below limits recommended by the WHO Guidelines for Community Noise (see appendix 12.1: assessment of energy storage facility).

Reporter's conclusions on noise

5.20 The council does not object to the application in respect of noise. It does, however, seek the imposition of conditions to exercise control over predicted construction and operational noise to safeguard amenity. I discuss this matter further in Chapter 6 (proposed conditions) of this report.

5.21 Although some local residents highlight noise as a concern, their representations are not supported by any technical evidence that challenges the findings of the applicant's acoustic assessments; rather, as the proposed turbines would be located closer to residential properties than the existing turbines of Gordonbush and Kilbraur wind farms, it is assumed that they would cause a noise nuisance. I have considered the applicant's acoustic assessments and note that the maximum predicted noise levels of the proposed turbines operating in isolation of others would be 25 dB LA_{90}, which is considerably below the ETSU-R-97 simplified standard of 35 dB LA_{90}. On this basis, I agree with the applicant that operational noise levels would be negligible and not significant. Similarly, the cumulative assessment shows that predicted noise levels of the proposed development in combination with others considered in the baseline would also be below the 35 dB (A) threshold. The location of residential properties in relation to the proposed turbines and their predicted noise footprint is shown in Figure 12.1 (predicted noise footprint of proposed wind farm) and Figure 12.2 (cumulative noise footprint).

5.22 Likewise, with regard to the proposed substation, predicted specific sound levels associated with the proposed substation at Kintradwell Lodge and Keepers Cottage, close to its intended location, would also be below existing background sounds levels. As such, the assessment predicts that it would have a low impact on these and other nearby properties during the day and at night; as shown in Additional Information (August 2021), Volume 1, Figure 4.1 (specific sound footprint). Accordingly, the assessment predicts that the substation would not give rise to significant environmental effects.

5.23 Accordingly, I find that with appropriate mitigation and adherence to good practice measures, construction and operation noise effects would not be significant.

Aviation

Relevant Chapterin Environmental Impact Assessment Report:

EIAR Volume 2, Chapter13: Aviation

Applicant's case on aviation

5.24 The applicant has assessed the potential impact of the proposed development upon civil aviation assets, including those associated with Wick Airport to the north and Inverness Airport to the south. The conclusion of the assessment is that the proposed development would not result in any significant adverse effects. Neither airport has raised objections to the proposed development.

5.25 The applicant has also assessed the potential effects of the proposed development on military aviation and radar, in particular aircraft engaged in low flying activities and the Primary Surveillance Radar at RAF Lossiemouth. With the implementation of appropriate mitigation measures the assessment concludes that the proposed development would not give rise to any residual effects on military aviation. Subject to the imposition of conditions[26] relating to aviation lighting and aviation charting and safety management, the MOD has no objections to the application. I discuss the MOD's suggested conditions further in Chapter 6 of this report.

Reporter's conclusions on aviation

5.26 In conclusion, as set out in the Environmental Impact Assessment Report and consultation responses, I accept that there would not be any adverse effects on aviation, subject to the application appropriate mitigation measures.

Climate change

Relevant chapter in Environmental Impact Assessment Report and Additional Information:

EIAR Volume 2, Chapter 15: Climate Change
Additional Information Volume 1, Report (see Section 2: Carbon Balance)

Applicant's case on climate change

5.27 The Environmental Impact Assessment Report contains an assessment and estimate of the carbon dioxide (CO_2) that would be emitted by the proposed development should it proceed (Chapter 15, Table 15.1). The potential savings in CO_2 due to the proposed development replacing other electricity sources over the lifetime of the proposed development (assumed to be 40 years) is set in paragraph 15.4.4[27].

5.28 In summary, the proposed development is assessed as having an overall beneficial effect on climate change. The applicant claims that the proposed development

[26] See Appendix 1, conditions 5, 20 and 21

[27] 234,000 tonnes of CO_2 per year over coal-fired electricity/ 9.36 million tonnes over 40 years; 64,000 tonnes of CO_2 per year over grid-mix of electricity/ 2.56 million tonnes; 114,000 tonnes of CO_2 per year over fossil fuel mix of electricity/ 4.56 million tonnes.

would take in the region of 13 months to repay the carbon exchange to the atmosphere (the CO_2 debt); as a consequence of its construction and the potential for peat disturbance. After 13 months, the electricity generated would be carbon neutral and displace electricity generated from fossil fuel sources. In doing so, the proposed development would contribute to the national objectives of climate change mitigation and Green House Gas emission reduction targets. It would also help meet the Scottish Government's 'net-zero' carbon targets by 2045. Overall, should the development proceed, the proposed development is assessed as having an overall beneficial effect on climate change mitigation.

Reporter's conclusions on climate change

5.29 My conclusions on climate change and the contribution that the proposed development would make to climate change mitigation are set out in Chapter 7 of this report and considered in the context of updated national policy, as set out in NPF4.

Cultural heritage and archaeology

Relevant chapter in Environmental Impact Assessment Report: EIAR Volume 2, Chapter 7: Cultural Heritage and Archaeology EIAR Volume 2, Chapter 7: Figures 7.3 to 7.8 EIAR Volume 6, Technical Appendix 7.1: Heritage Assets - Inner Study Area

The applicant's case on cultural heritage and archaeology

5.30 The applicant has undertaken a desk-based assessment and field surveys to establish a cultural heritage and archaeology baseline. The assessment has been informed by consultations with Historic Environment Scotland (HES), the council and the council's Historic Environment Team. Environmental Impact Assessment Report, Chapter 7, Table 7.6 sets out a summary of predicted effects prior to the adoption of mitigation measures and resulting residual effects following their implementation.

5.31 The layout of the proposed development has been designed to avoid, as far as possible, direct effects on identified heritage assets within the application site; all bar two assets of medium sensitivity have been avoided. The two assets that would be directly affected are; an area of post-medieval settlement, including remains of buildings and other structures, field walls and clearance cairns, which would be crossed by an access track; and, an area of clearance cairns, boundary walls and a possible structure, which would also be crossed by an access track (identified as assets 7 and 8 in Environmental Impact Assessment Report Volume 6, Technical Appendix 7.1). The two assets have been assessed as being of medium sensitivity. Without mitigation, adverse direct impact on buried archaeological remains could potentially be of moderate significance, which is significant in the context of the Environmental Impact Assessment Regulations. The application proposes mitigation to reduce and offset the predicted impact.

5.32 Two Scheduled Monuments (of high sensitivity) lie within the Outer Study Area from which there is a degree of theoretical visibility of the proposed development. There are also 14 category 'B' listed buildings (medium sensitivity) and 11 category 'C' listed buildings (low sensitivity) from which there is also predicted theoretical visibility of the proposed development. These, together with other assets considered in the assessment

of effects on their settings, are listed in Environmental Impact Assessment Report, Volume 6, Technical Appendices 7.2 and 7.3. There would be no significant adverse effects on the settings of any designated heritage assets in the Outer Study Area. No significant cumulative effects have been identified.

Reporter's conclusions on cultural heritage and archaeology

5.33 Historic Environment Scotland does not object to the application, noting that the proposed development does not raise issues of national importance. It did, however, recommend that consideration is given to the repositioning of turbine T15, so as to lessen its visual impact on Carradh nan Clauch, two standing stones (SM1775); where the turbine would be visible in a cleft between the hills of Druim Dearg and Creag a' Chrionach (as shown in wireline Figure 7.3).

5.34 Whilst there is no evidence to suggest that the applicant has considered the relocation of the turbine, the Environmental Impact Assessment Report concludes that the introduction of the proposed development would have an impact of low magnitude on the baseline setting of the standing stones. It notes that the stones have a very localised setting at the confluence of two burns and are not a prominent feature of the landscape. Although theoretically visible to the west south-west, the turbine (and the blade tip of T13) would be largely screened by topography. It adds, views from the standing stones would include the modern hydro scheme to the east. Views north and south along Glen Loth would be unaffected and the prominence of the standing stones in their localised setting would be retained. On this basis, and in the absence of a formal objection on this matter from Historic Environment Scotland and the council, I have no reason to dispute the overall finding that the residual effects of the proposed development on the setting of the stones would be minor and not significant in terms of Environmental Impact Assessment Regulations.

5.35 The Environmental Impact Assessment Report arrives at the same conclusion in respect of the Duke of Sutherland Monument, a prominent statue at the summit of Ben Bhraggie, noting that the monument would remain a prominent feature of the coastal landscape. As such, the presence of the proposed development would not alter the way in which the monument and its setting would be appreciated. I consider the predicted effects of the proposed development on views of the monument in Chapter 3 of this report (viewpoint 12). HES has not identified the monument as one of interest in its assessment of the application.

5.36 Overall, and in conclusion, I find no reason to dispute the findings of the applicant's assessment of predicted effects of the proposed developments on cultural heritage assets and archaeology.

Socio-economics, Recreation and Tourism

Relevant chapter in Environmental Impact Assessment Report: EIAR Volume 2, Chapter 14: Socio-economics, Recreation and Tourism

The applicant's case on socio-economics, recreation and tourism

5.37 The applicant estimates that during its construction phase, the proposed development would generate up to £3.7 million gross value added (GVA) and 51 jobs in

the North Highlands; £8.9 million GVA and 121 jobs in the Highlands; and £26.7 million GVA and 385 jobs in Scotland. During each year of its operation, the proposed development is estimated to generate up to £0.3 million GVA and 4 jobs in the North Highlands; £0.6 million GVA and 8 jobs in the Highlands; and £1.2 million GVA and 19 jobs in Scotland.

5.38 It is also anticipated that there would be community benefits associated with the proposed development. While discussions are ongoing with the community, the package of measures could include an energy discount scheme, improvements to local infrastructure and habitat restoration. The most substantial local benefit would be associated with employment and local suppliers during the construction and operation. It is envisaged that one of the primary suppliers would be based in the local area. In addition, non-domestic rates could be worth £0.6 million per year.

5.39 A review of relevant research suggests that there is no evidence that wind farm development has adversely affected the tourism economy of Scotland. The applicant's assessment of the likely effects of the proposed development on local tourism, accommodation providers and tourism/ recreation routes concludes that there is unlikely to be any significant adverse effects.

Reporter's conclusions on socio-economic effects, recreation and tourism

5.40 Based on the evidence before me, I find that the proposed development would deliver economic benefits to the area. I note, however, that the Environmental Impact Assessment Report concludes that the socio-economic effects of the proposed development would not be significant in terms of the Environmental Impact Assessment Regulations. There would also be community benefits, although these are only described in broad terms and would be a matter for discussion with local communities should the application receive consent.

5.41 There is also the prospect of national economic benefits should the application receive consent and the proposed development constructed; it would contribute to the delivery of the Scottish Government's spatial strategy as set out in NPF4 and potentially provide employment and associated business and supply chain opportunities. However, as I discuss in Chapter 7, the concept of 'maximising net economic impact' is a new consideration in cases such as this that will require guidance to inform a consistent and reasonable approach by decision makers to such matters. At the present time and given that the application was prepared in the context of SPP, I am satisfied that the applicant has addressed this matter appropriately.

5.42 I also find predicted effects of the proposed development on recreation and tourism would not be significant. Despite some concerns expressed in representations, the applicant has undertaken a detailed recreation and tourism assessment to demonstrate that overall effects of the proposed development would not be significant; the Environmental Impact Assessment Report has assessed effects likely to occur on six visitor attractions, accommodation providers and six recreational trails located with 15 kilometres of the application site. In each case the effects of the proposed development have been assessed as negligible.

Traffic and Transport

Relevant chapter in Environmental Impact Assessment Report:
EIAR Volume 2, Chapter 11: Traffic and Transport

The applicant's case on traffic and transport

5.43 The traffic and transport assessment has considered the effects of the proposed development during its construction and operation. All abnormal loads and crane trips would originate from the port at Invergordon and access the application site via the A9(T) at a new junction/ access road at Kintradwell. Peak traffic movements associated with the construction phase of the proposed development would occur in month nine of the construction programme, when it is estimated that there would be 93 HGV movements and 39 car and minibus movement per day. Consequently, traffic movements resulting from construction activities are likely to increase on public roads approaching the site, including the A9(T). However, neither total nor HGV traffic movements are predicted to increase by more than 30% on the A9(T). Users of the A9(T) are considered receptors of low sensitivity, with the settlements of Brora and Golspie considered receptors of medium sensitivity. Without mitigation, the assessment concludes that that there would not be any significant effects resulting from the movement of construction traffic.

5.44 In terms of cumulative effects, only the scheme at South Kilbraur has been included in the cumulative assessment; as the Gordonbush wind farm extension is due for completion by 2023 (as predicted at that time). The assessment concluded that it is highly unlikely that the construction programmes of the proposed development and South Kilbraur scheme would coincide. Nonetheless, should the South Kilbraur proposal receive consent and its construction programme overlap with that of the proposed development, the assessment indicates that total traffic would increase on all routes within the study area. That said, total traffic flows would not increase by more than 30% at any location on the A9(T). However, HGV flows are predicted to increase by over 30% on the A9(T) south of Brora. Overall, the significance of cumulative effects, while adverse, are assessed as being minor and not significant.

5.45 No operational or decommissioning effects have been identified.

Reporter's conclusions on traffic and transport

5.46 Transport Scotland does not object to the application. Nor does the council on traffic and transport matters. Having reviewed the evidence on this matter, I find no reason to dispute the findings of the applicant's traffic and transport assessment. I agree that the predicted effects would be concentrated on the construction phase of the proposed development and that appropriate mitigation measures could be secured by conditions of consent; there is nothing in the consultation responses of Transport Scotland nor the council's report of handling to suggest otherwise.

5.47 With regards to the concerns of local residents, namely the prospect of delays and road closures on the A9(T) during the construction phase of the proposed development and the location of the proposed access, I note that the applicant is committed to the preparation of a Construction Traffic Management Plan (CTMP). The CTMP would set out traffic management measures to be employed to minimise disruption for those using the A9(T) as it passes through Brora and Golspie, for example, drivers would be asked to

observe a 20-mph speed limit and time deliveries to avoid school drop-off and pick-up times. In addition, the applicant would establish a community liaison group to disseminate information and provide feedback on construction activities as they progress. A website would also be developed to provide information on construction traffic movements. While I acknowledge that there would be some disruption to local communities during the construction phase of development, I consider that any effects would be relatively short-lived.

5.48 In terms of cumulative effects, the assessment was based on the combined effects of the proposed development with only that promoted at South Kilbraur, since when the proposed development at South Kilbraur has been refused planning permission and an appeal subsequent dismissed. As such, there would be no cumulative traffic and transport effects associated with the proposed development.

5.49 I consider the requirements of Transport Scotland and the council in respect of traffic management and the formation of an access to serve the proposed development from the A9(T) in Chapter 6 (conditions).

CHAPTER 6: PROPOSED CONDITIONS

Evidence on proposed conditions

6.1 The applicant and the council have prepared an agreed joint schedule of proposed draft conditions (CD17.03). The schedule is based on model conditions published by the Heads of Planning Scotland [28] and standard conditions that have been used by the council elsewhere. The schedule formed the basis for discussion at the hearing session. Although in attendance, Loth Residents did not take part in the hearing session.

6.2 There is broad agreement between the parties on the conditions that should be imposed should the application receive consent. Despite this agreement, I sought clarification from the parties on a number of the proposed conditions, particularly with regard to the requirements of statutory consultees. I discuss the draft conditions relevant to their concerns below and others that for one reason or another have been amended.

6.3 Appendix 1 to this report contains a schedule of proposed draft conditions, which I recommend should be attached to the Section 36 consent and deemed planning permission should the application receive consent; conditions 1 to 5 should be attached to the Section 36 consent, and conditions 6 to 29, to the deemed planning permission. The numbering of the proposed draft conditions follows that of the joint schedule of conditions. It was agreed that there was no need for a legal agreement in this case.

Reporter's conclusions on proposed draft conditions

Section 36 consent

Condition 1: Duration of consent

6.4 The application as first submitted sought consent for the proposed development in perpetuity, notwithstanding the Environmental Impact Assessment Report indicating an operational life of 40 years. The council does not support such an approach and sought a time-limited consent. Similarly, the RSPB expressed its concern regarding a consent granted in perpetuity. The applicant has subsequently amended the application and now seeks time-limited consent for an operational period of 40 years. It also considers that it is sufficient for the period of the consent to be specified in the decision letter rather than in a condition. The applicant and the council are content with this approach. I am also content with this approach.

Condition 4: Serious incident reporting

6.5 I have amended condition 4 from that agreed by the parties to make reference to the need for the Company to notify the Scottish Ministers ***and*** the planning authority should a serious incident occur. I consider it likely that members of the public noticing such an incident would contact the council in the first instance.

Condition 5: Aviation lighting

6.6 The Ministry of Defence (MOD) does not object to the application. It does, however, seek the imposition of conditions in respect of aviation lighting and aviation

[28] Published by the Heads of Planning Scotland, Energy Resources Sub- Committee (December 2015)

charting and safety management. Its principal safeguarding concern in this case is the potential for the proposed development to create a physical obstruction to air traffic movements. The wording of draft condition 5, although different to that expressed in its consultation responses, has been agreed with the Ministry of Defence (CD17.05(i) and CD17.05(ii)). If the Scottish Ministers are minded to grant consent to the application, the Ministry of Defence respectfully requests that any alteration to the wording of the draft condition is discussed with its Safeguarding Manager.

6.7 With regard to the Ministry of Defence's other requirements and those of the Civil Aviation Authority, these are addressed by draft conditions 20 (aviation) and 21 (aviation charting and safety management), respectively, and are not in dispute.

Deemed planning permission

Condition 6: Commencement of development

6.8 In accordance with recent amendments to the Town and Country Planning (Scotland) Act 1997,[29] draft condition 6 specifies the time period in which development must be begun; in this case 5 years. The condition aligns the time period for the implementation of the deemed planning permission with that of the section 36 consent.

Condition 7: Schedule of Environmental Mitigation

Condition 12: Construction and Environmental Management Plan

Condition 15: Habitat Management Plan

6.9 Despite the submission of Additional Information, including an updated Outline Habitat Management Plan and breeding bird surveys, the Environmental Impact Assessment Report, Schedule of Environmental Mitigation, Chapter 16, Table 16.1, remains up to date. The requirement to prepare topic-specific plans would be secured through Condition 12 (construction and environmental management plan), with respect to species and breeding bird protection, and Condition 15 (habitat management plan).

6.10 With regard habitat management, condition 15, clause (1) has been amended to add reference to the Additional Information submitted in August 2022, which sets out mitigation measures and commitments to improve and aid nesting and foraging areas for golden eagles. It is within this context that land for wetland and peatland restoration, extending to approximately 132 hectares, would be secured and in so doing satisfy SEPA's requirements.

Condition 11: Micro-siting

6.11 The draft proposed condition on micro-siting is that agreed by the parties. However, I have corrected clause (f) to identify Figure 3.1 (combined constraints and infrastructure layout) as the relevant figure to refer to when giving consideration to the micro-siting of infrastructure.

[29] Planning (Scotland) Act 2019 (Commencement No.9 and Saving and Transition Provisions) Regulations 2022, Section 58 of the Town and Country Planning (Scotland) Act 1997

Condition 13: Construction traffic management

6.12 Transport Scotland's consultation response of dated 29 September 2022 sets out four conditions that should be imposed if the application is granted consent. Draft condition 13 incorporates Transport Scotland's requirements into one condition. However, in order to address an omission, clause (2) of the condition has been amended to require the applicant, as part of the preparation of the Construction Traffic Management Plan, to submit details of the proposed layout of the new direct access onto the A9(T) for the written approval of the council, in consultation with Transport Scotland. A new clause (6) has been added to ensure that the proposals of the Construction Traffic Management Plan are implemented in full. In addition to the requirements set out in draft condition 29 (access from the A9(T)), I am satisfied that the parties have fully addressed Transport Scotland's requirements.

Overall conclusions

6.13 I am satisfied that the draft conditions set out in Appendix 1 are necessary and reasonable to impose should the application receive consent, having regard to the likely impacts of the proposed development and the mitigation required to offset the significant effects that would arise.

CHAPTER 7: POLICY ASSESSMENT AND OVERALL CONCLUSIONS

Introduction

7.1 As I note in Chapter 2, the principal parties have provided updated policy hearing statements in response to the adoption and publication of NPF4 and OWPS (2022). In addition to the parties' closing submissions, I provide hyperlinks to each statement below.

Main points for the Applicant

CD11.05: Applicant's Policy Hearing Statement, October 2022
CD11.05: Applicant's Updated Policy Hearing Statement, December 2022
CD11.05: Applicant's Supplementary Policy Hearing Statement, January 2023
CD11.06: Applicant's Hearing Statement, Constraint Costs, October 2022
Applicant's closing submissions on policy matters - see Section D

7.2 In summary, the applicant's position on policy matters is:

National planning and energy policy

- the approval of NPF4 marks a significant step change in the status and content of Scotland's National Planning Framework compared to predecessor documents. As noted by the Minister, 'NPF4 marks a turning point for planning: it is not a general policy update';
- significant weight must now be given to the extent to which a proposal helps address the global climate and nature crises (Policy 1) as well as giving significant weight to the contribution that the proposed development would make to meeting renewable energy generation and greenhouse gas emission reduction targets (Policy 11). There is no dubiety on this issue and no scope for decision makers to sway from these very clear instructions, as would have been permitted under National Planning Framework 3 and SPP. When this significant weight is applied to the proposed development, the planning balance very clearly falls in favour of granting consent to the application;
- the Onshore Wind Policy Statement (OWPS) (2022) references NPF4 and makes clear in paragraph 3.6.2 that the changes to NPF4 are clearly designed to ensure 'stronger weight' is afforded to the contribution a development would make to tackling to the climate emergency;
- in order to deliver the minimum of 20GW of installed onshore wind capacity by 2030 and meet the expected 'substantial increase in demand for electricity', the OWPS (2022) notes that 'onshore wind will play a crucial role in delivering our legally binding climate change targets' and that the move to taller and more efficient turbines 'will change the landscape'. This latter point is perhaps an obvious comment, but its appearance in the OWPS (2022) and with added emphasis cannot be ignored;
- the OWPS (2022) clearly sees the onshore wind sector as being a facilitator of wider habitat enhancement and biodiversity improvement works which can help address the nature crisis. The commentary in Appendix 1 (CD11.05) sets out how the Applicant's proposals in the Outline Habit Management Plan, to be implemented through an agreed Habit Management Plan, would achieve these

objectives, which also align with key aspirations of the Biodiversity Strategy and Draft Scottish Energy Strategy; and,

- overall, developments in national planning and energy policy provide further material in support of the proposed development and add weight to the case for granting permission for this well-sited and well-designed wind farm.

Local development plan

- the parties agree that there are no policies or allocations relevant to the consideration of the proposed development contained in the Caithness and Sutherland Local Development Plan (2018);
- the parties also agree that the key policy consideration of the Highland-wide Local Development Plan (2012) is policy 67 (renewable energy) - an overarching renewable energy policy which states that the council will support renewable energy developments where they are located, sited and designed such that they would not be 'significantly detrimental overall'. The policy is broad in scope and requires decision-makers to take account of the contribution a proposed development would make towards meeting renewable energy generation targets, any effects on the local and national economy and any adverse effects on the environment. It is the applicant's position that the application complies with the provisions of the policy;
- while the Onshore Wind Energy Supplementary Guidance (2016) forms part of the development plan, it does not contain additional tests beyond those set out in policy 67, rather its purpose is to aid the consideration of applications. Furthermore, policy 67 provides the only 'hook' for consideration of the guidance. The applicant considers that there is nothing in the guidance that counters its conclusion that the application complies with policy 67;
- Highland-wide Local Development Plan policies 28 (sustainable development), 57 (natural, built and cultural heritage) and 61 (landscape) are also relevant in the consideration of the application. However, the applicant believes that policy 28 is of limited relevance, as it is a general policy which is applied to all forms of development covering a wide range of topics. Also, the predicted effects of the proposed development on the Special Landscape Area or landscape character types would not lead to a conflict with policy 57 nor policy 61;
- there is no 'hook' between policies 57 and 61 and the Onshore Wind Energy Supplementary Guidance (2016) – the council is misguided in its conclusion that there is a link between the guidance and the policies;
- identified landscape impacts cannot be viewed solely through the lenses of policies 57 or 61, they must be considered in the round against the principal renewable energy policy (policy 67). Policy 67 is much broader in scope than policies 57 and 61 which, while addressing landscape and visual matters, also addresses other issues that must be considered when assessing a renewable energy application; and,
- the council's two objections to the proposed development are limited to landscape and visual effects only. A strict and narrow interpretation of predicted effects could give rise to tension with policies 28, 57 or 61 if those policies were considered in isolation, however, that would be an incorrect approach. It is policy 67 that the application should be primarily assessed against when all matters are considered 'in the round'.

Main points for the council

CD02.23: Council's Report of Handling
CD12.06: Council's Energy and Planning Policy Hearing Statement, October 2022
CD12.06: Council's Updated Policy Hearing Statement, December 2022
CD12.06: Council's Supplementary Policy Hearing Statement, January 2023
Highland Council's closing submissions on policy matters - see Annex B

7.3 The council's position on policy matters can be summarised as follows:

National planning and energy policy

- NPF4 has put in place a policy framework that formally implements a practice previously undertaken by planning authorities, reporters and Scottish Ministers when applying the presumption in favour of development that contributes to sustainable development. This is demonstrated, for example, in the assessment of wind farm applications at Paul's Hill II,[30] North Lowther,[31] Slickly [32] and Limekilns; [33]
- together NPF4, revised Scottish Energy strategy and Onshore Wind Policy Statement (2022), provide a holistic planning and energy policy framework against which to assess the application;
- despite the need for further onshore wind energy development, a balance still requires to be struck with environmental considerations to ensure that the right development is delivered in the right place. In this case, the council considers that the application proposals do not strike an appropriate balance;
- the council maintains its objection to the application – the changed national policy framework should not alter the outcome of the application, which should be one of refusal. Indeed, the council's case has been strengthened by the greater protection given by NPF4 to Special Landscape Areas; and,
- the OWPS (2022) sets out the need for further onshore wind energy deployment in Scotland. However, a balance still requires to be struck with environmental considerations to ensure the right development is delivered in the right place. As set out in the planning authority's response to the application and evidence to the public local inquiry, it is considered that this proposal does not strike an appropriate balance;

Local development plan

- while the Highland-wide Local Development Plan was adopted in 2012 it remains relevant and continues to accord with national policy;
- the proposed development is contrary to Highland-wide Local Development Plan Policy 67 (renewable energy). The policy highlights the balance that the council must strike between the delivery of proposals which make a contribution towards

[30] CD10.13
[31] CD10.15
[32] CD10.45
[33] CD10.01 – CD10.05

meeting the renewable energy generation targets and the protection of natural resources which contribute to the overall character of the Highland area. The policy is clear that renewable energy developments should be refused consent if proposals are significantly detrimental overall, as is the case with this application;

- the proposed development is also considered to be contrary to policies 28 (sustainable development), 57 (natural, built and cultural heritage) and 61 (landscape);
- no weight should be afforded the Plan's policy content relating to wild land – as national policy post-dates relevant policy considerations contained within it; and,
- the Onshore Wind Energy Supplementary Guidance (2016) forms part of the development plan. It provides guidance on key development plan considerations and a methodology for identifying strategic capacity, among other things. In this case, the supplementary guidance does not contain any additional tests to assess the compliance of a proposal beyond the provisions of policy 67. As such, there is little to be gained from undertaking a separate assessment exercise;

Main points for Loth Residents

CD13.14: Loth Residents Hearing Statement on Energy Policy
Loth Residents closing submission on policy matters - see pages 1 and 2

7.4 Loth Residents endorse Annex B to the council's closing submissions on policy matters, subject to the following:

- with regard to NPF4, a 'just transition' should mean what it says, that is, justice to local communities. It should not be the case that 'anything goes'. Local Residents would not simply glimpse something that is shocking (as may be the case of Gordonbush and Kilbraur from the coastal strip) but almost an unexpurgated full-frontal exposure;
- Loth Residents note that grid capacity should not constrain renewable energy development and that significant weight should be given to its benefits. Nonetheless, it commends its evidence is respect of benefits – in short, funds available to communities remains a marginal benefit, with no real discernible long-term benefit to the local communities [affected]; and,
- NPF4 Policy 11(c) requires development proposals to 'maximise' local and community socio-economic benefits. Loth Residents consider that the applicant has overstated the benefits of the proposed development. Unless a decision-maker can be satisfied that the policy test is satisfied, the application should be refused consent.

Reporter's conclusions on policy matters

7.5 The parties do not dispute the significance of NPF4 and OWPS (2022) in the Scottish Government's drive to address the global climate and nature crises. Nor do they dispute the requirement to afford significant weight to these matters in the consideration of all development proposals; as the applicant remarks, there is no dubiety on this issue. The parties also accept that NPF4 should be read as a whole. Where they differ is the extent to which NPF4 represents a material change to national planning policy beyond that

set out in National Planning Framework 3, SPP and its application in this case. I have considered the evidence presented by the parties on this matter and agree with the council that it is important not to focus solely on the headline changes to the planning policy framework promoted by NPF4, but to consider how the changes affect the decision to be taken in respect of this application.

7.6 Clearly, there are provisions within the national planning and energy policy framework from which the proposed development can draw considerable support, for example, its predicted contribution to climate change mitigation and greenhouse gas emissions reduction targets. However, there are also provisions which seek to protect biodiversity and natural assets. Accordingly, there is a balancing exercise to be undertaken between the need to meet mitigation and reduction targets and the effects that the proposed development would have on landscape character, visual amenity and other environmental considerations to ensure that the right development happens in the right place.

7.7 As an onshore wind energy proposal that would exceed 50 megawatts in capacity, the proposed development is regarded by NPF4 as a national development, that is, a significant development of national importance that would help deliver the Scottish Government's spatial strategy. However, NPF4 makes clear that national development status does not grant planning permission. Therefore, it remains necessary to secure all necessary consents and for proposals to be assessed in detail for their acceptability.

7.8 NPF4 policy 1 (tackling the climate and nature crises) requires that I give significant weight to the global climate and nature crises; the direction is explicit and applies equally to both concerns. In this regard, I fully recognise and acknowledge that the proposed development would be make a significant contribution to climate change mitigation and greenhouse gas emissions reduction targets. However, as I note in Chapter 3 of this report, it would also have significant adverse effects on landscape character and visual amenity. As discussed, and agreed at the hearing session, NPF4 policy 1 does not prioritise the climate crisis over the nature crisis, nor vice versa; they are twin drivers of national planning policy. Neither does it require development proposals to respond to each concern equally.

7.9 Unlike SPP, NPF4 does not contain a spatial framework. While NPF4 policy 11 (energy) does not support wind farms proposals in National Parks or National Scenic Areas, there are no other restrictions on their location in principle. Instead, the policy sets out an extensive list of development management considerations against which proposals require to be assessed within the context of support in principle for renewable energy development. In considering the impacts of renewable energy development, policy 11 repeats the requirement of policy 1 for significant weight to be placed upon the contribution that a development would have on renewable energy generation targets and greenhouse gas emission reduction targets.

7.10 I agree with the parties that in this case NPF4 policy 11 is the most relevant consideration and that clause (a) offers clear and strong support in principle for all forms of renewable, low-carbon and zero emissions technologies, including wind farms. Thereafter, the focus in this case is the application of clauses (c) and (e), in particular sub-clause (e)(ii).

7.11 Dealing first with clause (c), NPF4 states that development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain

opportunities. As I note in Chapter 5, paragraph 5.38, the applicant claims that the proposed development would deliver community benefits to the area, including an energy discount scheme, improvements to local infrastructure and habitat restoration. It also identifies economic benefits through local employment and supply chain opportunities. The applicant believes that its socio-economic commitments go beyond what might be described as reasonable 'industry' measures.

7.12 The concept of 'maximising net economic impact' as expressed in NPF4 is a new consideration that will require guidance to inform a consistent approach to maximising supply chain and wider economic benefits; I note that the OWPS (2022) states that work on this matter is in progress through the preparation of an Onshore Wind Sector Deal. In the absence of such guidance and given that the application was prepared in the context of SPP, I am satisfied that the applicant has addressed this matter appropriately and reasonably, notwithstanding the concerns of Loth Residents.

7.13 Within the context of support in principle for wind farm development in this location, clause (e) of the NPF4 policy 11 sets out the impacts that development proposals are required to address through project design and mitigation. The parties agree that the impacts to be addressed broadly reflect those listed in the now superseded SPP, paragraph 169. While this may be so, as noted by the applicant, a significant and relevant difference is that in considering the identified impacts, significant weight is required to be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets.

7.14 The council acknowledge that clause (e) also contains new considerations, including (e)(ii), which notes that significant landscape and visual impacts are to be expected from some forms of renewable energy development. It adds, where such impacts would be localised and/ or appropriate design mitigation has been applied, such impacts should generally be considered acceptable. Neither NPF4 nor case law provide guidance on how the term 'localised' should be applied in the assessment of development proposals. I also note the respective positions of the parties on this matter, particularly the applicant's view that it is not an easy notion to apply given the nature of the development proposed.

7.15 As I conclude in Chapter 3, the proposed development would result in a range of significant landscape and visual effects. In particular, it would; compromise the landscape function of the Rounded Hills LCT by breaching the separation they provide between the settled narrow coastal strip and interior moorland hills; have adverse effects on the integrity and qualities of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area; and result in significant visual effects at 13 of the 18 representative viewpoints. As noted by NatureScot, the applicant's assessment does not adequately reflect the degree of visual effects which would arise as a result of the proposed development.

7.16 As to whether the identified effects can be described as 'localised', based on my assessment of the Landscape and Visual Impact Analysis, evidence presented at the inquiry and observations at my site inspections, I have found that the effects of the proposed development would be widespread and experienced over a considerable area – as I note in my assessment, significant effects would be experienced at distances well beyond those predicted by the applicant. As such, I do not consider that the effects that would arise can be described as localised.

7.17 With regard to project design and mitigation, I also conclude in Chapter 3 that the proposed development is poorly sited and designed, this would be particularly apparent

when seen from elevated viewpoints. The proposed turbines would also appear as imposing features from the settlements of Brora and Doll. Again, as noted by NatureScot, the proposed turbines would create a visually complex and poorly designed array which would neither relate to the existing pattern of wind farms nor the underlying character of the landscape. These effects, it adds, would be difficult to mitigate by a smaller and/ or fewer turbines scheme. Despite the applicant's assertion that appropriate design mitigation has been applied, for the reasons that I set out at paragraphs 3.29 to 3.35 above, I find that appropriate design mitigation has not been applied in this case. Taking these matters together, I conclude that the proposed development fails to satisfy the considerations of clause (e)(ii). I consider whether the identified adverse effects would be outweighed by the contribution of the proposed development to renewable energy generation and greenhouse gas emissions reduction targets in my overall conclusions below.

7.18 Finally with regard to Loth Residents' concern regarding barriers to deployment, policy 11(e) clearly states that grid capacity should not constrain renewable energy development. As noted by the applicant, agreement is in place to secure a connection to the grid in June 2027.[34]

7.19 Also relevant to my consideration of this case are policies 3 (biodiversity) and 4 (natural places), which are intended to protect biodiversity and natural assets and address the nature crisis. Policy 3 seeks to ensure that biodiversity is enhanced, including the restoration of degraded habitats where relevant. In particular, clause 3(b) requires proposals subject to Environmental Impact Assessment, as this case, to demonstrate that it would conserve, restore and enhance biodiversity.

7.20 In Chapters 4 and 5 of this report I set out my conclusions in respect of ornithology and ecology, respectively. With regard to these matters, I conclude that the proposed development, subject to the mitigation measures set out in the updated Outline Habitat Management Plan and Schedule of Environmental Mitigation, would not give rise to significant residual effects on important ornithological features resident at the application site and would restore and enhance an extensive area of land to improve wetland and peatland habitats. On this basis, I am satisfied that the proposed development is capable of meeting the requirements of policy 3. I am also satisfied that the proposed mitigation measures could be secured by condition of consent, including the preparation of detailed a Habitat Management Plan to be agreed with the council, consultation authorities and other relevant bodies.

7.21 NPF4 policy 4 states, development proposals that affect a site designated as a local landscape area in the local development plan will only be supported where:

i. development would not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified; or
ii. any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

7.22 In respect of policy 4(d)(i), as I conclude at paragraphs 3.21 to 3.26 of this report, the proposed development would have significant adverse effects on the integrity and qualities of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, which is a locally designated landscape area and a feature of the Highland-wide Local Development

[34] CD11.05, Appendix 2: Grid Connection Offer

Plan (2012). I consider whether the proposed development would satisfy the requirements of clause 4(d)(ii) and attract the support of policy 4 overall in my conclusions below.

The Highland-wide Local Development Plan (LDP)

7.23 I agree with the principal parties that LDP policy 67 (renewable energy developments) is the most relevant LDP consideration in this case. While the applicant argues that its provisions support the proposed development, the council takes a contrary view. My findings on landscape and visual impacts set out in Chapter 3, lead me to agree with the council and conclude that the proposed development would be inconsistent with policy 67; notably in respect of landscape character and visual amenity. In such an eventually, the applicant states that the application is strongly supported by NPF4, which must prevail. I address this matter in more detail below in my consideration of the LDP's compatibility with NPF4.

7.24 I note the council's position regarding its Onshore Wind Energy Supplementary Guidance (2016), which does not contain any additional tests to assess the compliance or otherwise of a proposal beyond the provisions of policy 67. For this reason, I have not undertaken a separate assessment of the proposed development against the advice contained in the supplementary guidance.

7.25 With regard to other LDP policy considerations noted in the reasons for objection, I agree with the applicant that policies 28, 57, and 61 are essentially subservient to the considerations of policy 67, which considers all matters 'in the round' – finding conflict or tension with the terms of one or more of the policies does not necessarily equate to a conflict with policy 67 or the LDP more broadly. However, as I note above, my assessment of the Landscape and Visual Impact Analysis leads me to conclude that the proposed development fails to satisfy the requirements of the policy in terms of its effects on landscape character and visual amenity.

Compatibility of the Highland-wide Local Development Plan (2012) (LDP) with NPF4

7.26 The council's consideration of the application took place prior to the adoption of NPF4. As such, it is necessary to consider NPF4's compatibility with the LDP. This matter is addressed by the parties who note and agree that section 24 of the Town and Country Planning (Scotland) Act 1997, as amended by section 13 of the Planning (Scotland) Act 2019, provides that in the event of any incompatibility between the provision of the National Planning Framework and a provision of the Local Development Plan, whichever of them is the later in date is to prevail. NPF4 clearly postdates the LDP of 2012.

7.27 The application has been submitted under the Electricity Act 1989. In such cases, the development plan does not enjoy primacy in decision making. Consequently, I do not need to make a definitive finding in respect of its compatibility with NPF4. However, it is appropriate to consider whether any incompatibilities would alter my recommendation in this case.

7.28 The applicant believes that the LDP does not reflect NPF4's treatment of onshore wind development. While I note what the applicant has to say in this regard, I find that both documents offer broad policy support for renewable energy development and that it is possible, as the council asserts, to read the LDP as being compatible with NPF4 on this matter. There is, however, a much stronger emphasis on encouraging and promoting renewable energy development in NPF4 and an acceptance that adverse localised effects will be tolerated in return for wider environmental benefits. Importantly, however, both

documents seek to ensure that development happens in the right place. Finally, NPF4 requires that greater weight be given to the need case in the overall balancing exercise. I do not consider that that in itself, however, make the LDP and NPF4 incompatible. Although I do acknowledge that policy support for renewable energy proposals in NPF4 is greater than in the LDP.

7.29 One other difference of note is the strengthening of the position afforded to locally designated landscape areas by NPF4 policy 4. However, this does not alter how LDP policy 57 (natural, built and cultural heritage) is applied in this case. With regard to other relevant policy considerations, the terms of LDP policy 28 (sustainable development) are broad and applied to a range of topics. Likewise, policy 61 (landscape) is also broad in its application and adds nothing over and above my consideration of LDP policy 67. Each policy is generally compatible with the approach of NPF4 to sustainability and protection of landscape character.

7.30 In conclusion, I have not identified any incompatibilities between the Highland-wide Local Development Plan and NPF4 that lead me to alter my assessment of the application.

Onshore Wind Policy Statement (OWPS) (2022)

7.31 The OWPS (2022) complements NPF4. It replaces the previous version published in 2017. Unlike NPF4, it does not form part of the development plan. However, in the context of an application made under the Electricity Act, that does not necessarily lessen its weight in decision-making.

7.32 The parties do not dispute what the OWPS has to say; its ambitions are clear, notably the introduction of a national target for a minimum level of 20GW of onshore wind development by 2030. However, as with their reading of NPF4, each party places greater emphasis on different aspects of the policy statement to support its case.

7.33 I agree with the applicant that the scale of development that will need to take place over the next seven years to meet the 2030 target (a further 11.3GW) will be a challenge; anything less would not achieve the transition towards net-zero sought by the Scottish Ministers. However, this does not mean that wind energy development proposals should proceed at any cost. In this regard, the council points to the Ministerial Forward to the OWPS in which the Minister states that whilst it is imperative to meet net-zero targets, it is also vital that the ambitions of the policy statement are delivered in a way that are fully aligned with and continues to enhance Scotland's natural heritage. The council further adds, the Minister's approach is quite properly reflected in NPF4 policy 4(a), which states *'Development proposals which… will have an unacceptable impact on the natural environment will not be supported.'*

7.34 As acknowledged in the OWPS (2022), while there may be sufficient projects currently in the pipeline to meet the 2030 target more-or-less, it is unlikely that all the projects will receive consent or be developed, even in a more supportive policy context provided by NPF4 and OWPS. While the applicant argues that this position lends support to its proposals, the council points to emerging projects in the Highland area that it believes could make a contribution to meeting the 2030 target if submitted in the course of the next two years. It also points to analysis by Brodies (CD12.11) that supports its position that time remains for projects not yet in the system to make a contribution. On the evidence before me, I consider the applicant's concerns to be somewhat overstated and fail to take account of efforts to speed up the planning and consenting processes and the

benefits in prospect to be delivered through an Onshore Wind Sector Deal. Nonetheless, with an offer of a grid connection date in June 2027, I accept that the proposed development could make a meaningful contribution to the 2030 target and the country's transition to net-zero.

7.35 Finally, I have carefully considered the applicant's submissions on the OWPS (2022) and have had regard to section 3.6, as directed, in particular the explicit acceptance that in order to meet the 2030 target taller and more efficient turbines will be required and that this will change the landscape. However, the imperative for more wind energy development cannot automatically override any significant adverse effects on a landscape that may result, particularly those that I have identified in this case. The principle of ensuring that the right development happens in the right place is an underlying feature of the OWPS and, as I have concluded elsewhere in this report, I consider the proposed development would be in the wrong place.

Other considerations

7.36 At the hearing session, the parties briefly discussed the recent publication of the draft Energy Strategy and Just Transition Plan and draft Scottish Biodiversity Strategy to 2045. I note below the general observations of the parties on these publications.

7.37 With regard to the draft Energy Strategy and Just Transition Plan, as a draft document, the applicant does not place great weight on what it has say and notes that the strategy is difficult to apply to individual cases. The council adds, the draft document largely reflects NPF4 and the OWPS (2022) and carries limited weight in the consideration of the application. While in draft form, and subject to possible change, I agree with the parties that little weight can be given to the draft strategy in this case. I do, however, acknowledge that to deliver the vision of the strategy it will be necessary to significantly increase renewable energy production, including on and offshore wind power, among other technologies.

7.38 Likewise, the Scottish Biodiversity Strategy to 2045 has been published in draft form and may be subject to change. However, as the parties note, the proposals of the applicant's Outline Habitat Management Plan, which may also be subject to change, appear to align with the draft strategy.

7.39 In short, the contents of the draft Energy Strategy and Just Transition Plan and draft Scottish Biodiversity Strategy to 2045 do not alter my conclusions on policy matters in this case.

Reporter's Overall Conclusions

7.40 As set out in paragraph 2.5 of this report, by virtue of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the decision notices of the Scottish Ministers are required to provide, in the event that consent is granted, a reasoned conclusion on the significant effects of the development on the environment. In this regard, my report sets out an assessment of the relevant environmental information provided by the applicant in support of its application and the proposed mitigation as far as applies to the main issues and significant effects. The table below provides a summary of the relevant matters.

Report Chapter		Description	Comment
1.	Background, consultations and representations	Description of the proposed development, summary of consultation responses and representations.	Despite some dissatisfaction expressed in representations, there is nothing in the submitted pre-application consultation report to suggest that arrangements for the public to participate in the consultation process was deficient. The application material was placed on deposit prior to the commencement of the inquiry.
2.	Legislative and policy context	Description of the legislative and policy context relevant to the consideration of the application.	The policy context describes relevant national energy and planning policy, including the recently adopted NPF4 and OWPS.
3.	Landscape character and visual amenity	Environmental information and conclusions on potential effects and the potential for mitigation.	The chapter summarises the relevant effects drawing on the information contained in Volume 2, Chapter 6 of the EIA, AI, further environmental information, submissions to the inquiry, consultation responses and representations. My conclusions identify significant adverse effects on landscape character and visual amenity.
4.	Ornithology	Environmental information and conclusions on potential effects on ornithology and the proposed mitigation measures.	The chapter summarises the relevant effects of the proposed development on ornithology, as described in Volume 2, Chapter 9 of the EIA, AI, further environmental information, submissions to the inquiry and consultation responses. I conclude that with mitigation, the proposed development would not give rise to significant residual effects on important ornithological features resident at the application site
5.	Other relevant matters	Environmental information and conclusions on potential effects and the potential for mitigation.	The chapter draws on information contained in the remaining Chapters of the EIA report, AI, the position statements submitted by the parties, and all further written submissions. No other significant residual environmental effects have been identified.
6.	Proposed planning conditions	Recommended mitigation to be secured by condition in the event that consent is granted.	The chapter draws upon conclusions reached elsewhere in this report regarding mitigation measures and monitoring arrangements.

7.	Policy assessment, overall conclusions and recommendation	Overall conclusions	The chapter takes account of the assessed environmental effects, the potential for mitigation, the relevant policy considerations and the benefits of the proposed development to arrive at an overall conclusion and recommendation.

7.41 Taking all matters into account, my overall assessment is that the application attracts considerable support from the recently updated national planning and energy policy framework. With a predicted generating capacity of approximately 63 megawatts, and storage facilities for a further 60 megawatts, the proposed development would constitute a national development and would make a meaningful contribution towards meeting climate change mitigation and greenhouse gas emission reduction targets. However, support for onshore wind energy developments is qualified and while landscape change is anticipated in national energy policy, national and local planning policies continue to require detailed consideration to be given to a range of environmental considerations to ensure that the right development happens in the right place.

7.42 Onshore wind energy development would not be a new feature in the East Sutherland upland landscape. The proposed development would, however, be seen prominently atop the Rounded Hills that presently contain existing development and exert influence on other landscape character types, most notably the sensitive Coastal Crofts and Small Farms LCT. It would also introduce visibility of wind farm development from lower lying areas, such as Brora and Doll and at locations along the Sutherland coast. The most notable landscape and visual effects would be experienced from elevated locations, particularly the popular summit of Ben Bhraggie and when travelling east on the Rogart to Brora minor road. Although NatureScot has not objected to the application, I agree with its advise that the proposed development would neither relate to existing wind farms nor be of a suitable scale to fit with the more sensitive coastal landscape.

7.43 The principal considerations is this case are; whether the predicted landscape and visual effects would be localised (having established that they would be significant and adverse); whether the applicant has applied appropriate design mitigation; and, if the identified predicted significant adverse effects would be outweighed by its social, environmental or economic benefits. My conclusions on these matters are set out below, which I have considered in the context of relevant national and local policies. In reaching my recommendation on the application, I have balanced the positive benefits of the proposed development with the adverse impacts on the environment that would arise.

7.44 As I set out in Chapter 3, the proposed development would give rise to significant adverse effects on landscape character. Unlike existing wind farm development, the proposed development would not be contained by the coastal hills; rather it would sit atop the coastal hills and breach the separation they provide between the interior moorland and settled sensitive coastal strip, thus compromising their landscape function. The height and location and the proposed turbines would also diminish perception of the scale of the coastal hills, both in near and more distant views. As such, I conclude that the adverse effects that would arise cannot be described as localised.

7.45 The proposed development would also introduce significant adverse visual effects at most of the representative viewpoints assessed in the Landscape and Visual Impact Analysis, some of which I consider have been underplayed by the applicant. The identified effects would also be experienced at distances beyond those predicted in the visual

assessment. More broadly, I agree with NatureScot that the assessment does not adequately reflect the degree of visual effects which would arise as a result of the proposed development. Consequently, I also conclude that the predicted visual effects cannot be described as localised.

7.46 The proposed development would also have a significant adverse effect on the qualities of the Loch Fleet, Loch Brora and Glen Loth Special Landscape Area, as I describe at paragraphs 3.21 and 3.26 of this report. The applicant argues that in the event that I find that there would be significant adverse effects on the Special Landscape Area, such effects would be outweighed by its benefits, which it contends would be of national importance. Having considered this matter carefully, despite the predicted adverse effects on the Special Landscape Area, I agree with the applicant that the test set out at policy 4(d)(ii) would be met, given the contribution that the proposed development would make to the delivery of the national spatial strategy as set out in NPF4. A proposal that enjoys national development status would by definition deliver benefits of more than local importance.

7.47 With regard to mitigation, I consider that the proposed development is poorly designed and inconsistent with advice contained in Scottish Natural Heritage's (NatureScot) 'Siting and Designing Wind Farms in the Landscape'. Its poor siting and design would be clearly apparent when viewed from elevated locations, particularly from the summit of Ben Bhraggie, and when travelling east on the Rogart to Brora minor road. Furthermore, although the proposed turbines would be similar in height to those installed at the recently extended Gordonbush Wind Farm, they would sit prominently on considerably higher ground in comparison to that which falls down to the coast to the south and east, and large areas of open expansive moorland to the west and north. While NatureScot does not object to the application, it comments that the proposed turbines would neither relate to the existing wind farms, nor be of a suitable scale to fit with the sensitive coastal strip.

7.48 With regard to other matters, particularly ornithology and habitat management, the applicant has demonstrated to my satisfaction that potential significant effects of the proposed development are capable of being addressed through a range of mitigation measures to be agreed with the council and/ or secured by condition of consent. In Chapter 1, I have summarised the responses of the statutory consultees to the application. I have considered the responses to all the environmental information provided by the applicant and find no grounds on which to disagree with their assessments of the application, particularly those of NatureScot and SEPA. I have also considered the concerns expressed in representations, including Brora Community Council, which were collated and presented as part of the evidence of Loth Residents. I have addressed these matters in Chapters 3, 4 and 5 of this report.

7.49 While it has not been possible to demonstrate that the net economic impact of the proposed development would be maximised in this case, the applicant predicts, and I accept, that it would deliver some economic benefits to the area through local employment and supply chain opportunities during its construction and operation. Such factors weigh in favour of the application.

7.50 However, when all matters are considered together and weighed in the overall planning balance, I find that the benefits of the proposed development, even in the context of recently increased policy support for the type of development proposed, would not outweigh the significant adverse landscape and visual effects that would result. The

predicted effects would be widespread and extend beyond distances predicted by the applicant; the effects would not be localised. Nor do I consider that appropriate design mitigation has been applied. This leads me to conclude that the proposed development is inconsistent with NPF4 policy 11(e)(ii) and Highland-wide LDP policy 67 (renewable energy). In conducting my own assessment, I have also had regard to the considerations of Schedule 9 of the Electricity Act 1989.

7.51 Accordingly, I recommend that Section 36 consent and deemed planning permission is refused.

Andrew A Sikes
Reporter

APPENDIX 1

RECOMMENDED CONDITIONS

Conditions attached to the Section 36 consent

1. Duration of Consent

(1) Written confirmation of the date of Final Commissioning shall be provided to the Scottish Ministers and the planning authority no later than one calendar month after that date.

(2) Written confirmation of the date of First Commissioning shall be provided to the Scottish Ministers and the planning authority no later than one calendar month after that date

Reason: to define the duration of the consent.

2. Commencement of Development

(1) The commencement of the development shall be no later than five years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to the Scottish Ministers and the planning authority no later than one calendar month before that date.

Reason: to avoid uncertainty and ensure that the consent is implemented within a reasonable period.

3. Non-assignation

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

Reason: to safeguard the obligations of the consent if transferred to another company.

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers and the planning authority, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 48 hours of the incident occurring.

Reason: to keep the Scottish Ministers informed of any such incidents which may be in the public interest.

5. Aviation Lighting

Prior to commencing the construction of any wind turbine generators, or deploying any construction equipment or temporary structure(s) 50 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of the Scottish Ministers in conjunction with the Ministry of Defence, defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

(1) details of any construction equipment and temporary 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;

(2) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with Ministry of Defence accredited omni directional infra-red beacons identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the Development.

Reason: to maintain aviation safety.

Conditions attached to the deemed planning permission

6. Commencement of Development

The Commencement of Development shall be no later than five years from the date of this deemed planning permission.

Reason: to define the period for the implementation of the deemed planning permission

7. Schedule of Mitigation

Except as otherwise required by these conditions, the Development shall be undertaken in accordance with the Schedule of Environmental Commitments submitted as Chapter 16, table 16.1 to the Environmental Impact Assessment Report unless otherwise approved in writing in advance by the planning authority.

Reason: to minimise the impacts of necessary construction works on the environment.

8. Redundant Turbines

In the event that any wind turbines installed and commissioned fail to produce electricity on a commercial basis for a continuous period of 12 months, unless otherwise approved in writing by the planning authority, the Company shall submit a scheme for the removal of the wind turbine(s) and ancillary equipment within six months of the expiration of the 12-month period which shall be implemented as approved in writing. The site shall be reinstated in accordance with the Decommissioning Environmental Management Plan (DEMP).

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

9. Decommissioning and Restoration

(1) No development shall commence (excluding preliminary ground investigation, which shall be permitted) until an interim decommissioning, restoration and aftercare plan (IDRP) has been submitted to and approved in writing by the planning authority. The IDRP shall outline measures for the decommissioning of the turbines and the restoration and aftercare of the site. It will include proposals for the removal of the Development (save for access tracks and foundations), the treatment of ground surfaces, the management and timing of the works, and environmental management provisions;

(2) No later than 12 months prior to final decommissioning of the Development a detailed Decommissioning Environmental Management Plan (DEMP), based upon the principles of the approved IDRP, shall be submitted to the planning authority for its written approval, in consultation with NatureScot and SEPA;

(3) The Development shall be decommissioned, and the site restored in accordance with the approved DEMP, unless otherwise agreed in writing in advance with the planning authority, in consultation with NatureScot and SEPA.

Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site. In the interests of safety, amenity and environmental protection.

10. Financial Guarantee

(1) No wind turbine foundations shall be put in place until details of financial provisions to cover the full cost of decommissioning and site restoration under condition 9 have been submitted to and approved in writing by the planning authority. Following such approval documentary evidence shall be provided to the planning authority to confirm that the approved provisions are in place. The approved provisions must be kept in place until site decommissioning and restoration is complete in accordance with condition 9;

(2) The value of the financial provision shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of implementing the IDRP;

(3) The value of the financial provision shall be agreed in writing by the Company and the planning authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every

five years and increased or decreased to take account of any variation in costs of compliance with the IDRP.

Reason: to ensure sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the company.

11. Micro-siting

All wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks shall be constructed in the locations shown in Figure 1.2, Volume 2 of the Environmental Impact Assessment Report (the Site Layout Plan). Wind turbines, buildings, masts, 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 NatureScot and SEPA, micro-siting is subject to the following restrictions:

(a) No wind turbine foundation shall be positioned higher than 5 metres above ground level than the position shown on the Site Layout Plan;

(b) No wind turbine, mast or related hardstanding or access track shall be moved more than 50 metres from the position shown in the Site Layout Plan;

(c) No buildings, temporary construction compound or borrow pits shall be moved more than 50 metres from the position shown on the Site Layout Plan;

(d) No micro-siting shall take place with the result that infrastructure (excluding floating tracks or hardstanding) is located within areas of peat of greater depth than the original location;

(e) No micro-siting shall take place into areas hosting Ground Water Dependent Terrestrial Ecosystems as identified in the Environmental Impact Assessment Report;

(f) Wind turbines and other infrastructure shall be micro-sited so as to reduce adverse impacts on blanket bog, wet and dry heath where possible. Any such micro-siting shall not be onto peat deeper than that shown in Environmental Impact Assessment Report, Volume 6, Technical Appendix 10.1 (Peat Landslide Hazard and Risk Assessment – Peat Depth, drawing number 428.02606.00049.19.04.0);

(g) With the exception of water-crossings, no element of the proposed development should be located closer than 50 metres from any watercourse; and

(h) All micro-siting permissible under this condition must be undertaken under the direction of 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 approval, as applicable.

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

12. Construction and Environmental Management Plan (CEMP)

No construction works shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The required documents shall include the following:

(a) a Site Waste Management Plan;

(b) a Sustainable Drainage System (SuDS) design concept, including run-off and sediment control measures and flood risk management during both the construction and operational phases of the development;

(c) a dust management plan, including cleaning arrangements for the site entrance;

(d) a pollution prevention and control method statement;

(e) arrangements for on-site storage of fuel and other chemicals;

(f) details of foul drainage arrangements;

(g) details of temporary site illumination;

(h) details of any water course engineering works, including any water course crossings designed to accommodate a 1 in 200-year peak flow and enable fish passage and providing that water course crossings shall be oversized bottomless arched culverts or traditional style bridges;

(i) details of the methods to be adopted to reduce the effects of noise occurring during the construction period in accordance with BS5228 (noise control on construction and open sites);

(j) post-construction restoration and reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound and other construction and storage areas;

(k) spoil management plan, including the management of any peat generated from site works;

(l) details of the mineral working areas and restoration proposals;

(m) details of the construction works, construction methods and surface treatments for all hard surfaces and tracks;

(n) the method of construction of the crane pads;

(o) the method of construction of the turbine foundations;

(p) the method of working cable trenches;

(q) the method of construction and erection of the wind turbines and meteorological masts;

(r) details of temporary site compounds including areas designated for offices, welfare facilities, fuel storage and car parking;

(s) details of methods to reduce the impacts of development on blanket bog, wet and dry heath;

(t) a Water Quality Management Plan;

(u) a Species Protection Plan(s);

(v) a Breeding Bird Protection Plan; and,

(w) a Finalised Peat Landslide Hazard Risk Assessment.

Unless otherwise approved in writing by the planning authority, the CEMP shall be implemented as approved.

Reason: to ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Impact Assessment Report and Additional Information accompanying the application, or as otherwise agreed, are fully implemented.

13. Construction Traffic Management

(1) No development shall commence until a Construction Traffic Management Plan has been submitted to, and approved in writing by, the planning authority in consultation with Transport Scotland;

(2) The Construction Traffic Management Plan shall include details of the proposed layout of the new direct access onto the A9(T) and any accommodation measures required, including the removal of street furniture, and information on materials, plant, equipment, components, location and labour required during construction, wheel washing arrangements, access and egress arrangements for abnormal loads, concrete wagons and heavy goods vehicles (including potential out of hours deliveries) and a local signage scheme, the scheduling, pre and post construction surveys, and a programme and methodology for any repairs as a consequence of any damage caused by construction traffic;

(3) The Construction Traffic Management Plan shall include contact details for a community traffic liaison officer for the Company to provide information relating to the arrangements for the delivery of all road and construction traffic mitigation measures required for the Development. This should include, but not be limited to, traffic management arrangements to be in place during any roadworks associated with the development and for the operation of local roads during delivery of abnormal loads during the construction of the development;

(4) Prior to the commencement of deliveries of abnormal loads to the site the proposed route for any abnormal load on the trunk road network, details of escorts and any accommodation measures required including the removal of street furniture, junction widening, traffic management and the scheduling and timing of abnormal loads movements must be approved in writing by the planning authority in consultation with Transport Scotland;

(5) During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures necessary due to the size or length of any loads being delivered or removed must be undertaken by a traffic management consultant whose appointment shall be approved by the planning authority and Transport Scotland before delivery commences; and,

(6) the Construction Traffic Management Plan shall be implemented as approved.

Reason: to ensure road safety and that transportation will not have any detrimental effect on the road and structures along the route and to minimise interference with the safety and free flow of the traffic on the local and trunk roads and to minimise adverse impacts on residents and local businesses in the area.

14. Ecology and Ecological Clerk of Works

(1) An Ecological Clerk of Works (ECOW) shall be appointed to supervise construction and decommissioning of the wind farm. The identity and terms of appointment of the ECOW shall be submitted to and approved in writing by the planning authority and they shall be employed for the period of:

(a) wind farm construction, including preparation, micro-siting and post-construction restoration; and,

(b) wind farm decommissioning and site restoration.

In relation to (a), the terms of appointment shall be submitted prior to the commencement of the development and, in relation to (b), prior to the commencement of any decommissioning works.

(2) The terms of appointment shall require the ECOW to:

(a) carry out pre-construction surveys to inform the CEMP required in terms of condition 12 clauses (u) and (v);

(b) impose a duty to monitor compliance with the ecological and hydrological commitments provided in this deemed planning permission, the Construction and Environmental Management Plan approved in accordance with condition 12, the Habitat Management Plan approved in accordance with condition 15, Peatland Management Plan approved in accordance with condition 16, the species protection plan and breeding birds protection plan in accordance with condition 12 clauses (u) and (v) (the ECoW works);

(c) report to the Company's nominated construction project manager any incidences of non-compliance at the earliest practical opportunity;

(d) submit a monthly report to the planning authority summarising works undertaken on site and incidences of micro-siting in accordance with Condition 11; and,

(e) report to the planning authority any incidences of non-compliance with the ecological and hydrological aspects of the Construction and Environmental Management Plan required in terms of condition 12; the Habitat Management Plan required in terms of condition 15; the Peatland Management Plan required in terms of condition 16, the Species Protection Plan and the Breeding Birds Protection Plan required in terms of condition 12 clauses (u) and (v) and the Decommissioning Environmental Management Plan required in terms of condition 9 at the earliest practical opportunity.

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

15. Habitat Management Plan

(1) No development shall commence until a Habitat Management Plan following the principles set out in the Outline Habitat Management Plan, submitted as part of the Environmental Impact Assessment Report, Technical Appendix 8.6, and as further described in the Additional Information (2021), Section 1, and Additional

Information (2022), Volume 2, has been submitted to, and approved in writing by, the planning authority;

(2) The Habitat Management Plan shall set out proposed habitat management measures in respect of the habitat management areas identified in Technical Appendix 8.6 and the Additional Information (2021), Section 1, during the period of construction, operation, decommissioning and restoration of the site;

(3) The approved Habitat Management Plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the Habitat Management Plan objectives. In particular, the approved Habitat Management Plan shall be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the planning authority for its written approval in consultation with NatureScot and SEPA; and,

(4) Unless otherwise approved in advance in writing with the planning authority, the approved Habitat Management Plan shall be implemented in full.

Reason: in the interests of the protection of the habitats and species identified in the Environmental Impact Assessment Report.

16. Peat Management Plan

(1) No development shall commence until a Peat Management Plan is submitted to and approved in writing by the planning authority. Unless otherwise approved in advance in writing with the planning authority, the approved Peat Management Plan shall be implemented in full.

(2) The Peat Management Plan shall:

(a) follow the principles set out within the Outline Peat Management Plan (Environmental Impact Assessment Report, Technical Appendix 10.2); and,

(b) shall include provision for further peat probing works and micro-siting to seek to further reduce peat disturbance at turbines T9, T10, T12, T15 and the borrow pit as shown in Environmental Impact Assessment Report, Figure 1.2.

Reason: to minimise negative impacts of development on peat and carbon loss.

17. Construction Hours and Timing

(1) The hours of operation of the construction phase of the development hereby permitted, other than in respect of the construction of the substation, shall be limited to 0700 hours to 1900 hours Monday to Saturday. No works shall take place on Sundays or public holidays, unless previously approved in writing by the planning authority. Outwith these hours, development at the site shall be limited to turbine delivery and erection, commissioning, maintenance and pouring of concrete foundations (provided that the developer notifies the planning authority of any such works within 24 hours if prior notification is not possible). In addition, access for security reasons, emergency responses or to undertake any necessary environmental controls is permitted outwith these hours; and,

(2) The hours of operation of the construction phase of the substation shall be limited to 0800 hours to 1900 hours Monday to Friday and 0800 to 1300 on Saturdays. No work shall take place on Sundays or public holidays unless previously approved in writing by the planning authority. In addition, access for security reasons, emergency responses or to undertake any necessary environmental controls is permitted out with these hours.

Reason: in the interests of local amenity.

18. Appearance of Turbines

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

(a) the make, model, design, of the turbines to be used; and,

(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.

Furthermore:

(c) the turbines must have internal transformers; and

(d) shall not exceed 149.9 metres in height to blade tip.

Thereafter, development shall be implemented in accordance with the approved details and the turbines maintained in the approved colour until the wind farm is decommissioned.

Reason: to ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbines assessed in the Environmental Impact Assessment Report and in the interests of the visual amenity of the area.

19. Ancillary Structures

The control building, substation, battery storage units and ancillary infrastructure, shall be located as shown in the Environmental Impact Assessment Report, Figure 1.2, subject to any micro-siting. There shall be no Commencement of Development in respect of the control building, substation, battery storage units and ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas, as well as any external lighting (excluding aviation 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 be implemented in accordance with the approved details unless otherwise approved in advance in writing by the planning authority.

Reason: in order to secure an appropriate appearance in the interests of amenity and to assimilate the building into the landscape setting.

20. Aviation

Prior to the erection of the first wind turbine, the developer shall provide written confirmation to the Civil Aviation Authority and the Ministry of Defence of the anticipated date of commencement of, and completion of, construction; the height above ground level of the highest structure in the development; and the position of each wind turbine in latitude and longitude.

Reason: in the interests of aviation safety.

21. Aviation Charting and Safety Management

The Company must notify the Ministry of Defence at least 14 days prior to the commencement of the works, in writing of the following information:

(a) the date of the commencement of the erection of wind turbine generators;

(b) the maximum height of any construction equipment to be used in the erection of the wind turbines;

(c) the date any wind turbine generators are brought into use; and,

(d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: to maintain aviation safety.

22. Substation

(1) Noise arising from within the operational land of the sub-station, hereby permitted, when measured and/ or calculated as an Leq, 5min, in the 100Hz one third octave frequency band must not exceed 30 dB at noise sensitive premises; and,

(2) The Rating Level of noise arising from the use of plant, machinery or equipment installed or operated within the operational land of the sub-station, hereby permitted, must not exceed the current background noise levels at noise sensitive premises. The Rating Level should be calculated in accordance with BS 4142: 2014: Methods for rating and assessing industrial and commercial sound.

Reason: to protect nearby residents from undue noise and disturbance.

23. Noise

(1) The level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when calculated in accordance with the Guidance Notes set out at the end of this appendix, shall not exceed the values set out in the attached Table A. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the attached Table B shall be those of the physically closest location listed in the Table unless otherwise agreed with the planning authority. The coordinate locations to be used in determining the

location of each of the dwellings listed in Table A shall be those listed in Table B;

(2) Within 21 days from the receipt of a written request from the planning authority and following a complaint to the planning authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at the wind farm operators expense, employ an independent consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property following the procedures described in the attached Guidance Notes;

(3) The wind farm operator shall provide to the planning authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all raw data upon which those assessments and conclusions are based. Such information shall be provided within two months of the date of the written request of the planning authority, with an additional three weeks allowed should further investigation pursuant to Guidance Note 4 be required, unless otherwise extended in writing by the planning authority;

(4) Wind speed, wind direction and power generation data shall be continuously logged and provided to the planning authority at its request and in accordance with the attached Guidance Notes within 14 days of such request. Such data shall be retained for a period of not less than 24 months; and,

(5) No development shall commence until there has been submitted to the planning authority details of a nominated representative for the Development to act as a point of contact for local residents (in respect of sub-paragraphs 1-4 above) together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the planning authority in connection with any noise complaints made during the construction, operation and decommissioning of the Development.

Reason: to protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints. See notes in respect of this condition at the end of the appendix.

24. Advertisement

None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/ enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign, lighting (with the exception of aviation lighting permitted under Condition 5) or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority or as required by law.

Reason: in the interests of the visual amenity of the area and compliance with Town and Country Planning (control of advertisements) (Scotland) regulations 1984.

25. Illumination

No illumination (with the exception of aviation safeguarding lighting required under condition 5) shall be permitted, nor shall any symbols, signs, logos, or other lettering, except as may be required by law, be applied to the turbines without the prior written approval of the planning authority.

Reason: in the interests of aviation safety.

26. Recreational Access Management Plan

No construction works shall commence until an Access Management Plan has been submitted to, and approved in writing by, the planning authority. The plan shall make provision for existing levels of public access to be maintained after construction other than as may be necessary to carry out repair or maintenance works. The plan shall include details of signage to be included on the site to warn users of the paths of any hazards. The plan, as agreed, shall be implemented in full, unless otherwise approved in writing with the planning authority.

Reason: in the interests of ensuring public access rights throughout the construction and operation of the wind farm.

27. Borrow Pit – Scheme of Works

No borrow pit shall be excavated until a site-specific scheme for the working and restoration of the borrow pit forming part of the Development has been submitted to and approved in writing by the planning authority in consultation with SEPA. The scheme shall include;

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

(b) details of the handling of any overburden (including peat, soil and rock);

(c) drainage, including measures to prevent surrounding areas of peatland, and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;

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

(e) provision for the reinstatement, restoration and aftercare of the borrow pit at the end of the construction period, to include provision for topographic surveys of pre-restoration profiles, and details of topographical surveys to be undertaken of the restored borrow pit profile.

The approved scheme shall thereafter be implemented in full, unless otherwise approved in writing by the planning authority.

Reason: to ensure that excavation of materials from the borrow pit is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit at the end of the construction period.

28. Borrow Pit – Blasting

No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the planning authority. The method statement shall include details of measures required to minimise the impact of blasting on residential dwellings in the vicinity of the site. The scheme shall include:

(a) details on ground vibration limits at agreed blast monitoring locations; and,

(b) limitations on blasting to between the hours of 08.00 to 18.00 Monday to Friday inclusive and 08.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the planning authority.

Thereafter the approved scheme shall be implemented

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

29. Access from the A9(T)

No development shall commence until a scheme for hard and soft landscaping of the site entrance from the A9(T) for the proposed development has been submitted to and approved in writing by the planning authority. Thereafter the approved scheme shall be implemented prior to the First Commissioning of the Development.

Reason: in the interests of amenity and placemaking

Notes in respect of Condition 22 - Noise

These notes form part of Condition 22. They further explain these conditions and specify the methods to be deployed in the part assessment of complaints about noise immissions from the Development. Reference to ETSU-R-97 refers to the publication entitled 'The Assessment and Rating of Noise from Wind Farm' (1997), published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

(a) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a 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 shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.

(b) The microphone should be mounted at 1.2 - 1.5 metre above ground level, fitted with a two-layer windshield (or suitable alternative approved in writing from 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 a location agreed with the planning authority.

(c) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.

(d) The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10-minute periods on the wind farm site to enable compliance with the conditions to be evaluated. The mean wind speed at 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 m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Planning Authority. In specifying such conditions, the Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise.

(b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10-minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.

(c) Data points considered valid in accordance with Note 2(b) shall be plotted against the corresponding wind speed value determined in accordance with Note 1(d). A least square, 'best fit' curve of 2nd order shall be fitted to the data. In the event that this is a poor fit to the data, a higher (maximum 4th) order polynomial or data binning can be used. The noise level at each integer speed shall be derived from this best-fit curve, or the relevant data bin, as appropriate.

Note 3

Where, in the opinion of the planning authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used.

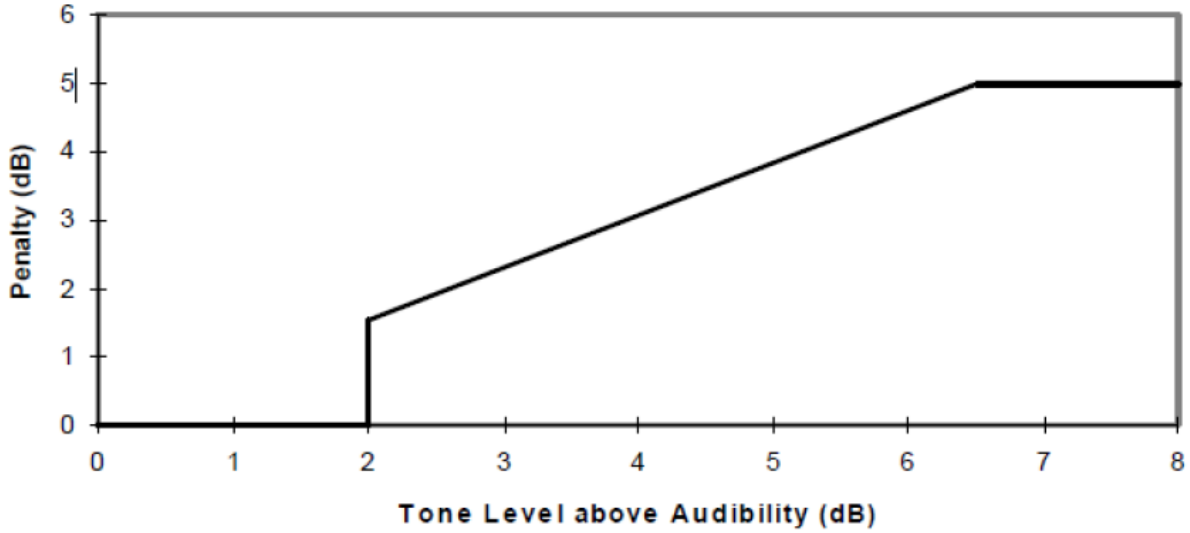
(a) For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2- minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean 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 standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta L_{tm}), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.

(c) The arithmetic average margin above audibility shall be calculated for each wind speed bin where data is available, each bin being 1 metre per second wide and centred on integer wind speeds. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(d) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be

calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



Note 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3 is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind farm switched off in order to determine the background noise, L3, at the assessed wind speed. The wind farm noise at this wind speed, L1, is then calculated as follows, where L2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log\left[10^{L_2/10} - 10^{L_3/10}\right]$$

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

Table A: The $L_{A90,10min}$ dB Wind Farm Noise Level at all times

	Standardised 10mm wind speed, m/s											
House ID	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**
H1	13.1	13.1	13.1	16.0	20.2	24.0	25.9	26.0	26.0	26.0	26.0	26.0
H2	13.2	13.2	13.2	16.1	20.3	24.1	26.0	26.1	26.1	26.1	26.1	26.1
H3	8.6	8.6	8.6	11.5	15.7	19.5	21.4	21.5	21.5	21.5	21.5	21.5
H4	8.2	8.2	8.2	11.1	15.3	19.1	21.0	21.1	21.1	21.1	21.1	21.1
H5	13.1	13.1	13.1	16.0	20.2	24.0	25.9	26.0	26.0	26.0	26.0	26.0
H6	11.8	11.8	11.8	14.7	18.9	22.7	24.6	24.7	24.7	24.7	24.7	24.7
H7	12.9	12.9	12.9	15.8	20.0	23.8	25.7	25.8	25.8	25.8	25.8	25.8
H8	13.1	13.1	13.1	16.0	20.2	24.0	25.9	26.0	26.0	26.0	26.0	26.0
H9	12.3	12.3	12.3	15.2	19.4	23.1	25.1	25.2	25.2	25.2	25.2	25.2
H10	11.8	11.8	11.8	14.7	18.9	22.7	24.6	24.7	24.7	24.7	24.7	24.7
H11	10.5	10.5	10.5	13.4	17.6	21.4	23.3	23.4	23.4	23.4	23.4	23.4
H12	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0
H13	10.0	10.0	10.0	12.9	17.1	20.9	22.8	22.9	22.9	22.9	22.9	22.9
H14	12.9	12.9	12.9	15.8	20.0	23.8	25.7	25.8	25.8	25.8	25.8	25.8
H15	14.0	14.0	14.0	16.9	21.1	24.9	26.8	26.9	26.9	26.9	26.9	26.9
H16	11.2	11.2	11.2	14.1	18.3	22.1	24.0	24.1	24.1	24.1	24.1	24.1
H17	10.3	10.3	10.3	13.2	17.4	21.2	23.1	23.2	23.2	23.2	23.2	23.2
H18	12.3	12.3	12.3	15.2	19.3	23.1	25.1	25.2	25.2	25.2	25.2	25.2
H19	11.6	11.6	11.6	14.5	18.7	22.5	24.4	24.5	24.5	24.5	24.5	24.5
H20	9.7	9.7	9.7	12.6	16.8	20.6	22.5	22.6	22.6	22.6	22.6	22.6
H21	8.9	8.9	8.9	11.8	16.0	19.8	21.7	21.8	21.8	21.8	21.8	21.8
H22	10.4	10.4	10.4	13.3	17.5	21.3	23.2	23.3	23.3	23.3	23.3	23.3
H23	8.8	8.8	8.8	11.7	15.9	19.7	21.6	21.7	21.7	21.7	21.7	21.7
H24	9.8	9.8	9.8	12.7	16.9	20.7	22.6	22.7	22.7	22.7	22.7	22.7
H25	11.5	11.5	11.5	14.4	18.6	22.4	24.3	24.4	24.4	24.4	24.4	24.4
H26	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0

H27	9.8	9.8	9.8	12.7	16.9	20.7	22.6	22.7	22.7	22.7	22.7	22.7
H28	8.9	8.9	8.9	11.8	16.0	19.8	21.7	21.8	21.8	21.8	21.8	21.8
H29	10.9	10.9	10.9	13.8	18.0	21.8	23.7	23.8	23.8	23.8	23.8	23.8
H30	10.5	10.5	10.5	13.4	17.6	21.4	23.3	23.4	23.4	23.4	23.4	23.4
H31	10.9	10.9	10.9	13.8	18.0	21.8	23.7	23.8	23.8	23.8	23.8	23.8
H32	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0
H33	9.3	9.3	9.3	12.2	16.4	20.2	22.1	22.2	22.2	22.2	22.2	22.2
H34	13.4	13.4	13.4	16.3	20.5	24.3	26.2	26.3	26.3	26.3	26.3	26.3
H35	8.5	8.5	8.5	11.4	15.6	19.4	21.3	21.4	21.4	21.4	21.4	21.4
H36	9.8	9.8	9.8	12.7	16.9	20.7	22.6	22.7	22.7	22.7	22.7	22.7
H37	8.5	8.5	8.5	11.4	15.6	19.4	21.3	21.4	21.4	21.4	21.4	21.4
H38	9.1	9.1	9.1	12.0	16.2	20.0	21.9	22.0	22.0	22.0	22.0	22.0
H39	10.7	10.7	10.7	13.6	17.8	21.6	23.5	23.6	23.6	23.6	23.6	23.6
H40	8.8	8.8	8.8	11.7	15.9	19.7	21.6	21.7	21.7	21.7	21.7	21.7
H41	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0
H42	10.4	10.4	10.4	13.3	17.5	21.3	23.2	23.3	23.3	23.3	23.3	23.3
H43	10.7	10.7	10.7	13.6	17.8	21.6	23.5	23.6	23.6	23.6	23.6	23.6
H44	9.2	9.2	9.2	12.1	16.3	20.1	22.0	22.1	22.1	22.1	22.1	22.1
H45	10.7	10.7	10.7	13.6	17.8	21.6	23.5	23.6	23.6	23.6	23.6	23.6
H46	9.0	9.0	9.0	11.9	16.1	19.9	21.8	21.9	21.9	21.9	21.9	21.9
H47	10.5	10.5	10.5	13.4	17.6	21.4	23.3	23.4	23.4	23.4	23.4	23.4
H48	12.0	12.0	12.0	14.9	19.1	22.9	24.8	24.9	24.9	24.9	24.9	24.9
H49	9.9	9.9	9.9	12.8	17.0	20.8	22.7	22.8	22.8	22.8	22.8	22.8
H50	14.0	14.0	14.0	16.9	21.1	24.9	26.8	26.9	26.9	26.9	26.9	26.9
H51	12.9	12.9	12.9	15.8	20.0	23.8	25.7	25.8	25.8	25.8	25.8	25.8
H52	13.4	13.4	13.4	16.3	20.5	24.3	26.2	26.3	26.3	26.3	26.3	26.3
H53	10.1	10.1	10.1	13.0	17.2	21.0	22.9	23.0	23.0	23.0	23.0	23.0
H54	10.2	10.2	10.2	13.1	17.3	21.1	23.0	23.1	23.1	23.1	23.1	23.1
H55	11.0	11.0	11.0	13.9	18.1	21.9	23.8	23.9	23.9	23.9	23.9	23.9
H56	10.3	10.3	10.3	13.2	17.4	21.2	23.1	23.2	23.2	23.2	23.2	23.2

H57	12.8	12.8	12.8	15.7	19.9	23.7	25.6	25.7	25.7	25.7	25.7	25.7
H58	11.0	11.0	11.0	13.9	18.1	21.9	23.8	23.9	23.9	23.9	23.9	23.9
H59	11.7	11.7	11.7	14.6	18.8	22.6	24.5	24.6	24.6	24.6	24.6	24.6
H60	8.2	8.2	8.2	11.1	15.3	19.1	21.0	21.1	21.1	21.1	21.1	21.1
H61	8.0	8.0	8.0	10.9	15.1	18.9	20.8	20.9	20.9	20.9	20.9	20.9
H62	8.9	8.9	8.9	11.8	16.0	19.8	21.7	21.8	21.8	21.8	21.8	21.8
H63	11.2	11.2	11.2	14.1	18.3	22.1	24.0	24.1	24.1	24.1	24.1	24.1
H64	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0
H65	11.0	11.0	11.0	13.9	18.1	21.9	23.8	23.9	23.9	23.9	23.9	23.9
H66	8.5	8.5	8.5	11.4	15.6	19.4	21.3	21.4	21.4	21.4	21.4	21.4
H67	9.0	9.0	9.0	11.9	16.1	19.9	21.8	21.9	21.9	21.9	21.9	21.9
H68	9.7	9.7	9.7	12.6	16.8	20.6	22.5	22.6	22.6	22.6	22.6	22.6
H69	10.5	10.5	10.5	13.4	17.6	21.4	23.3	23.4	23.4	23.4	23.4	23.4
H70	9.0	9.0	9.0	11.9	16.1	19.9	21.8	21.9	21.9	21.9	21.9	21.9
H71	8.5	8.5	8.5	11.4	15.6	19.4	21.3	21.4	21.4	21.4	21.4	21.4
H72	10.6	10.6	10.6	13.5	17.7	21.5	23.4	23.5	23.5	23.5	23.5	23.5
H73	9.9	9.9	9.9	12.8	17.0	20.8	22.7	22.8	22.8	22.8	22.8	22.8
H74	11.0	11.0	11.0	13.9	18.1	21.9	23.8	23.9	23.9	23.9	23.9	23.9
H75	10.0	10.0	10.0	12.9	17.1	20.9	22.8	22.9	22.9	22.9	22.9	22.9
H76	9.8	9.8	9.8	12.7	16.9	20.7	22.6	22.7	22.7	22.7	22.7	22.7
H77	8.9	8.9	8.9	11.8	16.0	19.8	21.7	21.8	21.8	21.8	21.8	21.8
H78	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0
H79	11.1	11.1	11.1	14.0	18.2	22.0	23.9	24.0	24.0	24.0	24.0	24.0
H80	10.1	10.1	10.1	13.0	17.2	21.0	22.9	23.0	23.0	23.0	23.0	23.0
H81	9.2	9.2	9.2	12.1	16.3	20.1	22.0	22.1	22.1	22.1	22.1	22.1
H82	9.8	9.8	9.8	12.7	16.9	20.7	22.6	22.7	22.7	22.7	22.7	22.7
H83	8.2	8.2	8.2	11.1	15.3	19.1	21.0	21.1	21.1	21.1	21.1	21.1
H84	9.7	9.7	9.7	12.6	16.8	20.6	22.5	22.6	22.6	22.6	22.6	22.6
H85	11.2	11.2	11.2	14.1	18.3	22.1	24.0	24.1	24.1	24.1	24.1	24.1
H86	8.5	8.5	8.5	11.4	15.6	19.4	21.3	21.4	21.4	21.4	21.4	21.4

Table B

Coordinate locations of the properties listed in Table A above

House ID	X (m)	Y (m)
H1	292494	907722
H2	292451	907731
H3	288110	905614
H4	288245	905380
H5	292487	907729
H6	295422	910717
H7	294513	910290
H8	294504	910402
H9	294922	910483
H10	295422	910717
H11	296034	911057
H12	290679	906545
H13	292978	919003
H14	294512	910290
H15	291918	907740
H16	290588	906576
H17	290434	906422
H18	291402	906906
H19	295583	910814
H20	290074	906250
H21	289007	905891
H22	295594	909805
H23	288286	905679
H24	289698	906252
H25	295725	910799
H26	290709	906535
H27	289993	906250
H28	288649	905804
H29	285175	908903
H30	296095	911160
H31	290742	906623
H32	290857	906736
H33	289468	906034
H34	294515	910575
H35	289376	905682
H36	290028	906275
H37	288943	905739
H38	288521	905773
H39	295907	910164
H40	288380	905671
H41	284571	909776
H42	284459	909580
H43	284560	909610
H44	288483	905820
H45	290729	906567
H46	288510	905709
H47	290427	906411
H48	291314	906867
H49	290298	906330
H50	291918	907740
H51	292561	907669
H52	292913	908529
H53	290383	906219
H54	290472	906354
H55	290533	906488
H56	290489	906433
H57	294335	910005
H58	295758	910083
H59	295931	911201
H60	288245	905380
H61	287951	905483
H62	288469	905689
H63	295739	910661
H64	284685	909375
H65	290797	906697
H66	289344	905669
H67	289120	905955
H68	289521	906224
H69	284463	909593
H70	288387	905781
H71	289391	905677
H73	290122	906324
H74	285177	908928
H75	289842	906333
H76	289828	906249
H77	288816	905745
H78	284583	909754
H79	290960	906759
H80	290383	906219
H81	288566	905810
H82	289914	906253
H83	288245	905380
H84	289583	906232
H85	290785	906766
H86	289357	905679

Note to Table B (above): The geographical co-ordinates references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies

Definitions

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
Permitted Preliminary Works	Means (i) any site investigation or other preparatory works or surveys which do not involve breaking ground and/ or which are required for the purpose of satisfying or discharging any pre-commencement obligations under the planning conditions, and (ii) the provision of any temporary contractors' facilities within the Site which are necessary for (i) above
Planning Permission	Means the deemed planning permission for the Development as described in Annex 1 granted by direction under section 57 of the 1997 Act
Site	Means the area of land delineated by the outer edge of the red line on the Site Layout Plan, Environmental Impact Assessment Report Figure 1.2.

Appendix 2

Key International, UK and Scottish renewable energy policy and nature conservation documents and relevant material considerations (in chronological order)

International context		
1.	CD08.05	Conference of Parties 21 United Nations Paris Agreement (2015)
2.	CD08.37	United Nations Gap report (October 2021);
3.	CD08.03	Intergovernmental Panel on Climate Change, Sixth Assessment (2021)
4.	CD08.38	The Glasgow Climate Pact (2021)
5.	CD08.41	Intergovernmental Panel on Climate Change, Climate Change 2022: Mitigation of Climate Change
UK context		
6.	CD09.06	The Electricity Act 1989
7.	-	The Climate Change Act 2008
8.	CD08.13	The Climate Change Act 2008 – 2019 Amendment
9.	CD08.17	Committee on Climate Change 'Net Zero, the UK's Contribution to Stopping Global Warming (May 2019)
10.	CD08.21	National Audit Office 'Achieving Net Zero' (2020)
11.	CD08.23	UK Government, The UK Energy White Paper, Powering our net zero future' (2020)
12.	CD08.19	UK Government, 'The Ten Point Plan for a Green Industrial Revolution' (2020)
13.	CD08.21	Committee on Climate Change, Sixth Carbon Budget (2020)
14.	CD08.36	The UK Net Zero Strategy (2021)
15.	CD08.11	Committee on Climate Change, Annual Report to UK Parliament (2022)
16.	CD08.40	British Energy Security Strategy (2022)
Scottish context		
17.	-	Wildlife and Countryside Act 1984
18.	-	Conservation (Natural Habitats &c) Regulations 1994

19.	-	Nature Protection (Scotland) Act 2004
20.	CD06.17	The Climate Change (Scotland) Act 2009
21.	CD06.08	Letter from Chief Planner to all Heads of Planning in relation to energy targets and Scottish Planning Policy (2015)
22.	CD08.02	Scottish Government, Scottish Energy Strategy (2017)
23.	CD09.08	The Electricity Works (Environmental Impact Assessment Report) (Scotland) Regulations 2017
24.	CD08.01	Scottish Government, Onshore Wind Policy Statement (2017)
25.	EP007	Scottish Government, The Climate Change Plan (2018)
26.	-	The Scottish Government's Environment Strategy for Scotland: Visions and Outcomes (February 2020)
27.	CD08.10	The Committee on Climate Change advice to the Scottish Government on recovery from the COVID-19 crisis (May 2020)
28.	CD08.12	The recommendations of the Scottish Government's Advisory Group on Economic Recovery (June 2020)
29.	CD08.14	Report of the Climate Emergency Response Group to the Scottish Government (July 2020)
30.	CD08.20	Update to the Climate Change Plan 2018-2032 'Securing a Green recovery on a Path to Net Zero (December 2020)
31.	CD08.24	Scottish Government, Scotland's Energy Strategy Position Statement (March 2021)
32.	-	Scottish Government, Programme for Government, 'a fairer greener Scotland (2021)
33.	CD08.35	The Onshore Wind Policy Statement Refresh Consultative Draft (October 2021)
34.	CD08.18	The Committee on Climate Change, Progress in Reducing Emissions in Scotland, 2021 Report to Parliament (December 2021)
35.	CD06.22	Onshore Wind Policy Statement 2022
36.	CD08.60	Hydrogen Action Plan (2022)
37.	CD08.56	Draft Energy Strategy & Just Transition Plan (2023)
38.	CD06.23	Draft Scottish Biodiversity Strategy to 2045

APPENDIX 3

CORE DOCUMENTS

Core Document List with hyperlinks, dated 1 February 2023

APPENDIX 4

APPEARANCES AND WEBCAST HYPERLINKS

Procedure	Participating Parties
Inquiry session: Landscape character and visual amenity	**For Renewable Energy Systems Ltd** Mr Marcus Trinick KC Ms Frances Horne, Landscape Architect, Pegasus Group **For The Highland Council** Mr James Findlay KC Ms Anne Cowling, Landscape Officer Mr Peter Wheelan, Principal Planner **Loth Residents** Mr James Findlay KC Ms Michelle Bolger, Expert Landscape Consultancy
Hearing sessions: Local policy matters National planning and energy policy	**For Renewable Energy Systems Ltd** Mr Marcus Trinick KC Mr Simon Herriot, Director of Planning, Savills Mr Patrick Smart, Energy Networks Director, Renewable Energy Systems Ltd **For The Highland Council** Mr James Findlay KC Mr Simon Hindson, Strategic Projects Team Leader **For Loth Residents** Mr James Findlay KC Mr John Whitfield, Secretary, Loth Residents
Hearing session: Draft conditions	**For Renewable Energy Systems Ltd** Mr Marcus Trinick KC Ms Nicola Martin, Wright Johnson Mackenzie LLP Mr Simon Herriot, Director of Planning, Savills **For The Highland Council** Mr James Findlay KC Mr Peter Wheelan, Principal Planner Mr Simon Hindson, Strategic Projects Team Leader

Hyperlinks to webcasts of pre-examination meetings, inquiry and hearing sessions

1. First pre-examination meeting, 22 June 2022
2. Second pre-examination meeting, 8 September 2022
3. Hearings sessions 1 and 2 and opening inquiry session, Landscape and Visual Effects, 1 November 2022
4. Inquiry session, Landscape and Visual Effects, 2 November 2022
5. Inquiry session, Landscape and Visual Effects, 3 November 2022
6. Hearing session 3, NPF4, 27 January 2023