



**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 Cairn Duhie Wind Farm, Near Ferness,
Nairnshire PH26 3PX**

- Case reference WIN-270-16
- Case type Section 36 application
- Reporters Karen Heywood and Sinéad Lynch
- Applicant Renewable Energy Systems Limited
- Planning authority The Highland Council
- Other inquiry parties None
- Date of application Original application: 24 March 2021
- Date case received by DPEA 7 June 2022
- Method of consideration and date Inquiry session: 14 December 2022
Hearing sessions: 14 December 2022 and 26 January 2023
Written submissions
- Dates of site visits Unaccompanied site inspections: 4, 5 and 6 October 2022
- Date of report 23 June 2023
- Reporters' recommendation Grant section 36 consent and deemed planning permission

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Summary of report

The site

The application site is located near Ferness, Nairnshire, and is approximately 15 kilometres south-east of Nairn and 13.5 kilometres north/north-west of Grantown-on-Spey. (Central Grid Reference E 297769, N 842856). and it occupies an area of approximately 666 hectares (ha).

Background to the proposal

The proposed development is located on the site of the consented Cairn Duhie Wind Farm, which was submitted in 2013 as a 20 turbine scheme, with turbines of up to 110 metres in height. The wind farm received consent in October 2017 following an inquiry. The Highland Council objected to this application resulting in it being the subject of this inquiry.

Description of the development

The proposals include the following elements:

- 16 turbines - maximum tip height 149.9 metres;
- turbine foundations and crane hardstandings;
- cable trenches;
- substation and control buildings;
- formation of two temporary construction compounds;
- borrow pit and concrete batching plant;
- new access and access tracks;
- tree felling and replanting; and
- associated works.

The applicant's case

The proposed development is a well sited and appropriately designed wind farm, as evidenced by the extant consent for 20 smaller turbines on the same site. It would not give rise to any unacceptable significant landscape and visual impacts, either alone or in combination with other schemes.

While some local landscape and visual effects are acknowledged in the Environmental Impact Assessment Report and in the inquiry statement and evidence, these effects are localised and restricted to within 5 kilometres for landscape effects and 12 kilometres for visual effects. No significant effects were identified on any national designated areas, or upon the special qualities of the Special Landscape Area.

The comprehensive environmental assessment demonstrates that no unacceptable effects arise from any other matters.

The proposal is strongly supported by NPF4, and has a national benefit as a National Development. Renewable energy deployment remains a priority of the Scottish Government and is a matter which should be afforded very significant weight in favour of this development.

The Highland Council's case

Cairn Duhie is an inappropriate location for a windfarm of this scale. The taller turbines have a materially greater effect than that expected from the extant consent. The ability to build out the extant consent is questioned, based on the availability of the consented turbines.

There would be a major and adverse effect on the Open Rolling Uplands Landscape Character Type extending up to 12 kilometres to the south, south east and south west, a position supported by NatureScot in its written response to the application. The special qualities of the Drynachan, Lochindorb and Dava Moors Special Landscape Area would be significantly affected. Effects arising would be more than local, extending up to and beyond 12 kilometres from the wind farm.

Highly visible clutter would be introduced to open moors and big skies. Visual amenity from the A939 will be most severely affected.

Reporters' conclusions

We conclude that the proposed development would have significant adverse effects in landscape and visual terms. There would be localised impacts on the Drynachan, Lochindorb and Dava Special Landscape Area; there would be significant effects on the Open Rolling Upland Landscape Character Type, but limited to within 5 kilometres of the site; the visual effects of the proposed development at viewpoints 8 and 14 are underestimated; there would be significant effects on parts of the Dava Way in the vicinity of viewpoint 14; there would be significant effects on parts of the A939 and the A940; and there would be significant cumulative effects.

Although we have concluded that there would be significant landscape effects arising from the wind farm proposal, we are satisfied that they would be predominantly localised. In terms of visual effects, the majority are local and within 5 kilometres of the site, but there are effects on more distant views and on cumulative views. There would also be effects on the Dava Way and on the A939 and the A940, both important tourist routes in the area. In reaching our conclusions, we have given consideration to the existing, extant, consent for a wind farm with 20 turbines of a lower height on the site.

The proposed wind farm would not be located in a National Park or in a National Scenic Area, national designations which NPF4 makes clear are the only areas where wind farms are unacceptable. Any effects on scheduled monuments and listed buildings we have found acceptable.

We have considered other matters raised, including effects on: forestry; ecology; ornithology; cultural heritage; geology and peat; hydrology and hydrogeology; noise; socio-economics, tourism and recreation; aviation; and climate change and carbon

balance. We have found that the proposed development would not have any significant effect in these respects, subject to mitigation that could be secured by condition where necessary.

In reaching our conclusions on the assessment of the proposed development against policy considerations, we find that there is very strong support for renewable energy developments in national energy and planning policy, and in legally binding national targets to increase renewable energy and to reduce carbon emissions. Onshore wind developments in Scotland are acknowledged to have a crucial part to play in tackling the identified climate emergency, which is reflected in their status as national developments when having a generating capacity of 50MW or greater. However, support for onshore wind developments is not unqualified, and while national energy policy acknowledges that the landscape may change, national and local policies continue to require the assessment of renewable energy proposals against a range of environmental considerations, to continue to ensure that the right development takes place in the right place. The proposed development is a national development in terms of NPF4, we conclude that this status offers benefits of more than local importance in this instance. Overall, we find that the proposed wind farm's benefits, in terms of its contribution to national renewable energy targets, outweigh the significant landscape and visual effects we have identified.

Recommendation

We recommend 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 granted, subject to the conditions in Appendix 1 of this supplementary report.

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

File reference: WIN-270-16

The Scottish Ministers
Edinburgh

Ministers

In accordance with our minute of appointment dated 28 June 2022, we conducted a public inquiry in connection with an application by Renewable Energy Systems Ltd to construct and operate a wind farm at Cairn Duhie, near Ferness, within The Highland Council area. The Highland Council as planning authority has lodged an objection to the proposal which has not been withdrawn.

We held a pre-examination meeting online on 6 September 2022 to consider the arrangements and procedures for the inquiry. It was agreed that landscape and visual impact would be addressed at an inquiry session. Policy matters and the terms of any proposed conditions would be addressed at hearing sessions. In addition, it was agreed that further written submissions would be invited to update the cumulative landscape and visual impact assessment and the substation layout.

The inquiry session was held online on 14 December 2022, due to poor weather conditions and the requirements for safe travel. The hearing session on conditions was held on the same day, also online. The hearing session on policy matters was held online on 26 January 2023. Closing submissions on behalf of both parties were exchanged in writing, with the final closing submissions (on behalf of the applicant) being lodged on 24 February 2023.

We conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in submissions and in evidence on 4, 5 and 6 October 2022.

Our 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 written representations made to the Scottish Ministers. Throughout the report, highlighted text indicates hyperlinks which direct the reader to the source material or reference. A link to the full Core Documents list is included in Appendix 2 to the report, while links to the webcast for the inquiry and hearing sessions are provided at Appendix 3.

Abbreviations

AI	Additional Information
CD	core document
DPEA	Directorate for Planning and Environmental Appeals (Scottish Government)
ECU	Energy Consents Unit (Scottish Government)
ECoW	Ecological Clerk of Works
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
HMP	Habitat Management Plan
ha	hectares
HES	Historic Environment Scotland
km	kilometres
LVIA	Landscape and Visual Impact Assessment
MW	Megawatts
m	metres
NPF	National Planning Framework
SEPA	Scottish Environment Protection Agency
SLA	Special Landscape Area
SOAM	Statement of Agreed Matters
SPP	Scottish Planning Policy
TMP	Traffic Management Plan
VP	Viewpoint
ZVT	Zone of Theoretical Visibility

CHAPTER 1: BACKGROUND, CONSULTATIONS AND REPRESENTATIONS

Introduction

1.1 The hyperlinks provided in this report mostly connect to the document database maintained by the Scottish Government's Planning and Environmental Appeals Division. The documents associated with this case will remain publicly accessible for 12 weeks following determination of this application, after which the documents will be archived and the hyperlinks will stop working.

1.2 On 24 August 2020, Scottish Natural Heritage changed its operating name to NatureScot. While the application, some supporting material and some consultation responses refer to Scottish Natural Heritage, the new name is used throughout our report.

Site history

1.3 For context, the site history is as follows:

- an application was submitted in 2013 and was consented by the Scottish Government in 2017. The site location is the same as the current application, as is the site area. That consent is for the installation and operation of a 20 turbine wind farm with turbines up to 110 metres in height with associated infrastructure and access;
- on 4 November 2022, Scottish Ministers granted consent under section 36C of the Electricity Act 1989, for a variation to the above consent, which extends the period for implementation of that consent. At the time of writing this report, the consent remains extant and capable of being implemented on site.

Site location and description

[EIA Figure 1.1 Site Location Plan CD001.003](#)

[EIA Figure 2 Site Infrastructure Layout CD001.003](#)

1.4 The proposed wind farm is located near Ferness, Nairnshire, and is approximately 15 kilometres south-east of Nairn and 13.5 kilometres north/north-west of Grantown-on-Spey. The site is within the administrative boundary of the Highland Council (THC) and the eastern extent of the site is parallel to the boundary of Moray Council.

1.5 Consent is being sought for the installation and operation of 16 three bladed horizontal axis turbines with a maximum blade tip height of 149.9m. The applicant advises that for visual and acoustic assessment purposes, the most suitable candidate turbine available in the marketplace (currently of 4.2MW nominal capacity and with an overall height to blade tip of 149.9m) has been assumed. Exact tower and blade dimensions vary marginally between manufacturers, but suitable turbines are produced by Siemens, GE and Vestas, amongst others. A diagram of a typical 149.9m tip height turbine is shown in Figure 4.2. of the Environmental Impact Assessment

Report. The colour and finish of the wind turbine blades, nacelles and towers would be agreed with the Scottish Government Energy Consents Unit (ECU) and is expected to be the subject of a condition of consent. The turbine blades will be made from glass fibre/carbon spar with glass fibre airfoil shells, whilst the turbine towers will be of tapering tubular steel construction, and are likely to be finished in a light grey semi-matt colour. A transformer will be required for each turbine which is assumed to be located within the turbines.

1.6 Due to the Ministry of Defence's (MoD) requirements, an aviation lighting scheme will be submitted to and approved by the MoD. A condition to that effect has been agreed and will be attached to any consent.

1.7 In addition to the turbines, the proposal includes the installation of turbine foundations and crane hardstandings; 8.3 kilometres of cable trenches; a substation and control compound; a battery storage compound; grid connection is most likely to be at the Nairn Grid Supply Point at Granny Barbour's Road in Nairn; two temporary construction compounds, one adjacent to the site entrance and one next to the substation compound; a borrow pit and concrete batching plant; a site entrance from the A939; approximately 8.3 kilometres of internal site access tracks surfaced with coarse aggregate; and the felling and replanting of trees.

1.8 A full description of the proposal is set out in Chapter 4 : Development Description of the EIAR (CD001.003), and as amended by the Additional Environmental Information Report.

Environmental Impact Assessment Report

1.9 The original application for consent under Section 36 of the Electricity Act was submitted on 24 March 2021 and was supported by an Environmental Impact Assessment [Report](#) from January 2021(CD)001.002). The original proposal consisted of 16 turbines and associated infrastructure. An [Additional](#) Environmental Information Report was submitted in October 2022 (CD001.010), including a revised site layout and updated cumulative impact assessments.

1.10 At the pre-examination meeting, we requested that for the purposes of the inquiry, we would require a revised cumulative landscape and visual impact assessment to take account of the latest position. The applicant also sought to provide further information on the site layout, in terms of the onsite substation and its potential size. As the applicant's matters had not been requested for the purposes of the inquiry, they required to be advertised and consulted on. The additional information was provided in October 2022 (CD001.010), and advertised for consultation, comprising the following:

- an update of the cumulative landscape and visual impact assessment dated October 2022; and
- an updated site layout plan and substation drawings

1.11 Additional Information was then published and advertised. The following lists all the information provided at that time as included in the applicant's letter to the Energy Consents Unit

- The setting of a scheduled monument; and
- A change to abstraction of a private water supply

Consideration by The Highland Council

1.12 The council's report of handling includes a summary of consultation responses and other representations received. Some of these may have been submitted directly to the planning authority. However in those instances, the relevant parties were notified by the planning authority of the need to submit such correspondence directly to Ministers. It is only those representations, as made directly to Ministers, that are taken into account in this report.

1.13 The council report of handling recommended that no objection be made to the proposed development. However, the council's South Planning Applications Committee in February 2022 resolved to raise an objection to the application for the following reason:

'The application is contrary to Policy 67 (Renewable Energy) of the Highland wide Local Development Plan, the Onshore Wind Energy Supplementary Guidance (in respect of Criterion 3, 4 5 and 6), and Scottish Planning Policy as the development would have a significantly detrimental visual impact, from the elevated parts of the Drynahan and Lochindorb SPECIAL LANDSCAPE AREA, and road users on the A939 and A940, which were not outweighed by the benefits of the development.

While it was recognised that the principle of a wind farm was accepted on the site, the proposed variation was unacceptable in visual impact terms due to the increased height, and associated increased rotor diameter, of the proposed turbines by virtue of the 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 wider area.'

1.14 The council's Position Statement confirmed that the objection to the application, relating to visual impact, was maintained.

1.15 In preparing the report of handing, the council carried out a number of internal consultations as follows:

- Access– no objection to the proposal. Additional information in the form of details on problem sections, the location of all fences, gates and tracks to be submitted and any path surfacing and drainage to accommodate walkers, cyclists and horse riders. A condition to secure a car park for the users of the Dava Way was also requested;
- Environmental Health - no objection to the proposal, subject to conditions regarding noise and private water supplies. Following the submission of Additional Information in relation to the private water supplies, it has be wen

confirmed that the additional information clarifies that the circumstances of one private supply have changed slightly since their initial assessment. It is noted that the applicant submitted a review of their assessment which identifies that there is no change to the initial conclusions. There is a requirement to secure a Pollution Prevention, Water Quality Monitoring and Emergency Response Plan by condition;

- Flood Risk Management – no objection to the proposal;
- Forestry – no objection to the application on the basis that the compensatory planting strategy is acceptable and will mitigate the loss of trees if the trees were to be allowed to grow to their natural height. If any new planting areas are to be felled before they reach 6 metres in height, then further compensatory tree planting will be required outwith this tree height control area;
- Landscape does not object to this application and is in overall agreement with the landscape and visual impact assessment however, there is considered to be a major significant effect rather than a moderate significant effect at VP14. The landscape officer disagrees with the assessment undertaken by the applicant in terms of effects on the integrity of the Open Rolling Upland LCT and on the Drynahan, Lochindorb and Dava Moors Special Landscape Area (SLA). The manner in which the development would undermine the Landscape Character Areas is considered to be at odds with Criterion 10 of the Supplementary Guidance. It is contended that the impacts upon the Special Landscape Area are major and significant. However, in considering the development in the light of the existing consented development, the effects on the landscape character and designated landscapes are not significantly different from the consented scheme. It is noted that there are some appreciable improvements to the composition due to the reduction in number of turbines and that these are generally not outweighed by the increase in height and that at Viewpoints 5 and 6 there is an improvement in the relationship to landscape horizons as a result of lifting the rotor sweep. Overall, while not in agreement that this is a suitable site for a windfarm the principle of development is established by the existing consent nonetheless and there are no clear grounds to object to this iteration; and
- Transport – no objection to the application. It sought clarification as to why the AIL deliveries were not being routed from the north via the A939 and A96 (T). In response the applicant has confirmed that this is due to the substantial works required adjacent to the A96(T) likely to cause protracted disruption and impacts on an existing fuel pipeline. The applicant has also highlighted the potential conflict with the Transport Scotland A96 Dualling Scheme, including the Nairn Bypass, which could disrupt abnormal load movements. Transport Planning accept this rationale. Further conditions controlling the route for other construction traffic, the temporary AIL access track, a finalised CTMP, access and temporary signage and a road marking scheme on the A939 approaches to the site access, a Community Liaison Group, and a Wear and Tear Agreement have been requested.

Consultation and representations

1.16 A number of bodies commented on the application. There is a short summary set out below of those who raised objections, provided information relevant to the proposed mitigation and conditions, or otherwise made commentary.

1.17 The following bodies had no objections:

- Aberdeenshire Council Archaeology;
- British Telecom - the response notes that the proposal should not cause interference to BT's current and presently planned radio network;
- Cairngorms National Park Authority;
- Coal Authority;
- Crown Estate Scotland do not object to the application. The response confirms that the assets of Crown Estate Scotland are not affected by this proposal;
- Fisheries Management Scotland (FMS) does not object to the application. It notes that the proposed development falls within the catchment relating to the Findhorn DSFB and Findhorn, Nairn & Lossie Fisheries Trust. It recommends that their guidelines are fully considered throughout the planning, construction and monitoring phases of the proposed development to manage pollution.;
- Historic Environment Scotland (HES) does not object to the application. It originally objected to the scheme on the basis that the EIA Report did not contain enough information to assess the impacts on the scheduled monument of Lochindorb Castle . Further supplementary information was provided by the applicant in the form of a detailed Zone of Theoretical Visibility overing the road network to the southwest of Lochindorb castle, and a cumulative wireline produced from an appropriate viewpoint to demonstrate potential visibility of the proposed development and other relevant developments. The cumulative wireframe demonstrates that impacts on longer views from the road network southwest of the castle will not be significant enough that mitigation is required. HES has confirmed that it has withdrawn its objection to the application;
- Highlands and Islands Airports Limited does not object to the application. Originally, it objected to the scheme, but the objection has been withdrawn subject to a planning condition, as set out at Appendix 1 of this report;
- Joint Radio Company do not object to the application and does not foresee any potential problems based on known interference scenarios;
- Ministry of Defence - Defence Infrastructure Organisation (MOD) does not object to the application. Originally, the MOD had objected to the scheme, The MOD have removed its objection subject to the recommended planning conditions requiring the submission of a lighting scheme for approval;
- National Air Traffic Services - Safeguarding (NATS) does not object to the application and notes that the proposal does not conflict with its safeguarding criteria;
- NatureScot does not object to the application. Advise that no adverse impact on the integrity of the Darnaway and Lethen Forest Special Protection Area (SPA) or Inner Moray Firth & Moray and Nairn Coast SPAs is likely. It welcomes the mitigation and compensation measures outlined in the 'Outline Habitat Management Plan' to restore and maintain significant areas of blanket bog and wet heath, subject to amendments in relation to the removal of self-seeded trees, and monitoring the wider wind farm area to detect, and give the

opportunity to address, any habitat loss or degradation resulting from wind farm construction and operation. In relation to landscape and visual impacts, it agrees with the applicant's landscape and visual impact assessment with exception of its impact upon the Cairngorms National Park, which under-represents the effects of the addition of the proposed development to the existing wind farms in relation to open space and separation between wind farms. With regards to the Open Rolling Upland Landscape Character Type, it considers that the effect is underrepresented. NatureScot agrees with the residual visual effects and are satisfied that the assessment of cumulative effects is accurate;

- Royal Society for the Protection of Birds does not object to the application or wish to make comment on the application;
- Scottish Water does not object to the application. It notes that the proposal may impact on existing Scottish Water assets. It notes that there are no drinking water or water abstraction sources that would be affected by the proposed development;
- Scottish Environment Protection Agency does not object to the application subject to planning conditions relating to peat, the adherence to a finalised Habitat Management Plan and that construction is carried out in accordance with the measures outlined in (1) the Summary of Good Practice and Mitigation Measures (Appendix 14.1), (2) the Outline Construction and Decommissioning Environmental Management Plan (Appendix 4.2), (3) the Outline Borrow Pit Management Plan (Appendix 4.1) and (4) the FRA and Surface Water Management Plan (Appendix 9.3). It has set out that the proposal is "capable" of being authorised under the Controlled Activities Regulations authorisation process;
- Transport Scotland do not object to the application. It requests conditions to secure the proposed route for any abnormal loads and appropriate traffic control measures being in place during construction; and
- Dava Moor Residents Association objects on the grounds of visual impact and amenity, and the impact on the Special Landscape Area. Loss of views to the Cairngorm, loss of panoramic views and the impact on the Dava Way are areas of concern. Save Our Dava objects to the application on the basis of the information in the EIAR relating to protected and rare species (bird) data and baseline survey adequacy – no up to date seasonal nesting or breeding surveys. Concern is also raised regarding archaeology and potential onsite ordnance from WWII commando training camps.

Other representations

1.18 A total of 12 representations have been made to the Energy Consents Unit– 1 in support and 11 objecting to the proposal. In summary the objections raised the following issues:

- Shadow flicker;
- Visual impact on Braemoray Lodge (B-listed), Aitnoch, Kerrow, Culfern and The White House dwellings;
- Siting of turbines T8 and T9;
- Private water supply from Stripe of Muckle Lyne and Stripe of Little Lyne;

- Potential for flooding at Mill of Airdrie from transference of drainage flows;
- Extent of windfarms in the area;
- Adverse Cumulative Impacts;
- Adverse Noise, vibration, health, roads and economic impacts;
- Level of original objection;
- Impact on tourist routes and tourism;
- Aviation lighting;
- Archeology – potential onsite ordnance from WWII commando training camps;
- Impact on Ferness village from proposed access track;
- Impact on satellite tv reception; and
- Impact on property values.

1.19 The letter of support indicated the following benefits:-

- Positive economic effects and community benefit such as energy discounts; and
- Positive contribution to government targets Climate and providing green energy.

1.20 The requirement for a public inquiry is triggered by the objection from The Highland Council. A letter was sent to all parties opt in [letter](#)) who had previously commented on the proposal explaining that the case had been transferred to the Scottish Government's Planning and Environmental Appeals Division (DPEA) for examination. This invited confirmation as to further involvement in the public inquiry process.

Position statements

1.21 At that stage, the applicant, Renewable Energy Systems Ltd and The Highland Council were invited to submit a position statement.

1.22 These statements assisted in the initial stages of preparation for the inquiry prior to the pre-examination meeting in September 2022. The [note of the pre-examination meeting](#) confirmed the detailed arrangements for the inquiry.

Statement(s) of agreement

1.23 Following the pre-examination meeting and prior to the submission of cases [a statement of agreed matters](#) between the applicant and the council was sought by the reporters to further specify the scope of evidence to be rehearsed through the inquiry.

A complete statement of agreed matters was submitted on 6 December 2022 which identifies areas of agreement and disagreement.

Areas of agreement

1.24 There is agreement on the legal and policy context relevant to the proposed development. The parties agree that climate change and the climate emergency, energy, biodiversity and nature, renewable energy policy and related statutory targets are all relevant matters that should weigh in the planning balance in this case.

1.25 It is agreed between the parties that energy and renewable energy policy and related targets and nature policies are material considerations the weight to be afforded thereto was a matter discussed at the Hearing Session.

1.26 Subject to the imposition of relevant conditions, the parties agree that the application is acceptable in relation to the following matters:

- the suitability of the site for wind farm development;
- transport;
- private water supplies; and
- cultural heritage.

Landscape and visual amenity

1.27 The consented development remains extant and legally capable of being implemented. The parties agree that the methodologies employed in the assessment of landscape and visual effects in the Environmental Impact Assessment Report generally follow good practice and are broadly based on relevant guidance.

1.28 The parties agree that the Landscape and Visual Impact Assessment study area, and relevant areas of focus are appropriate. It is agreed that the inquiry will need to focus on landscape effects within the Open Rolling Uplands Landscape Character Type and the Drynahan, Lochindorb and Dava Moors Special Landscape Area. In respect of visual effects, the inquiry will need to focus on effects occurring within approximately 12km of the proposed development. All significant landscape and visual effects fall within these areas.

1.29 The parties agree that the viewpoints included are representative of the types and locations from which there may be views towards the proposed development on a standalone and on a cumulative basis; and the viewpoint selection is appropriate for the scale and siting of the proposed development. The parties agree that no further viewpoints need to be considered.

1.30 The computer generated Zone of Theoretical Visibility, wirelines and photomontages within the Environmental Impact Assessment Report, Additional Information and updated Cumulative Landscape and Visual Impact Assessment dated 12th October 2022 are accepted as being accurate for the purposes of the assessment and generally accord with NatureScot's Visual Representation of Wind

Farms (2017). The visualisations presented in Volumes 2 & 3 of the Environmental Impact Assessment Report also generally comply with The Highland Council's visualisations standards (July 2016).

1.31 The parties agree that the Zone of Theoretical Visibility maps are based on a digital terrain model derived from Ordnance Survey Terrain 50 Data. Zone of Theoretical Visibility maps indicate theoretical visibility only - that is, the areas within which there may be a line of sight, but the proposal may not be visible in reality due to localised screening which is not represented by the visualisations; and they do not convey the nature or magnitude of visual effects, for example whether visibility will result in positive or negative effects, and whether these are likely to be significant or not.

1.32 The parties agree that the Zone of Theoretical Visibility maps contained within the Environmental Impact Assessment Report, Additional Information and updated cumulative Landscape and Visual Impact Assessment are appropriate to inform the assessment of landscape and visual effects, including cumulative effects..

1.33 Both parties are in agreement that the significant effects on landscape character would be contained within the Open Rolling Uplands Landscape Character Type. The Applicant notes, as quoted above from the report of handling, that there is reference in the Landscape and Visual Impact Assessment to the significant effects on landscape character contained within this Landscape Character Type as being within 5km of the nearest proposed turbine. This is not agreed by The Highland Council.

1.34 The parties agree that the following viewpoints should be those principally considered at the inquiry –

Viewpoints from A939

- Viewpoint 1 - A939 South of Ferness Village
- Viewpoint 2 – Little Aitnoch
- Viewpoint 6 - A939, west of Aitnoch
- Viewpoint 10 - Cairn Glas Brae on the A939
- Viewpoint 12 - Drumguish Croft
- Viewpoint 14 - A939 and Dava Way

Viewpoints from A940

- Viewpoint 5 – A940, above Kerrow
- Viewpoint 13 - A940, Auchearn

Viewpoints from elevated parts of the Drynachan and Lochindorb Special Landscape Area

- Viewpoint 11 – B9007, Old Military Road
- Viewpoint 15 - Carn nan Gabhar above Lochindorb
- Viewpoint 17 – Carn Allt Laoigh

- It is agreed by the parties that the A95(T) and A96(T) will not be significantly impacted and that these roads will not require consideration at the Inquiry;
- It is agreed that, as with the consented development, the view from localised sections of the B9007 in the Special Landscape Area will be affected with a moderate (significant) effect as assessed in the Landscape and Visual Impact Assessment for each scheme respectively. This effect will be considered at the Inquiry in the context of Viewpoint 11;
- It is agreed that the view experienced by walkers from some sections of the Dava Way will be significantly affected. This effect will be considered at the Inquiry in the context of Viewpoint 14;
- The parties agree that there would be no significant effects on the interests of the Cairngorms National Park, those of any National Scenic Areas or Gardens and Designed Landscapes or material impacts on the Special Qualities of any mapped areas of Wild Land;
- The parties agree that the landscape and visual effects upon Special Landscape Areas which require consideration at the Inquiry are those on that part of the Drynachan, Lochindorb and Dava Moors Special Landscape Area which is located to the south and south-east of the proposed development.;
- Both parties are in agreement that effects on the Drynachan, Lochindorb and Dava Moors Special Landscape Area will be indirect (the site is not within the Special Landscape Area); and
- The parties agree that the Updated Cumulative Landscape and Visual Impact Assessment considered all relevant existing, consented and proposed wind energy developments.

Residential visual amenity

1.35 The parties agree that the main settlements of Nairn, Forres and Grantown on Spey will not be affected by the development and that effects on the visual component of residential amenity do not form part of the council's objection.

Legal and policy context

1.36 The parties agree that, although the applicant has no duty under Schedule 9 of the Electricity Act 1989 to do so, it has had regard to the desirability of preserving the natural beauty of the countryside, conserving flora etc. as set out in the Act.

1.37 National Planning Framework 4 (NPF4) was not adopted at the time the Statement of Agreed Matters was finalised but the parties agreed that it would be a consideration when adopted.

1.38 The parties agree that the development plan comprises:

The Highland Wide Local Development Plan (adopted 5th April 2012); and
Relevant Supplementary Guidance, particularly the Onshore Wind Energy SG (November 2016) (“the SG”) and Addendum (2017).

1.39 It is agreed that the local development plan policies of most relevance to this application are as follows:

- 57 - Natural, Built & Cultural Heritage;
- 61 – Landscape; and
- 67 - Renewable Energy Developments, which addresses the following matters:
 - - Natural, Built and Cultural Heritage;
 - Other Species and Habitat Interests;
 - Landscape and Visual Impact;
 - Amenity at Sensitive Locations;
 - Safety and Amenity of Individuals and Individual Properties;
 - The Water Environment;
 - Safety of Airport, Defence and Emergency Service Operations;
 - The Operational Efficiency of Other Communications;
 - The Quantity and Quality of Public Access;
 - Other Tourism and Recreation Interests; and
 - Traffic and Transport Interests.

1.40 It is agreed that the key renewable energy policy contained within the local development plan is Policy 67, and that the plan is over 5 years old.

Areas of disagreement

1.41 The parties are not agreed as to the weight to be given to the consented development or the extent to which regard should be had to it.

1.42 The council does not agree that the significant effects on landscape character within the Open Rolling (Upland) Landscape Character Type are within 5 kilometres of the nearest proposed turbine.

1.43 Both the council and the applicant agree that the effects of the proposed development would not alter the significance of visual effects within the broad parameters used in the Landscape and Visual Impact Assessment. However, the parties do not agree as to the extent of the increase of some landscape and visual effects due to the increased size of turbines.

1.44 The parties do not agree as to the degree of increase in effects due to the increased size of turbines on views from Viewpoint 14, located close to the Dava Way.

1.48 The parties do not agree that the applicant has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside etc., and so as to inform the decision maker when carrying out its duties under the 1989 Act.

1.45 It is not agreed that based on the Group 2 and Group 3 area classification, the proposed development is in the right place.

CHAPTER 2: LEGISLATIVE AND POLICY CONTEXT

Legislative context

The Electricity Act 1989

2.1 Section 36 of the Electricity Act 1989 requires that the construction or operation of a generating station whose capacity exceeds 50 Megawatts (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, Ministers are obliged to hold a public inquiry and to consider the objection and the report of the inquiry before deciding whether to give 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, so 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 Scottish Ministers’ decision notices 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. Our conclusions in this regard are found in Chapter 10 of the report.

Policy context

<p>Statement of agreed matters between the council and applicant The council’s South Planning Application Committee minutes The applicant’s Policy Hearing Statement The council’s Policy Hearing Statement</p>

2.6 The applicant has set out its views on the relevant policy and guidance applicable to this case in Chapter 1 of the Environmental Impact Assessment Report (CD001.003). The council’s report to committee on the proposal also discusses the relevant policy framework. The agreement of the council and the applicant on the policy context for this application is set out in the Statement of Agreed Matters (SOAM) (CD012.005). The key issue between parties is the weight to be given to the Scottish Government energy policy framework targets relative to the weight to be

given to landscape and visual impacts. All documents referred to below are accessible via the links in the [core document list](#).

International, European, UK and National Energy policy context

2.7 All parties agree that there is a legal duty on the UK and Scottish Governments to meet key emissions reduction targets. Furthermore, the Scottish Government declared a climate emergency on 14 May 2019. The declaration of an "emergency" is a reflection of both the seriousness of climate change and its potential effects and the need for urgent action at a national level to cut carbon dioxide emissions.

2.8 The parties agree that the key renewable energy policy and nature conservation documents and relevant material considerations are set at the International, UK and Scottish level. . They are, at the time of writing, as follows:

International context:

- Conference of Parties 21 United National Paris Agreement (2015);
- United Nations Gap Report (October 2021);
- Intergovernmental Panel on Climate Change Sixth Assessment Report(2021);
- The Glasgow Climate Pact (2021); and
- Intergovernmental Panel on Climate Change, Mitigation of Climate Change (2022).

United Kingdom context:

- The Electricity Act 1989;
- The Climate Change Act 2008;
- Climate Change Act 2008 – 2019 Amendment;
- Committee on Climate Change (“CCC”), ‘Net Zero, the UK’s Contribution to Stopping Global Warming’ (May 2019);
- National Audit Office, ‘Achieving Net Zero’ (2020);
- UK Government, The UK Energy White Paper: ‘Powering our net zero future’ (2020);
- UK Government, ‘The Ten Point Plan for a Green Industrial Revolution’ (2020);
- CCC, Sixth Carbon Budget (2020);
- CCC, Annual Report to UK Parliament (2021);
- The UK Net Zero Strategy (2021); and
- The British Energy Security Strategy (2022).

Scottish context:

- Wildlife and Countryside Act 1984;
- Conservation (Natural Habitats, &c.) Regulations 1994;
- Nature Protection (Scotland) Act 2004;
- The Climate Change (Scotland) Act 2009;
- Letter from Chief Planner to all Heads of Planning in relation to energy targets and Scottish Planning Policy (2105);
- Scottish Government, Scottish Energy Strategy (2017);
- The Electricity Works (EIA) (Scotland) Regulations 2017;

- Scottish Government, Onshore Wind Policy Statement (2017);
- Scottish Government, The Climate Change Plan (2018);
- The Scottish Government's Environment Strategy for Scotland: Visions and Outcomes (February 2020);
- The CCC advice to the Scottish Government on recovery from the COVID-19 crisis (May 2020);
- The recommendations from the Scottish Government's Advisory Group on Economic Recovery (June 2020);
- Report of the Climate Emergency Response Group to the Scottish Government (July 2020);
- Update to the Climate Change Plan 2018-2032 'Securing a Green Recovery on a Path to Net Zero' (December 2020);
- Scottish Government, Scotland's Energy Strategy Position Statement (March 2021);
- Scottish Government, Programme for Government, 'a fairer greener Scotland' (2021);
- Scottish Government, Bute Agreement (2021);
- The Onshore Wind Policy Statement Refresh Consultative Draft (October 2021); and
- The CCC, Progress in Reducing Emissions in Scotland, 2021 Report to Parliament (December 2021).

2.9 The key messages communicated in the above documentation all emphasise the immediate seriousness of:

- the declared climate emergency;
- the need to cut carbon dioxide emissions;
- the Scottish Government's intentions regarding deployment of renewable energy generation;
- the urgent action required in order to meet the legally binding emissions reduction targets set out at paragraph 7.5;
- the twin crises of climate and nature; and
- the urgent action required in order to meet the legally binding reduction targets set out at paragraph 4.16.

National planning policy and guidance

2.10 The National Planning Framework 3 (NPF3) (CD005.002) and Scottish Planning Policy (CD005.001) were superseded by Scotland's Fourth National Planning Framework (NPF4) (CD008.023) on 13 January 2023. The Planning (Scotland) Act 2019 means that NPF4 has statutory status, setting out a high-level land use plan to 2050, incorporating national planning policies and national developments.

National Planning Framework 4

2.11 Planning decisions and development plans are expected to support the

delivery of the National Planning Framework. Amongst its wide-ranging policies, it sets out the need for a strategy to reduce reliance on fossil fuels and emphasises the benefits that this will bring, including in employment creation, as well as the challenges in embracing a renewable and low carbon economy whilst minimising any adverse impacts on important environmental assets.

2.12 A consultative draft of National Planning Framework 4 (NPF4) was published on 10 November 2021, some four weeks before the scheduled hearing on policy on 15 December 2022. As a result, we agreed to allow further written submissions on draft NPF4 after the close of the inquiry. Following the issue of the updated National Planning Framework document, a hearing took place on 26 January 2023 and NPF4 was subsequently adopted on 13 February 2023.

2.13 In the determination of section 36 cases, the development plan does not have the status attributed to it under section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) but it may be a material consideration in reaching a decision.

The local development plan

2.14 It is agreed between the parties that the development plan, as far as it related to the proposed development, comprises the following:

- The Highland-wide Local Development Plan (2012);
- The Inner Moray Firth Local Development Plan (2015); and
- The Highland Council Onshore Wind Energy Supplementary Guidance (adopted November 2016).

2.15 The key 2012 Local Development Plan policies relevant to this application are:

- Policy 28: Sustainable Design;
- Policy 29: Design, Quality and Placemaking;
- Policy 55: Peat and Soils;
- Policy 57: Natural Built and Cultural Heritage;
- Policy 58: Protected Species;
- Policy 59: Other Important Species;
- Policy 60: Other Important Habitats and Article 10 Features;
- Policy 61: Landscape; and
- Policy 67: Renewable Energy.

2.16 The key policies against which the proposed development should be assessed are Policy 61 Landscape which sets out the matters to be taken into account in reaching a decision on renewable energy proposals and Policy 67 Renewable Energy which sets out a list of criteria for the assessment of such

proposals.

Supplementary planning guidance

2.17 Although NPF4 has been adopted, supplementary guidance which was in force at the date of NPF4 adoption will remain in force. In this case, the relevant document is the The Highland Council Onshore Wind Energy Supplementary Guidance (adopted November 2016).

Other relevant policy and guidance

2.18 In terms of relevant national guidance, it is agreed between the parties that the following are material in relation to onshore wind:

- The Scottish Government (online): Onshore Wind Farm Guidance May 2014 (CD008.003);
- The Scottish Government: Onshore Wind Planning Frequently Asked Questions 2017 (CD008.009);
- SNH: Spatial Planning for Onshore Wind Turbines – natural heritage considerations: Guidance June 2015 (CD009.011); and
- Scotland's Third Land Use Strategy Land use - getting the best from our land: Strategy 2021 to 2026, published 24 March 2021 (CD010.048).

Reporters' conclusions

2.19 This application is required to be determined in the context of Schedule 9 of the Electricity Act 1989, and taking into account other material considerations including the development plan; European, UK and Scottish energy policy support for renewables; national and local planning policy and other published guidance relevant to onshore wind farms.

2.20 We consider the main issues in this case, bearing in mind the relevant and policy context, to be:

- the significant landscape and visual effects (Chapter 3);
- the proposed mitigation (Chapters 3,4, 6);
- the benefits of the proposal (Chapters 3,4, 5 and 6);
- the contribution to national energy policy, consistency or otherwise with national and local planning policy (Chapter 6); and
- our overall conclusions weighing all of the above (Chapter 7)

CHAPTER 3: LANDSCAPE AND VISUAL IMPACT ASSESSMENT

[Chapter 5: Landscape and Visual \(CD1.6\);](#)

Introduction

3.1 This chapter of our report considers the position of the parties in relation to landscape and visual impacts arising from the proposed development, including cumulative impacts, sequential impacts and effects on residential visual amenity. Chapter 5 of the Environmental Impact Assessment Report (EIA Report) consists of a landscape and visual impact assessment (LVIA), and is accompanied by a number of technical appendices, and the key documents are listed below. A detailed assessment of the landscape and visual effects of the proposals is set out within the Landscape and Visual Impact Assessment. Additional information in the form of updated baseline figures and wirelines, and a cumulative assessment was also provided. Our consideration of the adequacy of the EIA Report and other environmental information is also addressed in our conclusions in chapter 7.

3.2 The application seeks approval for turbines of up to 149.9 metres to blade tip height but the actual heights are not specified at this stage. However, our assessment has been undertaken on the basis that the turbines would be at the maximum permitted height and the greatest swept path.

Agreed matters

3.3 A Statement of Agreed Matters was prepared between the applicant and the council to set out areas of agreement and areas of disagreement. The finalised statement was submitted by the parties and dated 6 December 2022. The key points as agreed are summarised as follows:

- the methodologies employed in the assessment of landscape and visual effects within the Environment Impact Assessment Report take account of the relevant guidance;
- the LVIA study area and relevant areas of focus, i.e., areas within the Zone of Theoretical Visibility, are appropriate;
- the inquiry should focus on landscape effects within the Open Rolling Uplands Landscape Character Type and the Drynachan, Lochindorb and Dava Moors Special Landscape Area;
- in respect of visual effects, the inquiry should focus on effects occurring within approximately 12 kilometres of the proposed development. All significant landscape and visual effects fall within these areas;
- the viewpoints included are representative of the types and locations from which there may be views towards the proposed development alone and cumulatively;

- the viewpoint selection is appropriate for the scale and siting of the proposed development. no further viewpoints need be considered;
- the computer generated Zone of Theoretical Visibility's, wirelines and photomontages within the Environmental Impact Assessment Report, Additional Information and updated Cumulative Landscape and Visual Impact Assessment dated 12th October 2022 are accurate;
- the Zone of Theoretical Visibility maps are based on a digital terrain model (DTM) derived from Ordnance Survey Terrain 50 Data. the Zone of Theoretical Visibility maps are appropriate to inform the assessment of landscape and visual effects, including cumulative effects;
- the significant effects on landscape character would be contained within the Open Rolling Uplands Landscape Character Type;
- the significant effects from these viewpoints (1,2, 5, 6, 10, 11, 12, 13, 14, 15 and 17) should be those principally considered at the inquiry;
- the A95(T) and A96(T) will not be significantly impacted and that these roads will not require consideration at the inquiry;
- as per the consented development, the view from localised sections of the B9007 in the Special Landscape Area will be affected with a moderate (significant) effect as assessed in the Landscape and Visual Impact Assessment for each scheme respectively;
- the view experienced by walkers from some sections of the Dava Way will be significantly affected;
- there would be no significant effects on the interests of the Cairngorms National Park, those of any National Scenic Areas or Gardens and Designed Landscapes or material impacts on the Special Qualities of any mapped areas of Wild Land;
- the landscape and visual effects upon Special Landscape Areas which require consideration at the Inquiry are those on that part of the Drynachan, Lochindorb and Dava Moors Special Landscape Area which is located to the south and south-east of the proposed development;
- effects on the Drynachan, Lochindorb and Dava Moors Special Landscape Area will be indirect (the site is not within the Special Landscape Area);
- the Updated Cumulative Landscape and Visual Impact Assessment considered all relevant existing, consented and proposed (i.e., those wind farms for which an application has been submitted) wind energy developments;

- the main settlements of Nairn, Forres and Grantown on Spey will not be affected by the development; and
- effects on residential visual amenity (meaning the visual component of residential amenity) do not form part of the council's objection.

3.4 The key points where the applicant and the council do not agree can be summarised as follows:

- the council does not agree that significant effects on landscape character will be contained within the Open Rolling Uplands Landscape Character Type (LCT) as being within 5 kilometres of the nearest proposed turbine;
- the council's Landscape Officer largely agrees with the assessment of landscape effects but disagrees with the effects on the integrity of the Open Rolling [Upland] Landscape Character Type;
- the extent of the increase of some landscape and visual effects due to the increased size of turbines; and
- the parties do not agree as to the degree of increase in effects due to the increased size of turbines on views from Viewpoint 14, located close to the summit on the Dava Way.

The applicant's case

3.5 The applicant provided evidence at the inquiry from professional landscape architect Ms Samantha Oxley. The following documents were submitted in support of that evidence:

- [Inquiry report](#)
- [Appendix 2](#)
- [Appendix 2 Fig 1](#)
- [Precognition](#)

The following summary is based on that provided by the applicant.

3.6 Cairn Duhie is a National Development under NPF4. NPF4 states that: "National Developments are significant developments of national importance that will help to deliver our spatial strategy" and: "Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and Special Landscape Area and areas". In the Onshore Wind Policy Statement onshore wind is assessed as "mission critical" for meeting climate (emissions reduction) targets.

3.7 Cairn Duhie needs to be approached in two ways:

- (a) as a new development on a greenfield site; and

(b) as an alternative to the existing permitted scheme, the consent for which does not expire until 2028.

3.8 The only local environmental issues in dispute are landscape and visual effects, including effects on the Special Landscape Area. The council makes no case on community or other residential impacts and does not criticise the design of Cairn Duhie. Its primary concern is the location of the development. And, quite apart from the concerns of The Highland Council There are no other local environmental concerns.

3.9 The landscape and visual effects of Cairn Duhie as a stand-alone development would be spatially very restricted (around 5 kilometres for landscape effects and 12 kilometres for visual effects). Such impacts would be expected for any wind energy development of a similar scale, noting that the maximum proposed tip height is at the lower end of that which wind turbines are currently proposed by the industry.

3.10 The proposed development has potential to alter, in part, the expansive views and broad panoramas across open, rolling moorland and vast skies which instil a boundless sense of scale and space, enhanced by the consistency of moorland cover and landform character cited as a special quality of the Special Landscape Area. However the special qualities of the Special Landscape Area would not be significantly compromised, and the objectives of designation and its integrity would be retained. Effects will be relatively localised and tempered through screening by landform, distance and the existing or consented presence of several other wind farms which are already seen in these expansive views and broad panoramas, particularly from elevated locations (notably Tom nan Clach Wind Farm).

3.11 The additional landscape and visual effects of Cairn Duhie 2 in comparison with those of Cairn Duhie 1 will be relatively unnoticeable, and additional significant effects would only arise for visual amenity at one assessed viewpoint (VP8), with improvements at others (VP7 and VP14) which were noted by the council. The council decided to present no material case against such effects, focusing entirely on the location of Cairn Duhie 2, a matter of no consequence when comparing Cairn Duhie 2 with Cairn Duhie 1.

3.12 There would be material biodiversity benefits arising from the implementation of the Habitat Management Plan which can be secured by condition, thus addressing Policy 3 of NPF4.

3.13 The development plan comprises NPF4 and the local Development Plan, noting the amended Section 24 of the 1997 Act. The proposed development is supported by Policy 67 of the Local Development Plan, the lead policy in that it advises on renewables development. It is also strongly supported by NPF4. Under amended Section 24 of the 1997 Act, NPF4 must prevail if, any incompatibility between the two plans could lead to a materially different conclusion.

3.14 NPF4 presents a seismic shift in the planning balance. It is not simply an evolution from SPP and NPF3. Decision makers must now give significant weight to the global climate and nature crises (Policy 1). Policy 11 also requires decision makers, when considering impacts of wind energy development, to ensure that

“significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions production targets.” The attribution of such weight is no longer a matter for the individual planning judgement of the decision maker. It is also essential to read across to the OWPS which makes clear that (underlined in the original) “This will change the landscape”. No such clarity or emphasis has been expressed before in national policy, and the words are there quite deliberately and have a clear meaning. The statement makes it clear that the intention of NPF4 is that stronger weight needs to be added to the need side of the planning balance.

3.15 The applicant believes that this proposal would have succeeded under Scottish Planning Policy, and NPF4 simply makes the case for the proposed development very markedly stronger. Cairn Duhie 2 is supported by Policy 11 NPF4, in that the development would only have localised landscape and visual effects. In the alternative, appropriate attention has been given to design mitigation.

3.16 Cairn Duhie 2 also satisfies Policy 4, NPF4 in that either its impacts would not significantly adversely affect the integrity or the qualities of the Special Landscape Area, or its environmental and economic benefits would clearly outweigh such impacts. The direct economic and environmental benefits are represented within the EIAR, the policy evidence and the habitat management plan. Importantly, Cairn Duhie 2 has a national benefit as a National Development which must weigh in the Policy 4(d)(ii) balance.

3.17 The proposed Habitat Management Plan attracts the support of Policy 3 of NPF4.

The council’s case

3.18 The council provided evidence at the inquiry from professional landscape architect Ms Carol Anderson. The following documents were submitted in support of that evidence:

- [Inquiry Report](#)
- [Precognition](#)

Effects on landscape

3.19 The proposed development would severely compromise the characteristic openness and the sense of isolation associated with the Lochindorb/Dava Moors lying at the core of the *Open Rolling Uplands* Landscape Character Type (LCT). The very large turbines would have widespread visibility over the central part of the LCT with the full height of turbines commonly seen in open views. It would give the impression of ‘shrinking’ the expansiveness of these moorlands and would interrupt the strongly horizontal skyline and perception of huge space and open skies.

3.20 It is not the case that the proposed development will generally occupy a small part of views across open moorland or that it will be possible in any real sense to look through the wind farm to the landscape beyond. It is evident from the representative Viewpoints 12 and 14 looking north across Lochindorb / Dava Moors

that the proposed development will significantly diminish the sense of openness due to its central location and because of the distracting and arresting effect of large turbines which will form a new focus.

3.21 The council considers that there would be a major adverse and significant effect on the character of the open moorland immediately surrounding the site and extending up to 12 kilometres to the southeast, south and south-west within the Open Rolling Uplands LCT. This is clearly more than a localised impact.

3.22 That the LVIA has under-assessed impacts of the proposed development is supported by NatureScot in its consultation response. NatureScot considers that significant effects extend greater than just 5 kilometres, and arguably about twice as far. Its view as to the proposed development being seen “in isolation” from others also supports the council’s evidence, and that the impact is not localised.

3.23 The limited relief of the hill of Cairn Duhie can currently be experienced from surrounding nearby viewpoints, for example from Viewpoint 5 at Kerrow on the A940 and Viewpoint 6 on the A939 at Aitnoch. Imposition of 149.9 metre high turbines would overwhelm it, but also the scale of the landscape generally as individual trees, fields and small buildings lying in the vicinity of the hill would be dominated by these large structures.

3.24 The proposed development would lie approximately 2 kilometres from the northern boundary of the Drynahan, Lochindorb and Dava Moors Special Landscape Area. It would introduce visibility of up to 16 very large wind turbines into parts of the Special Landscape Area. Widespread visibility will occur from the A939 one of the principal routes where the key qualities of the Special Landscape Area are experienced (and one of the routes specifically noted in the description of special qualities in [The Highland Council, Assessment of Highland Special Landscape Areas, including Citations \(June 2011\)](#)).

3.25 The proposed development would significantly affect the following special qualities of the Special Landscape Area:

- *‘Expansive views and broad panoramas across open, rolling moorland and vast skies instil a boundless sense of scale and space, enhanced by the consistency of moorland cover and landform character’ and ‘The long fairly straight routes through this landscape (which) allow an easy appreciation of the openness and simplicity of the landscape’*

The introduction of 16 very large turbines, seen extensively across the central part of the Special Landscape Area, would disrupt open skylines and significantly diminish the appreciation of boundless scale and space experienced from the A939, the Dava Way and from hill slopes and summits. There is a feeling of wonder and drama experienced when approaching this elevated moorland plateau from the south, the sense of huge space and openness contrasting with the densely wooded landscapes on the northern fringes of the Cairngorms National Park and north of the Special Landscape Area near the Findhorn valley. The scenic and perceptual qualities experienced from the A939 in particular would be significantly affected by the

proposed development due to its central location and the detracting focus it will provide in views.

- *'The limited extent of tree cover and human habitation creates a simple yet powerful moorland image of tranquillity, simplicity and isolation which is emphasised by Lochindorb and its ruined castle'.*

The powerful image of simplicity and isolation, now most commonly experienced in the central part of the Special Landscape Area, would be significantly diminished by the proposed development. While there would be limited visibility from Lochindorb itself, the proposed development would significantly detract from elevated views to the loch and its ruined castle from Carn nan Gabhar, Viewpoint 17. The sense of isolation experienced in the central part of the SPECIAL LANDSCAPE AREA across the Lochindorb and Dava Moors, where there are few man-made artefacts apart from isolated cottages and the A939 and B9007, would be significantly reduced by the widespread visibility of very large turbines seen in much closer proximity than existing wind energy developments located on the periphery of the Special Landscape Area.

3.26 In judging its impact, the reality is that it does not matter whether the proposed development is located in the Special Landscape Area or just outside it (as it is), or whether the effects are direct or indirect. What is important are the actual effects on the character and special landscape qualities of the designated area. It is illogical that the LVIA considers there to be no significant effects on the character and special landscape qualities of the Special Landscape Area.

3.27 It is the damage to the perception of limitless horizons and apparent isolation, which are highly valued

3.28 The LVIA provides scant analysis of effects on the Special Landscape Area, jumping quickly to offer a conclusion on the effects of the proposed development on the integrity of the designated area. There is an emphasis on the visibility of other operational wind farms both sited within the Special Landscape Area and outside it with no consideration given to the degree of intrusion experienced from the most commonly accessed parts of the Special Landscape Area.

3.29 Viewpoints 11, 12, 14, 15 and 17 are representative of views to the proposed development from the Special Landscape Area. The Landscape and Visual Impact Assessment concludes that effects would be significant from these viewpoints. The magnitude of change is under-estimated for Viewpoint 14. The Landscape and Visual Impact Assessment considers this to be medium while the council would judge it to be large. This is due to the introduction of new large man-made structures in a context where operational wind farms are not visible and the effect of these structures on the presently uncluttered strongly horizontal skyline and their interruption of open moorland. The council considers that effects would be major and significant.

3.30 Whilst turbines have altered views from the Special Landscape Area to the north-east and west, the degree of visual intrusion from the most commonly accessed core of the Special Landscape Area around the Lochindorb/Dava Moor

basin is not widespread or severe. Turbines within the Hill of Glaschyle and Berry Burn wind farms are principally seen at distance and the extent of development not appreciated because of screening provided by the hills bordering the A939 to the east. The Tom nan Clach wind farm is sited within the western part of the Special Landscape Area and is widely visible across the designated area but is seen at distances of between 8-14 kilometres on the periphery of the Special Landscape Area in terms of views from the A939 and B9007 which provide '*an easy appreciation of the openness and simplicity of the landscape*' as noted in the description of the special qualities of the Special Landscape Area.

3.31 All other operational wind farms seen from the most commonly accessed central part of the Special Landscape Area would not have the same severity of effects on the character and special qualities of the Special Landscape Area that would be incurred by the Proposed Development.

Effects on views

3.32 While the Hill of Aitnoch provides a degree of screening to the south-west, the proposed development is located in a very open and highly visible central location within the expansive moorlands of Lochindorb/Dava Moors Special Landscape Area where a greater number of visual receptors are present travelling on the A939/940 and B9007 and visiting more accessible hill tops. The proposed development would introduce highly visible infrastructure into presently open and uncluttered views. Most significantly:-

- The **A939/A940** These roads, linking the Cairngorms National Park and Nairnshire/Moray, form an important route with distinct landscape thresholds occurring when travelling north and south. From the south, the descent from the rim of the small hills which mark the northern boundary of the Cairngorms National Park allow a sudden revelation of the expansive Lochindorb/Dava moorland basin. Travelling from the north, a more gradual transition is experienced as the dense forests covering the Findhorn valley and adjoining estate lands peter out to the wide, open moorlands. The turbines would be seen largely base to tip from this route increasing their visual impact, interrupting the openness of the moors and big skies;
- The **Little Aitnoch area 6**. While this area is sparsely settled and relatively little frequented, the proposed development would be a dominant feature seen by occasional walkers, cyclists and motorists and also affecting the visual amenity of residents;
- The **rim of small rocky hills** lying on the northern boundary of the Cairngorms National Park which are attractive to walkers accessed from the Dulnain Bridge area and from the B9007. Although other wind farms are seen in views from these hills, the proposed development would appear to occupy a central position within the most striking part of the Lochindorb/Dava Moor basin in views from these hills, disrupting the sense of openness and huge space experienced in views to the north; and

- **Hills near Lochindorb** as demonstrated by LVIA Viewpoint 15. The Hill of Aitnoch largely screens the proposed development from Lochindorb and although up to 8 blades may be visible from the minor road and eastern loch shore, they would be unlikely to be prominent. An estate track provides easy walking to the hills lying southeast of Lochindorb Lodge where views across the Lochindorb basin and surrounding moorland are spectacular. The proposed development would appear large in relation to the loch and would significantly detract from its focus in the view.

3.33 Visual amenity from the A939 will be the most severely affected by the proposed development due to the duration and openness of views where all turbines would be seen from base to tip with little screening to diminish their intrusion. There would be largely consistent visibility from the A939 over a distance of around 9-10 kilometres north of the Cairngorms National Park boundary where the Proposed Development would form a dominant feature, significantly detracting from other features present in the view.

Matters raised by NatureScot

3.34 NatureScot submitted a response to the application which addressed landscape issues only, its response to other matters was submitted separately.

3.35 The submission sets out that NatureScot broadly agrees with the applicant's assessment of the landscape effects of the proposal with the following exceptions:

- The Landscape and Visual Impact Assessment focusses on areas within 20 kilometres of the proposed development, excluding areas of theoretical visibility from hill summits within the Cairngorm National Park beyond this distance and assessed the effects on the special quality of 'vastness of space, scale and height' as minor not significant. NatureScot considers that this underrepresents the effects of the addition of the proposed development to the existing wind farms. The extent of the proposal would diminish the qualities of open space and perceived separation between the existing wind farm groups as illustrated by the wireline for VP 19 Reagan a' Chaise; and
- The Landscape and Visual Impact Assessment reports major adverse significant effects on this LCT at site level and moderate adverse significant effects within 5 kilometres. It is considered that this underrepresents the effects on this Landscape Character Type, the key characteristics of which would be affected by the relatively widespread visibility of the proposed development from locations to the southwest up to 15 kilometres distant and to the south and east up to 10 kilometres distant. From areas to the west, the proposed development would be seen in isolation from many locations and in combination with those existing windfarms (Hill of Glaskyle, Berryburn, Paul's Hill and Rothes Ph2) which lie >5 kilometres east of the proposed development. Similarly, from areas to the east, the proposed development would be seen in isolation from many locations, and in combination with Tom nan Clach and Moy which lie >1 kilometres further west.

3.36 The applicant's assessment of visual effects is considered to accurately reflect the influence of the proposed development on visual receptors.

3.37 NatureScot is satisfied that the effects of the addition of Cairn Duhie to operational, under construction and consented wind farms, and those at appeal, public inquiry and scoping would not result in effects greater than those predicted for Cairn Duhie in isolation.

Representations

3.38 The representations from members of the public, local residents, estates and local interest groups including the Dava Moor Residents Association and the Save Our Dava group raise a number of concerns regarding landscape and visual effects, which can be summarised as follows:

- the visual impact would-be significantly greater than the original proposal;
- nothing has been done to mitigate the impact on the surrounding landscape;
- the impact on the Special Landscape Area would lead to a changed experience and the Special Landscape Area would be devalued;
- the Highland Tourist Route, the A939, and the A940 route would be negatively impacted by the development;
- the Dava Way would lose all sense of tranquillity and wildness;
- the area is a gateway to the Cairngorms National Park;
- visual impact on residential properties;
- loss of wildness;
- cumulative impact of established and proposed wind farms in the area; and
- lights on turbines.

Reporters' conclusions on landscape and visual effects

Methodology for assessing landscape and visual effects

3.39 During the inquiry session on landscape and visual impacts, the parties debated the methodology to be used to determine the effects of the proposal. The council's witness, had set out a methodology that does not appear to be that used by the applicant or the council in preparing its report for committee. The applicant contends that the methodology was not actually used in the council witness' assessment of the proposal.

3.40 We consider that this matter was addressed to our satisfaction at the inquiry session, and that despite the difference in the methodology and the application of the respective chosen methodologies, we understood the conclusions reached by the parties. We are satisfied that the parties are not disadvantaged by the differing approaches.

3.41 The Environmental Impact Assessment Report and the additional information assesses the effects of the development in its own right, the effects in comparison with the consented development and the additional effects of the proposal with other operational, consented and proposed schemes across the study area. The

statement of agreed matters accepted that the methodologies employed in the Landscape and Visual Impact Assessment generally follow good practice and are appropriate.

3.42 We find that the main difference between the parties relates to the effects of the proposal on the characteristics of the Lochindorb / Dava moors, and the viewpoints associated with the moors as identified in the Landscape and Visual Impact Assessment.

Landscape impacts

3.43 The parties are agreed that national landscape designations and Wind Land Areas are not factors in this case.

3.44 The study area is 40 kilometres from the outermost turbine on the proposed site, in accordance with NatureScot guidance, and cumulative effects are assessed based on the same study area.

3.45 Within the study area, there are a number of Landscape Character Types (LCTs). The Statement of Agreed matters sets out that it is only the Open Rolling Uplands (291) LCT that should be the focus of this report, and we agree.

3.46 There are a number of designated landscapes within the study area, including the Cairngorms National Park and the Drynachan, Lochindorb and Dava Moors Special Landscape Area to the southeast. The Findhorn Valley and Wooded Estates Special Landscape Area lies to the northeast of the proposed site. The parties agreed that the effects on other designations would not require further consideration and we also agree.

The Cairngorms National Park

3.47 The proposed development would be located to the northeast of the Cairngorms National Park. We note that the Cairngorms National Park Authority planning committee decided not to object to the proposed windfarm. NatureScot concluded that there would be significant effects on a special landscape quality of the national park, being 'vastness of space, scale and height', but it would be limited to a small number of mountain tops. It considered that the effects of the wind farm were underrepresented in the Landscape and Visual Impact Assessment, which concluded that effects on the Cairngorms National Park would be minor. The position of the proposed wind farm at Cairn Duhie would reduce the separation distance between Tom nan Clach and Hill of Glaskyle, as it would introduce visible turbines in the gap between these wind farms.

3.48 From our site inspection, we noted the limited access to some of the mountain tops including Carn a Ghille Chearr and Carn Allt Laoigh, and also the intervisibility of existing wind farms in the landscape to the northwest and northeast of the national park. We find that the effects on the national park would be limited to a small number of mountain tops, and that the effects would be minor.

Special Landscape Areas

Drynachan, Lochindorb and Dava Moors Special Landscape Area (Special Landscape Area)

3.49 The site does not lie within any Special Landscape Area, but the Drynachan, Lochindorb and Dava Moors Special Landscape Area is to the immediate southeast. We note that NatureScot did not make specific comments on the potential effects on the Special Landscape Areas in the vicinity of the proposal.

3.50 As noted, we observed on our site inspection the wide-open landscape in this location, with hills to the east and west, the wooded Findhorn valley to the north / northeast and the moorland to the south / southeast / southwest. In particular, we noted the observable change in landscape character type from north to south in the vicinity of the site.

3.51 We find that the integrity of the Special Landscape Area itself, as the proposed development would be located outside its boundaries, would remain intact. The special qualities of the Special Landscape Area such as the limitless horizon, the wide views and lack of human habitation would largely remain as they are. We acknowledge that in some scenarios, the introduction of large, vertical man-made elements into the landscape would lead to a change in experience, particularly from parts of routes approaching from the south on the B9007, A939 and the Dava Way. We do not consider that these effects are so severe as to completely negate the qualities of the Special Landscape Area, particularly as they would be experienced only from particular locations. In wider and more distant experiences of the Special Landscape Area, the effects of the proposed wind farm would be less and again largely limited to high points and summits. We find however, that at each point where there may be a change in experience, that change would not lead to a degree of intrusion that would remove the expansive views and broad panoramas which would remain. We are satisfied that the appreciation of the openness and simplicity of the landscape would not be adversely affected by the proposed development.

The Findhorn Valley and Wooded Estates Special Landscape Area

3.52 This Special Landscape Area lies to the northeast of the proposed site. It is characterised by wooded landscapes and valleys, and rivers. The closest point to Cairn Duhie is approximately 1.8 kilometres and the site itself is not within the Special Landscape Area.

3.53 The parties are in agreement that the Special Landscape Area would not experience significant effects on its special qualities, and we concur.

Landscape Character Types (LCTs)

3.54 The proposed wind farm is located within the Open Rolling Upland LCT, in the western part of the LCT. The parties are agreed that this LCT should be the focus of this report (and associated inquiry sessions) and we concur.

3.55 The proposed turbines would be up to 149.9 metres in height. The Landscape and Visual Impact Assessment acknowledges that significant effects are predicted for

the LCT at the site itself, and moderate adverse effects within 5 kilometres of the site. We agree with the Landscape and Visual Impact Assessment that the proposed development would substantially alter the character of the site itself, and that the effect on the landscape of the site would be major. However, we are satisfied that although the effect would be major, the construction and operation of a windfarm would have unavoidably major effects on any site, and that such an outcome is to be expected.

3.56 In terms of effects on the LCT, we agree that there would be significant effects on the LCT, but we consider that those effects would be limited to within 5 kilometres of the site and would mainly be experienced from the routes through the moorland. The expansiveness and openness of the moorland would still be able to be appreciated in the majority of locations within this 5-kilometre radius. We find that at distances of up to 12 kilometres, the effects on the LCT are lesser. The proposed wind farm would be an element in the views of and across the moorlands but would not have such an adverse effect as to negate the key characteristics of the LCT.

3.57 We are satisfied that although the proposed turbines would have an effect on the LCT, that effect would not be so significant as to have an adverse impact on its key characteristics.

Visual impacts

3.58 In considering the visual effects of the proposed development, we note that there are some differences in opinion between the professional advisors to the parties regarding visual effects from certain viewpoints. The visualisations provided by the applicant are a tool to be used to help in our assessment of the proposed development and they are not a substitute for comprehensive inspections of the site and its surroundings. Our site inspections took place in October 2022 over a number of days and have assisted us in providing a wider three-dimensional perspective of the landscape within which the development would be situated. Our assessment below is therefore based on a review of the parties' most up to date evidence, the core documents submitted for the case, including the viewpoint visualisations, and our site inspections.

3.59 The parties are in agreement that significant visual effects would arise from these viewpoints -1, 2, 5, 6, 10, 11, 12, 13, 14, 15 and 17. We concur. NatureScot agrees with the applicant's assessment in relation to the influence of the proposed development on visual receptors and does not comment on the individual viewpoints.

3.60 The evidence provided by the parties demonstrates that significant visual effects would be contained to within approximately 15 kilometres of the turbines.

3.61 Although the potential impact on the village of Ferness was raised as a concern in representations, particularly in relation to the construction phase of the development, neither the council nor the applicant considers that there would be anything other than a minor effect on the village itself. We agree.

Viewpoints

3.62 We have considered all of the viewpoints included within the Landscape and Visual Impact Assessment. Our assessment here relates to those where parties disagree with the Landscape and Visual Impact Assessment. Where no significant impacts have been identified in the Landscape and Visual Impact Assessment, by the parties or by ourselves, then we consider that effects at those locations are acceptable. We have also included Viewpoint 8 – Ardclach bell Tower, given its significance as a listed building and scheduled monument.

3.63 The applicant has provided comparison tables, setting out the difference in visual effects between the consented scheme and the proposed scheme which is the subject of this report.

Viewpoint 1 – A939 South of Ferness Village (15 hubs and 17 blades theoretically visible. 0.42 kilometres to the nearest turbine)

3.64 This viewpoint is located at approximately the proposed entrance to the wind farm from the A939. The proposed turbines would be highly visible, not just from this viewpoint but along the boundary of the site with the A939. There is no layby on this stretch of the A939, so road users and walkers would have a dynamic experience when passing the site. The turbines would be large in scale, and in the foreground. Existing and proposed roadside vegetation would provide some limited screening of the turbines at close quarters. The applicant did not provide an analysis of this viewpoint with the application for the consented scheme, but the wireline provided with this application illustrates a similar level of effect arising from the consented scheme. We agree with the parties that there would be significant effects.

Viewpoint 2 – Little Aitnoch (20 hubs and 20 blades theoretically visible. 1.0 kilometres to the nearest turbine)

3.65 Little Aitnoch is a cottage with associated gardens and outbuildings, which lies to the south / south-west of the proposed windfarm. It has frontage to the A939, and the front elevation of the house is south facing, and which would not have views of the proposed turbines. The rear and side gardens would have views of the turbines. The topography of the site and the intervening screening, would, we observed, do little to ameliorate the effects of the 16 turbines, all of which would be visible from the gardens of the cottage. The predicted level of impact by the applicant is major and significant, and we agree with those predictions.

3.66 The area around Little Aitnoch is considered by the council to be the one of the areas which would experience significant adverse effects, in views from the A939 and the A940. The proposed development would be a dominant feature seen by walkers, cyclists and road users. It would also affect the visual amenity of residents.

3.67 We agree that in views to the north and north-east from Little Aitnoch and the immediate area, the proposed turbines at a distance of approximately 1 kilometre would be dominant features in the visual environment. We also agree that the level of effect would be similar to the consented scheme, in that it would be major and significant.

Viewpoint 5 – A940, above Kerrow (20 hubs and 20 blades theoretically visible. 1.71 kilometres to the nearest turbine)

3.68 This viewpoint is at a layby on the western side of the A940, which is elevated above the site at this point. From here, all of the turbines would be visible, with the closest some 1.7 kilometres away. As the road is elevated, there is no screening available, or is there any likelihood of screening becoming available. From our site inspection, we noted that the turbines would be a dominant feature in views from this part of the A940, when travelling north and south, and we agree that the level of effect would be major and significant. We also agree that the level of effect would be similar to the consented scheme, in that it would be major and significant.

Viewpoint 6 – A939, west of Aitnoch (20 hubs and 20 blades theoretically visible. 2.09 kilometres to the nearest turbine)

3.69 All of the turbines would be visible in the north / north easterly views from this point at the junction of the Old Military Road and the A939, opposite the cottage at Aitnoch (Viewpoint 2) and on the western side of the road. The turbines would be dominant, in views to the north and northeast, given the topography in this location and the lack of screening. The closest turbine would be approximately 2 kilometres from the viewpoint. We agree that walkers and road users would experience a major and significant effect, similar to the effect of the consented scheme.

Viewpoint 8 – Ardclach Bell Tower (20 hubs and 20 blades theoretically visible. 2.54 kilometres to the nearest turbine)

3.70 The Ardclach Bell Tower is a listed building and scheduled monument, with public access and extensive views across the wooded Findhorn River valley to the east, south and south-west. From the top of the tower, all of the tips of the proposed turbines would be visible above and through the trees, as would most of the blades, at a distance of some 2.5 kilometres. Views of the tower itself from the south, west and east would not be impacted. Views of the tower from the north are shielded by trees presently. The view across the wooded valley, with the parish church and burn in the foreground, would experience, we find, a major and significant effect. The consented scheme comprises 20 turbines at a lower height, and we note the predicted effect was assessed as being moderate rather than major. Although fewer in number, we agree that the increased height of the proposed turbines would give rise to a greater effect, with more turbines with wider rotor diameters in views to the south from the tower.

Viewpoint 10 – Cairn Glas Brae A939 (20 hubs and 20 blades theoretically visible. 3.18 kilometres to the nearest turbine)

3.71 This viewpoint is located to the north-west of the proposed wind farm, on the eastern side of the A939, north of Ferness. The access road to a farm and outbuildings lies to the east. The viewpoint is in an elevated position above the Findhorn River valley, with wooded slopes to the south and west. It is just over 3 kilometres to the closest proposed turbine. We noted at our site inspection that the river valley and wooded slopes are the focus in this view, and that the turbines would be visible over the wooded horizon. We acknowledge that the woods would screen

the lower part of the turbines, but blades and turbine hubs would be clearly visible to those experiencing the view. The LVIA predicts a moderate effect at this viewpoint, and we agree.

Viewpoint 11 – B9007 Old Military Road (20 hubs and 20 blades theoretically visible. 4.51 kilometres to the nearest turbine)

3.72 Viewpoint 11 is located on the B9007, a road which runs southwest from Ferness, to the west of Lochindorb and on to the Cairngorm National Park and the A938. In this location, the road climbs from north to south. The viewpoint is located on the western side of the B9007. Views in this location are expansive and wide, particularly to the northeast and west. All hubs and all blades of the proposed wind farm would be visible. The applicant has assessed the level of effect to be moderate and significant. The council's evidence concludes that the effects on views available from the B9007 would not be significant overall. We agree with the conclusions of the LVIA and noted on our site inspection that although the effect on views to the east / northeast would be moderately affected, the wide expansive views to the south, north and west would not.

Viewpoint 12 – Drumguish Croft (20 hubs and 20 blades theoretically visible. 4.85 kilometres to the nearest turbine)

3.73 Drumguish Croft is a small, traditional one and half storey croft on the western side of the A939, and some 5 kilometres from and to the south south east of the nearest turbine. It is an isolated house with some outbuildings, in the open moorland of Dava. The A939 is relatively straight in this location, with expansive views across the moorland in all directions. There is little available screening, and all 16 hubs and blade tips would be visible. We agree that the level of effect at this viewpoint would be major and significant.

Viewpoint 13 – A940, Auchearn (20 hubs and 20 blades theoretically visible. 5.22 kilometres to the nearest turbine)

3.74 Viewpoint 13 is located near a cluster of homes to the west of the A940 (moving northwards). The Dava Way walking route runs to the rear of the residential properties. The proposed wind farm would lie just over 5 kilometres to the southwest of the viewpoint, and all 16 hubs and blades would be visible. Wooded areas currently provide screening for the proposed development, but in the longer term this may not be available. The applicant assessed the effects as moderate at this viewpoint, and we agree.

Viewpoint 14 – A939 and The Dava Way (20 hubs and 20 blades theoretically visible. 7.9 kilometres to the nearest turbine)

3.75 Viewpoint 14 is located at the highest point waymarker of the Dava Way, which is a long-distance route and core path that utilises a disused railway line between Grantown-on-Spey and Forres. The A939 runs almost parallel to the route in this location, until the Dava Way veers east, away from the site of the proposed development and behind the hill of the Knock of Braemoray.

3.76 The viewpoint is considered to be of high value, the scale of change to be medium and the effect to be moderate and significant.

3.77 The council considers that the magnitude of change has been underestimated for this viewpoint, due to the introduction of large man-made structures, the effect on the skyline and the interruption of open moorland.

3.78 We find that the turbines would be a significant new addition to the views towards the northern horizon from parts of the Dava Way and from viewpoint 14. The perception of open, unoccupied moorland from this part of the route would be altered, and the skyline to the north / northwest would change to one with large, vertical man-made structures. The proposed turbines would be viewed from the Dava Way as sitting at the edge of the open moor, making their effect more pronounced.

3.79 We therefore agree with the council that the effect of the turbines at this viewpoint would be major and significant.

Viewpoint 15 – Cairn-nan-Gabhar (17 hubs and 20 blades theoretically visible. 8.03 kilometres to the nearest turbine)

3.80 This viewpoint is located above Lochindorb, on a track that rises from the lochside road to the south of the loch and traverses the hill. The track passes a shooting lodge and smallholding. The view of the site from this point is towards the north-east, where the wind farm would be visible at approximately 8 kilometres distance. Lochindorb, the castle and the woods around the lodge form the foreground of the view, with up to 15 turbines visible at Cairn Duhie. Tom nan Clach wind farm is visible to the west. The scale of change is judged to be medium, the overall sensitivity high. The magnitude of change is medium, giving rise to moderate effects.

3.81 The council considers that the views across the Lochindorb basin and surrounding moorland would be significantly detracted from by the proposed development.

3.82 We agree that the views available from Cairn-nan-Gabhar are spectacular and wide-ranging. However, given the distance to the turbines, and the existence of other visible windfarms in the view, we do not agree with the council that the proposed development would significantly detract from the viewpoint. We agree with the conclusion of the LVIA that the effect would be moderate.

Viewpoint 17 – Carn Allt Laoigh (15 hubs and 20 blades theoretically visible. 11.83 kilometres to the nearest turbine)

3.83 Viewpoint 17 is at the summit of Carn Allt Laoigh, part of a ridge of hills forming the boundary of the Cairngorm National Park in this location. There is a 360-degree panorama available from the summit, and the proposed wind farm would be some 11.8 kilometres to the northeast, across the Lochindorb basin and the Special Landscape Area. There does not appear to be a defined path to the summit. The

scale of change for receptors is considered small, and the magnitude of change medium. The effect is considered moderate and significant. We agree.

Effects on core paths and recreational routes

3.84 National Cycle Route 1 passes some 10.6 kilometres from the site, in this area running from Inverness to Elgin. We agree with the conclusions of the LVIA that although the value of the route is high, and the susceptibility of users to change is also high, the intermittent nature of visibility, the distance from the site and the wooded landscape, all mean that the effect would be minor and not significant.

3.85 The Dava Way is both a core path and a promoted long-distance route, which broadly follows a disused railway line from Grantown-on-Spey to Forres. The route runs to the east of the proposed site. Walkers and cyclists on the route are considered to have high to medium susceptibility to changes in views, and the LVIA considers the sensitivity of the route to be high. Overall, the effects were judged to be medium and significant.

3.86 The council sets out in its evidence that there would be significant disruption to the appreciation of the scale and space of the moor, and to open skylines.

3.87 A number of representations from local groups and objectors have also raised the issue of the potential effects of the proposal on users of the Dava Way.

3.88 The location of the proposed wind farm would site the turbines at the northern edge of the moor, introducing built, vertical elements into a landscape where there are none. Although users of the Dava Way may glimpse operational windfarms to the east and west of the route, the proposed turbines at Cairn Duhie would be the only ones located within the basin.

3.89 We agree with the council and that of some objectors to the scheme, that views towards the site from parts of the Dava Way would be significantly disrupted. We find that from viewpoint 14 and from other parts of the Dava Way, the open skylines to the north and north-west would be disrupted, and the sense of scale and space diminished.

Effects on roads and tourist routes

3.90 The EIAR sets out the roads, railways and recreational routes from which the proposed development would be theoretically visible (Figures 5.1.2a and 5.1.3a).

3.91 The A939 Nairn to Tomintoul runs through the centre of the study area, traversing the Dava moor. The A940 Forres to Dava also runs through the study area, to the east of the proposed site. The B9007 runs from Logie to Duthil and passes to the west of the proposed wind farm. The proposed turbines would be highly visible from the identified routes. Receptors such as motorists and cyclists on the approach to Dava moor on the A939 from the south at a distance of approximately 9 kilometres would experience effects, not just at Viewpoint 12 but along that part of the A939. On the A940, users of the route travelling both north and south would experience effects. We agree with the applicant that the extent of

effects on the B9007 is largely screened by topography and existing woodland and the effects overall would not be significant. We agree with the council and with those who made representations that there would be significant effects on parts of The A939 and the A940 routes.

Residential visual amenity

3.92 The applicant's LVIA concludes that the residential visual amenity threshold, as set in the Landscape Institute's Residential Visual Amenity Assessment Technical Guidance Note, would not be breached at any of the houses within the study area. None of the properties in the study are within 1.2 kilometres of the proposed turbines.

3.93 We noted from our site inspections the relative proximity of the homes at Kerrow, Little Aitnoch and Drumguish. We also noted the positioning of these homes on their sites and the primary outlook and views from principal elevations and outdoor space. The orientation and main views of these dwellings are generally away from the proposed wind farm. We are satisfied that the conclusions of the Landscape and Visual Impact Assessment are accurate.

Cumulative effects

3.94 The assessment carried out by the applicant includes an [updated cumulative assessment](#), encompassing a number of scenarios such as existing, consented, in planning, under construction and at scoping. The assessment focused on the relationship of the proposed development with the closest wind farms or groups of wind farms, with which significant cumulative effects are most likely.

3.95 The assessment (as updated) concluded that no significant additional cumulative landscape effects were predicted. The wind farm at Cairn Duhie would be located between the two groups of wind farms to the east and west but would be read as a separate development in the more immediate landscape. At the larger scale, the development would follow a pattern of wind farm development in the study area, running southwest to east. In terms of visual effects, cumulative effects are predicted at Viewpoint 6 – A939 west of Aitnoch and Viewpoint 9. Overall, cumulative effects are considered to be similar in nature to the consented scheme, in that the wind farms that are operational, consented and proposed follow a similar pattern to those in assessed from the consented scheme. Spacing between the proposed development and operational wind farms would be maintained.

3.96 The council considers that there is potential for a significant cumulative effect on the Drynahan, Lochindorb and Dava moor Special Landscape Area, from higher ground and sequential cumulative impacts from roads, in particular the B9007 at viewpoint 11.

3.97 We find that the cumulative effects would be experienced most keenly by users of the routes which traverse the study area, particularly in the Dava Moor area, and from viewpoints from higher ground, such as viewpoints 15 and 17. The proposed turbines would add to the current east and west array of wind farms in the area, infilling a gap at the northern edge of the moor. However, we also find that those

cumulative impacts are most likely to be appreciated at a distance from the development and that more localised cumulative effects are less likely.

3.98 We find that although there would be significant cumulative effects, those effects would be similar to those arising from the consented development.

Reporters' overall conclusions on landscape and visual effects

3.99 In conclusion and in summary, we find the following:

- there would be no significant effects on any national landscape designations, in particular the Cairngorm National Park;
- there would be significant effects on the Drynachan, Lochindorb and Dava Moor Special Landscape Area in the vicinity of the site location and within 5 kilometres of the site;
- there would be no significant effects on the Findhorn Valley and Wooded Estates Special Landscape Area;
- there would be significant effects on the Open Rolling Upland Landscape Character Type, but limited to within 5 kilometres of the site;
- there would be significant visual effects from viewpoints 1, 2, 5, 6, 8, 12 and 14;
- that the applicant has underestimated the visual effects of the proposed development at viewpoints 8 and 14;
- there would not be significant visual effects from viewpoints 10,11, 13, 15 and 17;
- the proposed development would not have a significant effect on National Cycle Route 1;
- there would be a significant effect on parts of the Dava Way in the vicinity of viewpoint 14;
- there would be significant effects on parts of the A939 and the A940;
- there would not be a significant effect on residential amenity; and
- there would be significant cumulative effects..

3.100 Our conclusions on landscape and visual impact recognise that there is an existing, consented scheme in place for the site. We acknowledge that due to the proposed increase in turbine height and to an extent the re-positioning of those turbines on the site, this application would result in an increase in the area over which effects would be experienced, including the Special Landscape Area and viewpoints 8 and 14. We are content that the differences between the proposed and consented scheme do not give rise to unacceptable landscape and visual effects.

3.101 We conclude that the proposed development would have significant adverse effects in landscape and visual terms, in relation to localised impacts on the Drynachan, Lochindorb and Dava Special Landscape Area; there would be significant effects on the Open Rolling Upland Landscape Character Type, but limited to within 5 kilometres of the site; the visual effects of the proposed development at viewpoints 8 and 14 are underestimated; there would be significant effects on parts of the Dava Way in the vicinity of viewpoint 14; there would be

significant effects on parts of the A939 and the A940; and there would be significant cumulative effects.

CHAPTER 4: OTHER RELEVANT MATTERS

4.1 The following other potentially significant environmental effects are considered in this chapter, along with other matters as raised in consultation or representations:

Cultural Heritage and Archaeology

4.2 Matters relating to cultural heritage and the proposal are addressed in [Chapter 6 of the EIAR](#).

4.3 Initially, Historic Environment Scotland (HES) had raised an objection to the proposal, seeking a detailed ZTV and wireline to demonstrate visibility of the proposal and other energy developments, relating to the setting of Lochindorb Castle. The requested information was provided, and the objection from HES was subsequently withdrawn as the impact on the setting of the scheduled monument (Lochindorb Castle) did not raise issues in the national interest for its remit.

Main points for the applicant

4.4 There are no designated heritage assets within the Inner Study Area, which is land within the boundary of the proposed development. In the Outer Study Area, which is land within 5 kilometres of the proposed locations of the wind turbines, there are four scheduled monuments, six category A listed buildings and one Garden and Designed Landscape of national importance. In addition, heritage assets have also been considered where long-distance views may contribute to the significance of that asset.

4.5 The EIAR concludes there is potential evidence for prehistoric activity within the site, however many of the archaeological remains are found to be associated with post-medieval recreational landscape with large areas occupied by grouse butts used for shooting. There is also evidence of two farmsteads of Botnamain and Lynemore on the site which relate to a previous land use for agricultural purposes.

4.6 The assessment also considered the potential indirect impacts on designated heritage assets within the Outer Study Area of the proposed development and has concluded that the impact on the significance of monuments are as follows:

- Minor impact on Ardclach Bell Tower (**LB551**), Dunearn Fort (**SM2470**) and Aitnoch Cairn (**SM4362**);
- a very Minor impact on Ferness Village (**LB5103**) and Levratich Cairn (**SM11738**);
- no impact on monuments: Lochindorb Castle (**SM1231**), Princess Stone (**SM1233**), Burnside Bridge (**SM11832**), Logie Bridge (**LB564**), Relugus (**GDL00325**) and Darnaway (**GDL00133/LB2283**).

4.7 Table 6.3 of chapter 6 sets out a summary of residual effects, all of which are Minor, Very minor or Nil.

Main points for the council

4.8 Subject to a condition requiring an archaeological watching brief, the council agrees that significant direct effects are not predicted.

4.9 Although HES had considered that views out from the Ardcloch Bell Tower which is listed (Viewpoint 8) would be significantly altered, the council does not consider that the increased turbine height would appreciably alter the impact of the consented scheme.

Reporters' conclusions

4.10 In terms of archaeology, we are content that proposed condition 22 – Programme of Archaeological works would adequately ensure that any features on site are protected and / or recorded.

4.11 Ardcloch Bell Tower is both a listed building and a scheduled monument, with public access and extensive views across the wooded Findhorn River valley. From our site inspection, we noted that from the top of the tower, all of the turbines would be visible above the treetops to the south. However, the immediate setting of the tower is of prime importance, and this is linked to the river valley below and the parish kirk to the southeast. Views towards the tower from the south, south east and south west would not be affected. We do not consider that the setting of the tower would be significantly compromised, as we find that it is views from the tower to the south that would be affected, and not the immediate setting of the tower itself.

4.12 Lochindorb Castle is a ruin and a scheduled monument, set on an island in a loch within the Special Landscape Area. The proposed turbines would not be visible from the castle but would be visible from the lochside road when moving west. They would be visible in views of the castle and Lochindorb from the hillside to the south and south-east of that loch, and from the lochside road when approaching from the east, but not continuously. That could affect the setting of the monument, particularly as its historic interest includes its location on the loch, within the open moorland. However, the principal setting of Lochindorb Castle is the hills immediately around the loch and the views of it from the public vantage points close by. We find that the setting of the castle would remain to be appreciated even with the turbines in place. We consider that the setting of the castle would not be harmed.

4.13 We agree with the findings of the EIAR that no other cultural heritage asset would be significantly affected by the proposed wind farm.

Ecology (not including ornithology)

4.14 The predicted effects on ecology are set out in [Chapter 7 of the EIAR](#) and in responses to the consultation responses from NatureScot and SEPA. Specific effects on peatland and peatland habitats and on hydrology are considered separately in this chapter of the report below.

Main points for the applicant

4.15 The assessment follows the appropriate European and national legislation and guidance, and the consultation process included the scoping exercise responses and additional consultation with local groups. The assessment considers the direct, indirect, secondary and cumulative impacts on habitats and species arising during all phases of the proposed wind farm, including decommissioning and site restoration.

4.16 The methodology included establishing baseline conditions, desk studies and field surveys.

4.17 Overall, the assessment concludes that any likely significant effects can be mitigated and that any residual effect following mitigation would be minor and not significant. Mitigation measures have been incorporated into the design. The project also encompasses mitigation by practice, to ensure the safeguarding of protected species during both construction and operation. The detail of several of these proposed mitigation measures would be finalised through a Construction Environmental Management Plan, which would then be overseen by an Ecological Clerk of Works.

Main points for The Highland Council

4.18 The council raised issues including Biodiversity Action Plans, designated sites, wild deer populations and habitats, aquatic interests and ground water dependant terrestrial systems, the impact on such issues and any required mitigation.

Main points for East Nairnshire Community Council

4.19 The community council is concerned about the use of Ferness Field during the construction phase of the proposal. Funding of an environmental consultant to monitor and potentially improve habitats is sought. Concern is expressed regarding the scope of protected species that were surveyed.

Main points for NatureScot

4.20 The loss of some blanket bog habitat is acknowledged, but the compensation and mitigation measures proposed by the applicant are welcomed. NatureScot advises removing the seed source of self-seeded trees and addressing any habitat loss or degradation resulting from the wind farm construction and operation.

Reporters' conclusions

4.21 Conditions are proposed requiring a Construction Environmental Management Plan (condition 23) and monitoring by the Ecological Clerk of Works (condition 25). The Construction Environmental Management Plan would comprise a range of robust measures to address the consultees' concerns, including prior approval of an environmental management plan, pollution prevention plan, biosecurity plan, species protection plan(s) and water construction management plan. Conditions 14 Micrositing, Condition 24 Ecology, Condition 28 Replanting of forestry and Condition 30 Site Decommissioning and Aftercare all address the matters raised in

consultation responses. As a result, and subject to proposed conditions, we are content that no further mitigation measures would be required.

Ornithology

4.22 The effects on birds are set out at [Chapter 8 of the EIAR](#). In this part of our report, we consider the consultation response from NatureScot and the representation from Save Our Dava and the applicant's response.

Main points for the applicant

4.23 The assessment methodology for ornithology included a desk-based assessment, a scoping exercise with the relevant parties, a range of surveys, a collision risk analysis area, desk studies, field surveys and consultation with the then SNH, now NatureScot.

4.24 Overall, the likely effects of the proposed development on all bird species were assessed as being not significant, with no mitigation required, and there would be no adverse effect on either the Moray and Nairn Coast Special Protection Area or the Darnaway and Lethen Forest Special Protection Area.

Main points for NatureScot

4.25 NatureScot is in broad agreement with the applicant's conclusions that the proposed development would not have significant ornithological impacts. It concludes that there would be no adverse impact on either of the Special Protection Areas.

Main points for Save our Dava

4.26 The Save Our Dava group object to the survey basis of the assessment, stating that the breeding bird surveys are too dated to be a credible basis and that the EIA contains factually incorrect dates of field surveys. The group also questions the response of NatureScot (then SNH) in relation to responses to its (NatureScot) request for additional information on raptors, owl, divers and capercaillie. The impact of the increased turbine size and potential collisions has not been fully investigated.

Reporters' conclusions

4.27 With the applicant's clarifications on the assessment methodology, we are satisfied that the Save Our Dava concerns on methodology and the data basis for the assessment have been addressed. We note that RSPB Scotland did not object to the application and did not provide comments on the Additional Information. We find that proposed condition 24 Ecology includes a requirement for a Breeding Bird Protection Plan, requiring agreement from the planning authority, in consultation with NatureScot, and that this would minimise impacts on birds during the construction phase. Condition 25 requires that an Ecological Clerk of Works be appointed to monitor compliance with that Plan, amongst other responsibilities. In terms of decommissioning of the wind farm, proposed condition 30 includes a requirement for

a species protection plan including birds. We note NatureScot, as the Scottish Government's adviser on ornithology, finds no significant impacts. As a result, we are content that no further mitigation is required.

Forestry

4.28 The effects of the proposed wind farm on forestry are set out in [Chapter 4 Appendix 4.4 of the EIAR](#). The response from Scottish Forestry and others is also considered. The visual effects of tree felling and replanting are assessed in the Landscape and Visual Impact Assessment chapter of this report.

Main points for the applicant

4.29 Up to 0.27 hectares of scattered and small groups of trees would be felled on the site, and those trees cannot be replanted in situ. New areas of birch woodland are proposed around the control building and substation compound, and around the entrance to the site. The total new planting on site would be approximately 1.4 hectares. All felling and planting would be in accordance with government policy on the Control of Woodland Removal and in accordance with the Forest and Water Guidelines.

Main points for Scottish Forestry

4.30 Scottish Forestry objected to the scoping out of the impacts on forestry and stated that any impacts on forestry should be included in the EIA.

Reporters' conclusions

4.31 We note that proposed condition 28 on compensatory planting restricts the commencement of development until a finalised woodland planting scheme to compensate for the removal of woodland has been submitted for the written approval of the Planning Authority in consultation with Scottish Forestry.

4.32 We are content that the amount of such planting is commensurate with the amount of woodland to be lost through the proposal and therefore that the approach is consistent with the Control of Woodland Removal Policy.

Hydrology, Hydrogeology

4.33 The likely effects on hydrology and hydrogeology are set out at [Chapter 9 of the EIAR](#). Specific effects on geology and peatland are set out in the following section of this report.

Main points for the applicant

4.34 The hydrological assessment was undertaken in accordance with the relevant legislation and guidance, and responses were sought from appropriate parties. Representations also raised issues of hydrology. The key areas assessed by the applicant include ground water, surface water, flow characteristics, flooding,

drainage, water quality, drinking water protection zones, private water supplies, abstraction licences, designated sites and groundwater dependant terrestrial ecosystems.

4.35 During the construction phase, and following any mitigation, the effects are found to be minor. For the operational phase, effects are considered to be either negligible or minor and overall, not significant.

Main points for The Highland Council

4.36 The Highland Council advised that subject to a condition securing a pollution prevention, quality monitoring and emergency response plan, it has no objection to the proposed development, on the basis of impact on private water supplies.

Main points for SEPA

4.37 Following the submission of Additional Information on abstraction, SEPA confirmed that it is content that the abstraction should not be significantly affected by the proposed development, due to the distance between the construction works and abstraction.

Main points for East Nairnshire Community Council

4.38 The community council advised it had concerns regarding flooding and surface water runoff, which it does not consider have been addressed in either the EIAR or the Additional Information.

Main points from individual objectors

4.39 Concern has been expressed by a resident that the Private Water Supply from the Stripe of Muckle Lyne will be affected during the construction phase, due to disturbance of the peat substrate.

4.40 Another resident questions the modelling basis for the two main watercourses associated with the site – The Stripe of Little Lyne and the Stripe of Muckle Lyne. They contend that both watercourses have higher peak flows than estimated, and at peak flow floodwater converges on a residential property. The turbines would give rise to a higher likelihood of flood damage at the property. In addition, construction of the borrow pit areas will cause run off in a westerly direction across the A939. A geological fault across the site will also transfer subterranean water flows to different catchments.

Reporters' conclusions

4.41 We note that SEPA has not objected to the proposal and is satisfied that the proposed turbine layout avoids deep peat and is acceptable in relation to potential adverse impacts to Ground Water Dependiant Terrestrial Ecosystems and Private

Water Supply. Its recommended conditions, including the requirements relating to mitigation, are addressed in chapter 5 of this report and in the proposed conditions set out in Appendix 1.

4.42 The concerns of The Highland Council are addressed in Condition 16 – Private Water Supplies. We are satisfied that the EIA Report and the Additional Information has given adequate consideration to the effects on hydrology, hydrogeology and geology.

4.43 We are satisfied that the proposal has been designed to minimise effects and that, subject to the proposed mitigation and conditions, the effects would be of minor significance.

Geology and Peat

4.44 The likely effects on peat and the geology of the site are set out at [Chapter 9 of the EIAR](#). Comments from SEPA are contained in its consultation response of June 2021 and the response to the additional information in December 2021.

Main points for the applicant

4.45 The EIAR at chapter 9 notes that both desk based and field studies relating to peat were carried out. A survey of peat depths was also conducted in 2012 and 2013. The surveys confirmed the presence of superficial Glacial Till underlying the peat deposits. Peat depths of greater than 2 metres were recorded by 6% of the survey probes, with 84% of probes recording less than 1.5 metres in depth. Floating track design, micro-siting, the Peat Landslide and Instability Risk Assessment results and the mitigation measures to address any peat hydrology issues are all sufficient to ensure a negligible significance of effect.

Main points for the council

4.46 The council has no objection to the proposed development based on matters relating to peat and geology, subject to the imposition of conditions requiring a Peat Management Plan, and a Habitat Management Plan.

Main points for SEPA

4.47 SEPA confirmed that subject to the imposition of suitable conditions, it did not object to the application. The conditions suggested relate to floating tracks over peat; a Peat Management Plan to be agreed in consultation with SEPA; micrositing of up to 50 metres; a Habitat Management Plan with peatland improvement works over an area of no less than 131 hectares; ensuring construction works are carried out in line with the submission; borrow pit restoration; a finalised decommissioning and restoration plan. SEPA has also provided regulatory advice for the applicant.

Reporters' conclusions

4.48 We note that SEPA does not object to the proposal. It is satisfied that the layout avoids deep peat and is acceptable in relation to potential adverse impacts to Ground Water Dependant Terrestrial Ecosystems. Its recommended conditions, including the requirements relating to mitigation, will be addressed in chapter 5 of this report. We are satisfied that the EIAR has given adequate consideration to the effects on hydrology, hydrogeology and geology. We are satisfied that the proposal has been designed to minimise effects, and that subject to the mitigation and conditions proposed, the effects would be of minor significance.

Traffic and Transport

4.49 Traffic and Transport are considered in [Chapter 10 of the EIAR](#). A summary of the significance of adverse effects is provided at Tables 10.9. Representations raised concerns regarding impacts on Ferness village and the A939 and A940 tourist routes and the potential impact of flooding from the site.

Main points for the applicant

4.50 The applicant conducted the assessment of the effects of the proposal on traffic and transport in accordance with accepted standards. Cumulative effects were scoped out. The embedded mitigation measures as set out in the EIAR are considered sufficient to minimise any temporary effects associated with the construction phase, and the appropriate design of the site access junction would also minimise disruption to the local area. Vehicle access to the site is proposed from the A939 to the north of the site and via the proposed new site access from the A939 to the west of the site. The delivery of the Abnormal Indivisible Loads is anticipated to be from the Port of Inverness. The Abnormal Indivisible Loads will join the A95 at Granish and continue northeast towards Dulnain Bridge where they will exit onto the A938. Abnormal Indivisible Loads will then exit the A938 onto the B9007 travelling north before joining the A939, via a new access track to be located in Ferness Field and travelling south before exiting at the proposed site entrance on the A939. All other construction traffic will travel from Nairn and the surrounding areas via the A939 to the site entrance. No general construction traffic will be permitted to access the site via the B9007. Details of the proposed construction routes are set out in the EIAR. The EIAR at Table 10.8 identifies generally minor effects arising for the construction phase of the project, and a summary of overall effects including the operational phases at Table 10.9.

Main points for the council

4.51 The council's Transport Planning Team does not object to the application. A number of conditions have been proposed, including Condition 19 Construction Traffic Management Plan; 20 Additional Signing and Temporary Traffic Control Measures; 21 Abnormal Indivisible Loads Deliveries; and 23 Construction Environmental Management Plan.

Main points for East Nairnshire Community Council

4.52 The community council oppose the use of the B9007 and Ferness Field for the delivery of Abnormal Indivisible Loads, due to the unanticipated level of physical works which will have a negative impact on the local landscape.

Reporters' conclusions

4.53 Overall, we are satisfied that the conditions as proposed would ensure that the potential effects on traffic and transport are appropriately mitigated against, and that any impacts on the local landscape arising from works required to facilitate safe construction routes are capable of being remediated in accordance with the appropriate conditions.

Noise

4.54 [Chapter 11 of the EIAR](#) addresses the effects of noise from the proposed development on noise sensitive receptors during the construction, operation and decommissioning phases.

Main points for the applicant

4.55 The potential impact of the development on residential homes has been assessed in accordance with the guidance on wind farm noise as issued in the DTI publication 'The Assessment and Rating of Noise from Wind Farms', otherwise known as ETSU-R-97, and Institute of Acoustics Good Practice Guide (IoA GPG). Baseline surveys were conducted and used to determine appropriate noise limits.. The applicant has set out in Table 11.11 the predicted noise levels at the nearest 53 residential properties. A noise management strategy is suggested to reduce the predicted noise levels to below the daytime noise limit, and Table 11.20 then sets out the mitigated noise levels. The EIAR concludes that the predicted operational noise levels would be within ETSU-R-97 at all properties, at all assessed wind speeds. Subject to mitigation, construction and blasting noise levels would also be acceptable subject to appropriate mitigation. Table 11.26 sets out the potential impacts, proposed mitigation and residual impact.

Main points for the council

4.56 The Environmental Health Officer from Highland Council assessed the proposal and is content that this application would give rise to a minimal difference in predicted noise level, compared to the consented proposal. The council is not objecting based on noise issues but has requested the imposition of a condition to control operational noise.

Main points for objectors

4.57 Individual and nearby estate owner objectors to the proposal have identified concerns regarding the impact on their homes, arising from the noise levels from the turbines. Some are concerned that even with the proposed mitigation, the noise levels would exceed acceptable levels. The disruptions from blasting during the

construction phase would also have a negative impact. The anticipated noise from the turbines may be experienced differently due to the nature of the current quiet area. Low frequency noise may cause ill-health.

Reporters' conclusions on noise

4.58 We are content that the methodology for assessing the noise effects on the nearest noise sensitive properties is in line with ETSU-R-97 – The Assessment and Rating of Noise from Wind Farms, which is the relevant guidance on this matter. Subject to proposed conditions 19 on construction hours and 31 on noise, we agree that there would be no significant effects.

Tourism Interests, Socio-economics and Recreation

4.59 [Chapter 12 of the EIAR](#) addresses socio-economic matters, including the potential effects of the proposal on health, employment and the economy, tourist matters and recreation. Other chapters of the EIAR should be referred to.

Main points for the applicant

4.60 Baseline conditions in the area were assessed and scored. In terms of public access and recreation, the EIAR set out that a temporary and direct effect of negligible significance is expected on public use of the Dava Way, public footpaths and wider networks of paths during the construction phase. Grazing on site is likely to be disrupted during construction. Tourist accommodation may experience some restrictions during the construction phase as site workers occupy accommodation. It is considered that the overall effect on tourism would be negligible. Employment would increase during the construction phase and benefit the local economy in multiple ways.

4.61 The operation of the wind farm would not give rise to many jobs and the total direct and indirect job creation and economic benefits are considered to be negligible for the local economy.

4.62 A minor positive impact would arise in relation to land use, as rural diversification would occur though income derived from the turbines.

4.63 It is considered that none of the tourist attractions in the region are likely to be adversely affected, and therefore the operational effects on tourism would be negligible. No mitigation is therefore required.

4.64 A summary of the residual effects of the proposed development is set out at Table 12.5 of the EIAR.

Main points for the council

4.65 The council notes the increased yield in electricity from the proposal, in comparison to the consented scheme. Overall, the council does not envisage adverse effects on tourism, with the exception of adverse effects from construction traffic and disruption, mainly from abnormal loads being delivered to the site.

Main points for the Dava Moor Residents' Association

4.66 The Association has expressed concern regarding the landscape and visual impact the turbines may have on users of the A939 tourist route and on users of the Dava Way.

Main points for objectors

4.67 Visitors often follow the Whisky Trail and the Outlander television series locations, along the routes adjacent to the proposed site. The beauty of the route would be completely destroyed if the turbines are permitted. The turbines would be visually domineering on popular tourist routes. The A939 and A940 are designated tourist routes and will be majorly impacted.

Reporters' conclusions

4.68 We find that the proposal would bring localised benefits in terms of direct job creation, indirect support for local businesses, and contributions to the local economy through increased local expenditure and business rates.

4.69 We understand the concerns of the local community regarding possible negative effects on tourism. However, there does not appear to be any direct evidence that there would be specific tourism impacts in this case and none of the objectors provided any detailed submissions on this matter.

4.70 In our assessment of landscape and visual effects above, we considered that significant visual effects would be localised. We agree with the findings of the EIAR that the localised significant effects would not be sufficient to deter tourists from using the A939, A940 or the Dava Way. During our site inspections we noted the presence of other wind farms and large individual turbines in the vicinity of the A939 and A940 and in the wider area.

4.71 Taking into account all matters, we agree with the findings of the EIAR that there would be some localised positive economic effects and that there would be no significant adverse effects on tourism and recreation. In reaching this conclusion, we are mindful of the existing consented wind farm on the site and we consider that any impacts relating to tourism and recreation over and above the consented development would be minimal.

Reporters' overall conclusions

4.72 Aside from these matters and those covered earlier in this report, we have also considered all the other matters rehearsed in the EIAR including:

- Shadow flicker;
- Dust ;
- Television reception;
- Telecommunications;
- Human health;
- Aviation and Air safeguarding;
- Accidents and disaster;
- Ice throw; and
- Utilities.

4.73 We have considered all the environmental information submitted by the applicant and others. None of the consultees responsible for advising on these matters have maintained an objection subject to the imposition of appropriate conditions. Drawing on our assessment above, we find no other significant effects that could not be mitigated through conditions.

CHAPTER 5 – Conditions

Proposed conditions agreed by the Applicant and The Highland Council

5.1 The Energy Consents Unit of the Scottish Ministers has published a set of recommended Model Conditions for wind farms. It expects the applicant in conjunction with the planning authority, and objectors as may be appropriate, to have regard to these model conditions and try to reach agreement on the conditions that would be imposed in the event that the application is approved.

5.2 Prior to the inquiry and hearing sessions the council and the applicant provided a set of draft conditions to be applied to the Section 36 consent and the associated deemed planning permission. These were for the most part agreed between the applicant and the council. We held a virtual hearing session on conditions on 14 December 2022, which was attended by the applicant and the council. At the hearing the discussion focused on the following matters:

- Borrow pits – manner of excavation and restoration; and
- Hours of operation during construction period

5.3 Our assessment below is confined to those conditions where, even if agreed, we recommend significant amendments and those where amendments have been made to address the relevant comments within the consultation responses. Some other minor alterations have been made for reasons of clarity, consistency and enforceability. In recommending the conditions that might apply in the event the application is approved we have also taken into account our conclusions in chapters 3, 4 and 6 of this report.

Section 36 Consent Conditions

Condition 5 – Radar Mitigation Scheme

5.4 The Ministry of Defence (MoD) in its consultation response sought a condition to manage the potential impact of the proposed wind turbines on the operation of the Primary Surveillance Radar at RAF Lossiemouth, and the air traffic control operations, via an Air Traffic Control radar Mitigation Scheme (ATCRMS). The applicant agreed, subject to an amendment which limits the required ATCRMS to the lifetime of the wind farm development, provided the radar scheme remains operational. The council did not comment on either the condition or the applicant's amendment.

5.5 We have included the proposed condition and the applicant's amendment.

Conditions for deemed planning permission

Condition 7 – Aviation Lighting Scheme

5.6 A condition requiring infrared lighting only on the turbines was agreed with the MoD and the applicant in October 2022. Condition 7 has been revised to reflect this requirement. The council did not comment on either this condition or the

revision. A number of objectors had mentioned the potential impact of aviation lighting on the turbines.

5.7 A modified version of the condition is included at Appendix 1 of this report.

Condition 8 – Aviation Charting and Safety Management

5.8 Following the MoD consultation response, a draft condition was agreed with the applicant regarding notification of the erection of the first turbine, maximum height of the turbines, date they come into use, and the latitude and longitude of each turbine. The MoD will also need to be informed of any changes to the turbines and of the completion of the proposed development.

5.9 We are satisfied that the condition now proposed addresses the requirements of the MoD.

Condition 9 – Air Traffic Control Mitigation Scheme (ATCMS)

5.10 This condition has been agreed between the applicant and the Highlands and Islands Airports Limited, which operates Inverness Airport to the north west of the proposed wind farm. An ATCMS should ensure that the impact of the development upon the aerodrome (Inverness Airport) and its surrounding airspace is not adversely affected by the development, thus ensuring the continued safety of aircraft operating at the aerodrome.

5.11 We are satisfied that the condition now proposed addresses the requirements of the Highlands and Islands Airports Limited.

Condition 12 – Design of the sub-station and ancillary development

5.12 The council sought an amendment to this condition, to ensure that full details area submitted for approval prior to any development of the substation including the platform. The applicant agreed to the amendment.

5.13 An amended version of the condition is included at Appendix 1.

Other conditions

Borrow Pits – Blasting

5.14 At the hearing session, there was a discussion regarding the omission of a condition which specifically addressed the blasting of borrow pits at the site. The model condition was discussed and the parties agreed that it should be included as an additional condition. The potential hours of permitted blasting were also discussed, with the applicant seeking an amendment to the model condition to allow blasting from 08.00 to 18.00 Monday to Friday, and 08.00 to 12.00 on Saturdays. The council was content with that proposed amended hours.

5.15 We therefore recommend that the following condition be added to the list of proposed conditions at Appendix 1:

Draft Condition 34: Borrow Pits – Blasting

Blasting shall only take place on the site between the hours of 08.00 to 18.00 on Monday to Friday inclusive and 08.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the planning authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm / second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

Commencement of Development

5.16 An additional planning condition was proposed by the applicant in light of the amendments to section 58 of the Town and Country Planning (Scotland) Act 1997. At the hearing in December, the council confirmed that it was content with the additional condition. We agree that the proposed wording aligns with the periods for implementing the section 36 consent (see Condition 2) and the deemed planning permission.

Reporters conclusions on the proposed conditions

5.17 A full set of conditions incorporating the changes we recommend is provided in Appendix 1. We are satisfied that the conditions are necessary and reasonable to be imposed if the consent is granted, having regard to the likely impacts and the mitigation required to offset these as considered in detail in this and the preceding chapters. Should Ministers decide to allow the application, we recommend that all of these conditions be imposed.

5.18 Having discussed that matter at the hearing in December, the parties confirmed that no legal agreement was required. We are satisfied that it is not necessary for the applicant to enter into a legal agreement to secure a financial bond for restoration. We are content that the proposed conditions would be sufficiently robust.

CHAPTER 6: POLICY EVIDENCE AND ASSESSMENT

Introduction

6.1 Chapter 2 of this report sets out the legislative and policy context for our assessment. Our assessment is made in the context of Schedule 9 of Section 36 of the 1989 Electricity Act, which is not a policy test. While the development plan is a consideration, Section 25 of the Town and Country Planning (Scotland) Act 1997 is not applied.

6.2 A hearing had been scheduled for the discussion of policy matters on 16 December 2022, but due to adverse weather conditions and the imminent adoption of NPF4, was postponed until 26 January 2023, when a virtual process was conducted. The hearing statements on policy as submitted by the parties are as follows:

- [Hearing Statement for the Applicant](#); and
- [Hearing Statement for the Council](#).

6.3 The parties' closing submissions, insofar as they relate to policy matters, are set out below:

- [Closing Submissions for the Applicant](#); and
- [Closing Submissions for the Council](#).

Agreed matters

6.4 The [Statement of Agreed Matters](#) (SOAM) sets out the agreed position on policy matters between the applicant and the council, which can be summarised as follows:

The Electricity Act 1989

- although the applicant has no duty under Schedule 9 of the Electricity Act 1989 to do so, it has had regard to the desirability of preserving the natural beauty of the countryside, conserving flora etc. as set out in the Act.

Renewable Energy Context, Planning Policy and Targets

- there is a legal duty on the UK and Scottish Governments to meet key emissions reduction targets. These are set out as follows:
 - annual targets to reduce Greenhouse Gas emissions as set out in the Climate Change (Emissions Reductions Targets) (Scotland) Act 2019;
 - reduction of Greenhouse Gas emissions by 56% against 1990 levels in Scotland by 2020;
 - reduction of Greenhouse Gas emissions by 75% against 1990 levels in Scotland by 2030;
 - reduction of carbon emissions by 78% against 1990 levels in the UK by 2035;

- reduction of Greenhouse Gas emissions by 90% against 1990 levels in Scotland by 2040;
 - net zero Greenhouse Gas emissions against 1990 levels by 2045 in Scotland; and
 - net zero Greenhouse Gas emissions against 1990 levels by 2050 in the UK.
- the UK-wide emissions reduction targets are set out in the Climate Change Act 2008;
 - the Scottish emissions reduction targets are set out in the Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emissions Reductions Targets) (Scotland) Act 2019. The targets for Scotland are higher targets, to be achieved sooner, than originally set by the 2009 Act. This means that the trajectory, in terms of scale and pace of action to reduce carbon dioxide emissions, is steeper than before;
 - the Climate Change Act 2008 and the Climate Change (Scotland) Act 2009 as amended by the 2019 Act establish legally binding obligations to reduce emissions in order to meet the statutory targets;
 - the Scottish Government's Scottish Energy Strategy (2017) sets a target for the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources by 2030. As heat and transport become decarbonised, demand for electricity from renewable sources can be expected to increase;
 - the Energy Strategy and the Onshore Wind Policy Statement (also 2017) set out that onshore wind is to play a vital role in Scotland's future – helping to substantively decarbonise electricity supplies and the technology is expected to play material role in growing the economy. The Scottish Government also describes onshore wind as crucial in terms of overall goals for a decarbonised energy system whose contribution “must continue to grow”;
 - the Scottish Government's targets do not set any ceiling or cap on renewable energy;
 - significant further deployment of renewable energy generating technology will be required throughout the 2020s in order to meet targets identified above. Onshore wind development has a continuing and important role to play, as confirmed by national planning and energy policy;
 - the Bute House Agreement was published on 20 August 2021 which sets out areas of mutual policy interest including energy, planning and the natural environment. This includes a proposed new specific onshore wind target for Scotland to be attained by 2030. The target is proposed as between 8 and 12 Giga Watts of additional installed onshore wind. It also commits to the overarching goal of preventing any further extinctions of wildlife and halting declines by 2030 and making significant progress in restoring Scotland's natural environment by 2045. It also notes that “fulfilling Scotland's role in

tackling the global climate emergency and limiting temperature rise to 1.5o C is a moral obligation”;

- the Scottish Government declared a climate emergency on 14 May 2019. The declaration of an "emergency" is a reflection of both the seriousness of climate change and its potential effects and the need for urgent action to cut carbon dioxide emissions. The declaration is a material consideration;
- the Scottish Government’s Environment Strategy for Scotland emphasises at page 5 the central commitment of the Scottish Government to continuing to “maintain or exceed EU environmental standards” and that “international environmental principles continue to sit at the heart of our approach to environmental law and policy”. It also notes at page 24 that “fulfilling Scotland’s role in tackling the global climate emergency and limiting temperature rise to 1.5o C is a moral obligation”;
- the agreed key renewable energy policy and nature conservation documents and relevant material considerations are set out at Chapter 2 of this report and are not repeated here. Their key messages are agreed to be:
 - the seriousness of the declared climate emergency;
 - the seriousness of the need to cut carbon dioxide emissions;
 - the seriousness of the Scottish Government’s intentions regarding deployment of renewable energy generation;
 - the seriousness of the urgent action required in order to meet the legally binding emissions reduction targets set out at paragraph 7.5;
 - the seriousness of the twin crises of climate and nature; and
 - the seriousness of the urgent action required in order to meet the legally binding reduction targets set out at paragraph 4.16.
- climate change, energy, biodiversity and nature and renewable energy policy and related statutory targets are all relevant matters that should be afforded significant weight in the planning balance in this case along with the need to manage the development of land in the long-term public interest to deliver the right development in the right place.

National Planning Policy and Guidance

- the Planning (Scotland) Act 2019 means that NPF4 has statutory status, and it will set out a high-level land use plan to 2050, incorporate national planning policies and identify national developments. It will become part of the development plan;
- the parties agreed on the relevant sections of NPF3 and SPP, but acknowledge that these are now superseded by NPF4;
- in terms of national planning guidance, the following are material in relation to onshore wind:
 - the Scottish Government (online): Onshore Wind Turbines Guidance

- (updated May 2014);
- the Scottish Government: Onshore Wind – some questions answered (December 2014);
- SNH: Spatial Planning for Onshore Wind Turbines – natural heritage considerations: Guidance (June 2015); and
- Scotland's Third Land Use Strategy Land use - getting the best from our land: strategy 2021 to 2026, Published 24 March 2021.

The Highland Council Local Development Plan and Policies

- the Development Plan as far as it relates to the proposed development comprises:
 - the Highland Wide Local Development Plan (“the HwLDP”) (adopted 5th April 2012); and
 - relevant Supplementary Guidance, particularly the Onshore Wind Energy SG (November 2016) (“the SG”) and Addendum (2017).
- the policies from the local development plan relevant to the consideration of the proposed development are as follows:
 - 57 - Natural, Built & Cultural Heritage;
 - 61 – Landscape;
 - 67 - Renewable Energy Developments;
 - Natural, Built and Cultural Heritage;
 - Other Species and Habitat Interests;
 - Landscape and Visual Impact;
 - Amenity at Sensitive Locations;
 - Safety and Amenity of Individuals and Individual Properties;
 - The Water Environment;
 - Safety of Airport, Defence and Emergency Service Operations;
 - The Operational Efficiency of Other Communications;
 - The Quantity and Quality of Public Access;
 - Other Tourism and Recreation Interests; and
 - Traffic and Transport Interests
- the key renewable energy policy contained within the Highland Wide Local Development Plan is Policy 67; and
- the local development plan is over 5 years old.

Matters not agreed

- the applicant considers, but the council does not, that it has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside etc., and so as to inform the decision maker when carrying out its duties under the 1989 Act; and
- the applicant concludes that the proposed development is in the right place. This is not agreed by the council.

Summary of the applicant's position

6.5 Both the Scottish Ministers and holders of licences to generate electricity (or who have been granted an exemption from the requirement for such a licence) have a duty to have regard to the environmental receptors set out in paragraph 1.6.6 of the applicant's hearing statement (CD010.006). There is a further duty on licence holders (and those who enjoy an exemption) to do what they reasonably can to mitigate any effect which the proposals would have on such receptors.

6.6 While the applicant holds no generation licence, nor the benefit of an exemption, it has nevertheless sought throughout to avoid significant environmental impacts and to mitigate those that have been identified. It has supplied sufficient information to the Scottish Ministers to enable them to discharge their duties.

6.7 The Schedule 9 duties are not substantive development management tests, but only duties to have regard to the desirability of preservation and protection set out in Schedule 9. This was confirmed by the Scottish Ministers in their decision on Fallago Rig 2 Wind Farm (CD013.006).

6.8 Section 25 of the 1997 Act does not apply to Section 36 cases.

6.9 The requirements of the emissions reduction legislation, while implemented as policy by NPF4, have a continuing importance since they are law and not policy, and indeed go wider than onshore wind.

6.10 Paragraphs 2.4.6 – 2.4.8 of the applicant's hearing statement set out the duties on the Scottish Ministers under the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. Meeting the 2020 interim target of a 56% reduction in greenhouse gas emissions in 2020 was solely made possible by the effects of the Covid pandemic. The reduction in the use of cars and aviation transport was principally responsible for the temporary acceleration in the reduction of greenhouse gas emissions. There seems no reason to suppose that the trajectory until 2019, which showed an under-performance in reaching interim targets, will not be resumed with the resumption of normal transportation activity post-pandemic. In any event, in the Climate Change Plan Monitoring Report of May 2021 (CD007.006) the Scottish Government noted that efforts to decarbonise the electricity sector needed to be stepped up. At the same time, the Glasgow Climate Pact which followed COP26 called upon parties to "accelerate" the transition to low-emission energy systems "including by rapidly scaling up of the deployment of clean power generation." It is clear that the 2020 greenhouse gas emission statistics made possible by the Covid pandemic should not lead to any sense of complacency. The legal duty to meet interim targets from year to year and net zero by 2045 remains, and there is no evidence that the need case deriving from this requirement has in any way slackened, rather the reverse.

6.11 Therefore, the importance of UK and Scottish energy law and policy is that every contribution to the legal net zero targets is vital. That does not mean that every project deserves a permission, but the need case is such that the approach to the planning balance must necessarily be different than would be the case for other

types of development. If the tilt point in the application of the planning balance is viewed as a continuum from yes to no, or as a set of scales, then the amount of harm which is needed to justify a refusal of consent is now greater in each wind farm case than would be so without the net zero legal obligation which represents a massive challenge, and without NPF4 and the Onshore Wind Policy Statement.

6.12 Cairn Duhie is a National Development under NPF4 which states that “Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and island areas”. In the Onshore Wind Policy Statement onshore wind is assessed as “mission critical” for meeting climate (emissions reduction) targets.

6.13 NPF4 presents a seismic shift in the planning balance. It is not simply an evolution from SPP and NPF3. Decision makers must now give significant weight to the global climate and nature crises (Policy 1). Policy 11 also requires decision makers, when considering impacts of wind energy development, to ensure that “significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions production targets.” The attribution of such weight is no longer a matter for the individual planning judgement of the decision maker. It is also essential to read across to the Onshore Wind Policy Statement at section 3.6. It is there made clear that (underlined in the original) “This will change the landscape”. No such clarity or emphasis has been expressed before in national policy, and the words are there quite deliberately and have a clear meaning,. The intention of NPF4 is that stronger weight, that is to say something extra, needs to added to the need side of the planning balance.

6.14 It is clear that more harm is now required to outweigh the benefits than was the case prior to NPF4.

6.15 In fact, Cairn Duhie should have succeeded under SPP, and NPF4 simply makes the case for the proposed development very markedly stronger. Cairn Duhie is supported by Policy 11 NPF4 in that the development would only have localised landscape and visual effects. In the alternative appropriate attention has been given to design mitigation.

6.16 Cairn Duhie also satisfies Policy 4, NPF4 in that either its impacts would not significantly adversely affect the integrity or the qualities of the Special Landscape Area, or its environmental and economic benefits would clearly outweigh such impacts.

6.17 And importantly, Cairn Duhie has a national benefit as a National Development which must weigh in the Policy 4(d)(ii) balance.

6.18 The proposed Habitat Management Plan attracts the support of Policy 3 of NPF4.

6.19 Cairn Duhie is strongly supported by NPF4, which should be given substantial weight (in a Section 36 Electricity Act 1989 context) as an extremely recent policy document which is the national element of the development plan. For that reason,

and since there are no other adverse material considerations, consent and planning permission should be granted for Cairn Duhie.

Summary of the council's position

6.20 NPF4 is part of the development plan and, although this is an Electricity Act case, it should nevertheless carry great weight.

6.21 The council readily acknowledges the changes wrought by NPF4 are certainly very significant when judged from a broad perspective and in respect of renewable/climate change policy there is also much that is new and significant. It is indeed, as the Minister quoted, "probably ... one of the most supportive planning regimes for renewables in the whole of Europe".

6.22 However, when seeking to apply NPF4, the Onshore Wind Policy Statement and other related documents to this application it is necessary to consider the impact on specific proposals and the disputes that concern them. It is necessary to consider the wording of the new policy provisions, and the contrast with the positions adopted by parties prior to their introduction/approach taken by decision makers so as to establish its actual impact.

6.23 The council's decision would not have been materially different had NPF4 been in place when it took its decision to object and in principle – the merits being subject of separate submissions on landscape and visual impact - Scottish Ministers should not reach any different decision as result of its introduction.

6.24 The council submits that the desired outcome is (a) still the right development in the right place and that unacceptable development should not be permitted; and (b) there is no lessening of protection for the environment so, in a case such as the present the balancing exercise is essentially the same.

6.25 There is no indication of less general protection for the environment, indeed the opposite is the case. Notwithstanding that general position there is less protection in terms of peat (policy 5c) and for wild land areas (see policy 4g) but correspondingly tighter protection for Special Landscape Areas (policy 4d).

6.26. As to the Onshore Wind Policy Statement, the target is achievable and its achievement may be contributed to by applications not yet in the system. Otherwise, it primarily reflects the content of NPF4, including the need for the right development in the right place. There will be changes to the landscape but they should still be changes in the right place.

6.27 In general terms the Highland-Wide Local Development Plan is compatible and should be given weight as should the adopted supplementary guidance. It provides significant support for renewable energy development, just in different terms from NPF4 and indeed previous SPP.

6.28 NPF4 has put in place a number of policies which address the climate and ecological emergency. It does however continue to set out that a balance requires to be struck between impacts and benefits of a development on the environment and

economy. However, in doing so it is considered that it has put in place a policy framework which formally implements the way in which decisions were already being made by Reporters, Scottish Ministers and Planning Authorities when applying the presumption in favour of development which contributes towards sustainable development. Decisions on other proposals demonstrate that these benefits and the climate emergency are taken into consideration in the planning balance and are accorded significant weight.

6.29 NPF4 however should be read with the revised Scottish Energy Strategy and revised Onshore Wind Energy Policy. The Onshore Wind Energy Policy Statement 2022 sets out the need for further onshore wind energy deployment in Scotland. However, it is clear that 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 not considered that the balance has been appropriately struck in this case.

Representations

6.30 The residents and local groups who objected to the proposed development did not do so on the basis of policy or legislation. A letter of support sets out that renewable energy projects such as this one should be supported.

Reporters' conclusions

National energy policies

6.31 The energy policy context is set out at chapter 2 of this report. We agree with the parties that current renewable energy policy is a matter that should be afforded significant weight in this case. We recognise that there is a strong need case for the ongoing delivery of renewable energy, and we recognise that this need is intensifying, in light of the Scottish Government's declaration of a Climate Emergency in 2019 and the legally binding targets introduced in 2020 for net zero greenhouse gas emissions by 2045, including a 75% reduction by 2030.

6.32 Cairn Duhie has a proposed installed generating capacity of up to 67.2 MW of renewable energy. We find that this would be a useful contribution towards the delivery of renewable energy targets in Scotland, would help to reduce carbon emissions and would help to tackle the climate change emergency. We find the calculated carbon payback period of 1 year, over the course of the 30-year scheme, to be acceptable.

6.33 We agree with the parties that a significant amount of additional onshore wind capacity will be required to meet the targets. We find that repowering of existing schemes and extensions to the lifetime of existing permissions are likely to play an important part alongside significant volumes of new development. However, the concept of development being in the right place remains an integral part of current energy policy, with the Onshore Wind Policy Statement 2022 supporting an increase of onshore wind 'in the right place' to help meet the net zero target.

6.34 Overall, we are content that onshore wind farms are the ‘right development’ in terms of national policy, and given the strong ambitions set out in the Onshore Wind Policy Statement 2022. The question of the proposed development being ‘in the right place’ in the context of NPF4 and the local development plan we consider in the paragraphs below.

National planning policies

6.35 In the determination of Section 36 cases the development plan, including NPF4, does not have comparable status to that provided through Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended), but it may be a material consideration for decision makers.

6.36 There is disagreement between the parties as to whether or not NPF4 constitutes a substantive change in national planning policy. The applicant considers that NPF4 is a clear mandate to decision makers, which raises the threshold for refusal of energy proposals. The council is of the view that NPF4 simply consolidates existing practice at a national level, and that the incorporation of NPF4 into the development plan does not alter the basis for decision making.

6.37 We find that the support for onshore wind energy proposals is central to NPF4’s stated aim of tackling the declared climate and nature crises. The national spatial strategy has strategic renewable energy as a central mechanism to support it. Onshore wind energy proposals that exceed 50MW are now national development.

6.38 Policy 1 – Sustainable places of NPF4 sets out that ‘When considering all development proposals significant weight will be given to the global climate and nature crises.’ In this case, as the proposal is for energy generation in excess of 50MW, it constitutes national development and therefore it is of strategic scale. On that basis, the terms of policy 1 imply that its potential contribution to achieving net zero must be given significant weight. We agree with the applicant’s statement that the matter of the weight to be attributed to the contribution to net zero is no longer entirely discretionary.

6.39 Policy 3 – Biodiversity states at part b) that ‘Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention.’

6.40 We acknowledge that at the time the application was submitted, this new requirement was not in place. The applicant is confident that the Habitat Management Plan as submitted would give rise to enhancements, if implemented. The council does not disagree. NatureScot has confirmed that it has no objection to the proposed development subject to the imposition conditions. We agree that no significant issue relating to biodiversity have been raised by the parties, or by respondents.

6.41 We note agreed conditions 23 Construction Environmental Management Plan, condition 24 Ecology, condition 25 Ecological Clerk of Works, condition 32 Finalised

Peat Management Plan and in particular condition 35 Habitat Management Plan. However, Policy 3 of NPF4 requires proposals to 'enhance' as well as conserve and restore. None of the above mentioned conditions include enhancements, but we appreciate that the policy post-dates the application and agreed conditions. We find that the lack of detailed evidence on enhancement means that there is little or no certainty that biodiversity enhancement would be delivered by the proposal. Condition 35 requires the agreement of a Habitat Management Plan with the council, and we acknowledge that there may be potential to include enhancement in the agreed plan. However, we cannot say with certainty that the proposal would give rise to biodiversity enhancements and therefore we cannot conclude that it would be in accordance with the entirety of Policy 3 part b).

6.42 Policy 4 – Natural places part d) is applicable to the proposal. The policy states 'Development proposals that affect a site designated as a local nature conservation site or landscape area in the local development plan will only be supported where:

- i. development will not have significant adverse effects 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.'

6.43 We have discussed the potential impacts of the proposal in the Drynahan and Lochindorb Special Landscape Area at chapter 3 of this report and concluded that there would be significant adverse effects. At chapter 3, we have considered if the tests at part d) i and ii are met.

6.44 NPF4 contains Policy 7 – Historic assets and places. In chapter 4 of this report, we discuss the matters arising from the proposed development which relate to cultural heritage. Ardclach Bell Tower and Lochindorb Castle are both scheduled monuments, and the Bell Tower is also a listed building. Part a) of policy 7 requires the assessment of the potential impact of the proposed development on the historic asset and the basis for managing any impacts of change. Part h) of policy 7 sets out that developments proposals affecting scheduled monuments will only be supported where:

- i. direct impacts on the scheduled monument are avoided;
- ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or
- iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.

6.45 We are satisfied that chapter 6 of the Environmental Impact Assessment Report has provided an assessment of the potential impacts of the proposed wind farm and that part a) of the policy is met. We are also satisfied that criteria i to iii of part h) are met by the proposal.

6.46 Policy 11 – Energy is clear at part a) that all forms of renewable, low-carbon and zero emissions technologies will be supported. These include wind farms, such as that proposed in this case.

6.47 Part b) of the policy does not apply, as the proposed development is not within a National Park or a National Scenic Area.

6.48 Policy 11 part c) sets out 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.’. Again, this requirement was not in place when the application was submitted. We note that the applicant has set out the social and economic benefits of the scheme at chapter 12 of the Environmental Impact Assessment Report. The council’s position is that the position is unknown, and more may be required. We agree, it is likely that until further guidance is provided on how an applicant is to demonstrate that all matters have been maximised, it is not possible to fully and accurately assess the proposal in this context. The applicant has proposed a community benefit fund, which would pay a set amount based on the anticipated 67.2 megawattage generated by the proposed wind farm. The applicant’s proposals for a community benefit fund and shared ownership arrangements are not material planning matters and have not formed part of our consideration of the socio-economic effects of the proposal. However, overall, the applicant has demonstrated a net economic benefit to the local economy, which in this instance we consider can be regarded as sufficient to comply with the terms of Policy 11 part c).

6.49 The proposed wind farm will not impact on international or national designations, and so part d) of policy 11 is not relevant in this case.

6.50 Part e) of Policy 11 sets out the criteria to be taken into consideration through project design and mitigation. It is a requirement that the applicant consider each of the factors i to xiii as listed at 11 e) in the development of the proposal. The items listed are those which been considered through the Environmental Impact Assessment process. The information is thereafter presented as part of the application documentation, which is considered by consultees and interested parties before ultimately being assessed by the decision maker. We do consider that all of the items listed must necessarily be fully mitigated or resolved, as the wording of part e) appears to us to require that the application demonstrates how they are addressed, not how they are mitigated or resolved. We agree with the applicant that this should form part of the decision-maker’s process of weighing the planning balance.

6.51 In looking at the criteria, taking into account our findings in Chapters 3 to 5 of this report, and the application of the proposed conditions listed at Appendix 1, we reach the following conclusions:

- i. there would be no significant impacts on communities (settlements) and individual dwellings, with regard to residential amenity, visual impact, noise and shadow flicker;
- ii. there would be significant impacts on landscape character;

- iii. there would be significant visual effects from a number of identified viewpoints;
- iv. there would be no significant reduction in public access although there would be significant adverse visual impacts experienced by those who may pass through the application site and on the roads immediately adjacent to the site and when walking along the Dava Way route;
- v. there would be no significant impacts on aviation and defence interests;
- vi. there would be no significant effects on telecommunications and broadcasting installations;
- vii. there would be no significant effects on road traffic and on adjacent trunk roads, including during construction;
- viii. there would be no significant effects on the historic environment;
- ix. there would be no significant effects on hydrology, the water environment or flood risk;
- x. there would be no significant adverse impacts on biodiversity, including birds;
- xi. there would be no effects on trees, woods or forests;
- xii. appropriate consideration has been given to decommissioning of the development and site restoration;
- xiii. effective conditions are proposed to safeguard the availability of finances to effectively implement the required site restoration plans; and
- xiv. there will be no significant cumulative impacts.

6.52 We note the broad similarity between now superseded Scottish Planning Policy and part e) of Policy 11, with the exception of part e) criterion ii. In a departure from Scottish Planning Policy, the criterion states ‘significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/ or appropriate design mitigation has been applied, they will generally be considered to be acceptable;’.

6.53 Our assessment of the landscape and visual impacts is set out at chapter 3 above. We conclude that although a wind farm in this location would be a significant change to the landscape, any significant landscape effects would be limited to the open moor in which the development would be located. We find that effects would be limited to within 5 kilometres of the site and we consider that these could in this case be considered to be localised.

6.54 We note that NPF4 does not provide guidance on what constitutes localised impacts. Furthermore, by stating that localised impacts are generally acceptable (our emphasis), there may very occasionally be circumstances where localised effects are not acceptable. We have identified particular viewpoints where the visual impacts may be localised, but not necessarily acceptable. We conclude that there may be an issue with Policy 11 part e) criterion ii. We return to this matter in Chapter 7 where we consider the planning balance.

6.55 Having considered NPF4 as a whole, we are satisfied that the policies, and parts of policies, considered above are those which are relevant to this case.

The Highland- Wide Local Development Plan 2012

6.56 There is no dispute between the parties that the local development plan does not have primacy in an application under the Electricity Act and that Section 25 of the Town and Country Planning (Scotland) Act 1997 is not applied. We consider that it is a material consideration.

6.57 Policy 67 is the key policy consideration in relation to the local development plan. The policy gives support for renewable energy proposals that are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively, in relation to a number of considerations including landscape and visual impacts, amenity, tourism and recreation and species and habitats. It also requires consideration of the contribution towards meeting renewable energy generation targets; and any positive or negative effects it may have on the local and national economy. In chapter 3 we found that there would be significant landscape and visual impacts but that these would be predominantly localised. In chapter 4 we found that there would be socioeconomic benefits of a local scale. As detailed within chapters 4 and 5 we consider that the other policy considerations can be addressed with suitable mitigation and the imposition of conditions. We are satisfied that the proposal is capable of being compliant with Policy 67.

6.58 The council has adopted Onshore Wind Energy Supplementary Guidance. We agree that it is a material consideration and agree that it does not contain substantive tests other than those contained within NPF4 and Policy 67. The Supplementary Guidance contains a spatial framework for onshore wind energy, as previously required by Scottish Planning Policy, but that no longer has relevance for this application.

CHAPTER 7: OVERALL CONCLUSIONS AND RECOMMENDATION

7.1 This chapter draws together all of the considerations, having regard to the requirements of Schedule 9 of the Electricity Act 1989. By virtue of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, Scottish Ministers decision notices are required to provide, in the event that consent is granted, a reasoned conclusion on the significant effects of the development on the environment.

7.2...Our report sets out an assessment of the relevant environmental information and the required mitigation in so far as it applies to the main issues and potential significant effects. Our conclusions on significant effects, reflected in earlier chapters, are up to date at the time of submission of this report. The table below provides a summary of the relevant matters.

Report chapter	Description	Comment
Chapter 1 Background, consultations and representations	Description of the development, summary of consultation responses and representations	<p>The Environmental Impact Assessment was publicised and consulted upon. Additional Information was publicised and was consulted upon in October 2022.</p> <p>There is nothing in the submitted information to indicate any insufficiency in the arrangements for the public to participate in the process.</p> <p>All of the relevant environmental information was considered as part of this assessment.</p>
Chapter 3: Landscape and visual impacts	Environmental information and conclusions on potential effects and mitigation.	<p>This chapter summarises the relevant effects drawing on the information contained in Chapter 5 of the Environmental Impact Assessment Report, the Additional Information Reports, and the submissions to the inquiry as well as consultation responses and representations.</p> <p>Our conclusions identify a number of significant residual effects which cannot be mitigated.</p>
Chapter 4 – Other matters	Environmental information and conclusions on potential effects and the potential for mitigation.	<p>This chapter draws on information contained in the remaining chapters of the EIA report, the position statements submitted by the parties and all further written submissions.</p> <p>Subject to the application of a number of conditions, no residual significant effects are identified in these areas.</p>

Chapter 5 - Conditions	Recommended mitigation to be secured by condition in the event that consent is granted.	This section draws on the conclusions elsewhere in the report regarding mitigation and monitoring. In the event that consent is granted, it is recommended that a series of conditions should apply, as set out in Appendix 1 to this report. Some of the recommended conditions include provisions for monitoring
Chapter 6 – Policy evidence and assessment	Consideration of the relevant policies	This chapter draws on information contained in the Environmental Impact Assessment Report, in the planning statement which accompanied the application, in hearing statements, the discussion at the hearing and closing submissions. In reaching our overall policy conclusions, we have considered and had regard to the matters which are listed in Schedule 9 of the Electricity Act as being desirable to preserve. In doing so, we have been assisted by the detailed policy and guidance available in NPF4 and in the development plan. This is because the matters listed in Schedule 9 as being desirable to preserve are all also concerns of the development plan and NPF4.
Chapter 7 (this chapter) Overall conclusions and recommendations	Overall conclusions	This section takes account of the assessed environmental effects, the potential for mitigation, the relevant policy considerations, and the benefits of the proposal to arrive at an overall conclusion and recommendation

Reporters' overall conclusions

7.3 We conclude that the proposed development would have significant adverse effects in landscape and visual terms. There would be localised impacts on the Drynahan, Lochindorb and Dava Special Landscape Area (the site is not within the Special Landscape Area); there would be significant effects on the Open Rolling Upland Landscape Character Type, but limited to within 5 kilometres of the site; the visual effects of the proposed development at viewpoints 8 and 14 are underestimated; there would be significant effects on parts of the Dava Way in the vicinity of viewpoint 14; there would be significant effects on parts of the A939 and the A940; and there would be significant cumulative effects.

7.4 Although we have concluded that there would be significant landscape effects arising from the wind farm proposal, we are satisfied that they would be predominantly localised. In terms of visual effects, the majority are local and within 5 kilometres of the site, but there are effects on more distant views and on cumulative

views. There would also be effects on the Dava Way and on the A939 and the A940, both important tourist routes in the area. In reaching our conclusions, we have given consideration to the existing, extant, consent for a wind farm with 20 turbines of a lower height on the site.

7.5 The proposed wind farm would not be located in a National Park or in a National Scenic Area, national designations which NPF4 makes clear are the only areas where wind farms are unacceptable. In relation to any effects on scheduled monuments and listed buildings we have found no issue.

7.6 We have considered other matters raised, including effects on: forestry; ecology; ornithology; cultural heritage; geology and peat; hydrology and hydrogeology; noise; socio-economics, tourism and recreation; aviation; and climate change and carbon balance. We have found that the proposed development would not have any significant effect in these respects, subject to mitigation that could be secured by condition where necessary.

7.7 In reaching our conclusions on the assessment of the proposed development against policy considerations, we find that there is very strong support for renewable energy developments in national energy and planning policy, and in legally binding national targets to increase renewable energy and to reduce carbon emissions. Onshore wind developments in Scotland are acknowledged to have a crucial part to play in tackling the identified climate emergency, which is reflected, in NPF4, in their status as national developments when having a generating capacity of 50MW or greater.

7.8 While we have found there to be significant adverse effects on a Special Landscape Area and other significant effects as noted above, we conclude that the proposal would meet the policy test at NPF4 Policy 4 d) ii, as the proposed development constitutes a national development which supports the delivery of the national spatial strategy set out within NPF4. We are of the view that this national development status logically offers benefits of more than local importance.

7.9 In addition, the applicant has demonstrated a minor net economic advantage through the generation of a modest number of post-construction jobs regionally which we consider should add to the case for the proposed development.

7.10 Ultimately, the adverse landscape and visual effects must be balanced against the benefits of the proposed development that we have outlined above, taking into account the significant and meaningful contribution that Cairn Duhie Wind Farm would make to the national target of delivering 20GW of onshore wind energy generation by 2030. On balance we consider that the strong updated national policy support for onshore wind energy, and the significant contribution that the proposal would make toward tackling the climate crisis and achieving Scotland's ambitious environmental goals, adds significant weight in favour of the proposed development. We consequently find that the combined benefits of the proposed development would outweigh the significant landscape and visual effects that have been identified.

Recommendation

7.11 We recommend 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 granted, subject to the conditions in Appendix 1 of this supplementary report.

Karen Heywood
Assistant Chief Reporter

Sinéad Lynch
Reporter

APPENDIX 1 - RECOMMENDED CONDITIONS

Section 36 Conditions –

1. Duration of the consent

The section 36 consent is for a period of 30 years from the date of final commissioning. Written confirmation of both the date of first commissioning and the date of final commissioning shall be provided to the planning authority and to Scottish Ministers no later than one calendar month after those dates.

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 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 planning authority and Scottish Ministers no later than one calendar month before that date.

Reason: to ensure that the consent is implemented within a reasonable period and to allow the planning authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

3. Non-assignment of consent

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment 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 local 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 assignment 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, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 24 hours of the incident occurring.

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

5. Radar Mitigation Scheme

(1) No turbine shall be erected unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbines upon air safety has been submitted to and approved in writing by Scottish Ministers in conjunction with the Ministry of Defence (MoD). The Air Traffic Control Radar Mitigation Scheme (ATCRMS) is a scheme designed to mitigate the impact of the development upon the operation of the Primary Surveillance Radar at RAF Lossiemouth (“the Radar”) and the air traffic control operations of the MoD which are reliant upon the Radar. The ATCRMS shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar and shall be in place for the lifetime of the Development provided the Radar remains in operation. The Development shall be implemented strictly in accordance with the details set out in the approved ATCRMS.

(2) No wind turbine erected as part of this Development shall be permitted to rotate its rotor blades about its horizontal axis, other than for the purpose of testing radar mitigation for this Development for specific periods as defined in the approved ATCRMS or otherwise arranged in accordance with provisions contained in the approved ATCRMS, until:

(a) those mitigation measures required to be implemented prior to any wind turbine being permitted to rotate its rotor blades about its horizontal axis as set out in the approved ATCRMS have been implemented; and

(b) any performance criteria specified in the approved ATCRMS and which the approved ATCRMS requires to have been satisfied prior to any wind turbine being permitted to rotate its rotor blades about its horizontal axis have been satisfied and Scottish Ministers, in conjunction with the Ministry of Defence, have confirmed this in writing.

Thereafter the Development shall be operated strictly in accordance with the details set out in the approved ATCRMS for the lifetime of the development, provided the Radar remains in operation.

Reason: In the interests of aviation safety

Deemed planning permission conditions

6. Implementation in accordance with approved plans and requirements of this section 36 consent

Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the application (including the approved drawings, Environmental Impact Assessment Report (EIAR) submitted March 2021 as supplemented by additional information submitted November 2021 [and October 2022]).

Reason: To ensure that the Development is carried out in accordance with the approved details.

7 Aviation Lighting Scheme

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

This should set out:

- a) Details of any construction equipment and temporal structures with a total height of 50m 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.
- b) The aviation lighting scheme shall specify that MOD accredited aviation safety lighting shall be fitted to each of the perimeter turbines (those shown numbered T1, T2, T5, T7, T9, T11, T12, T15 and T16 on the Infrastructure Layout (drawing no. 02914-RES-PRO-DR-PT-001)). The lighting specified shall be MOD accredited infrared lighting, with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration, and shall be attached at the highest practicable point of each wind turbine generator.

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: in the interests of aviation safety.

8. Aviation Charting and Safety Management

The undertaker must notify the MoD, at least 14 days prior to the commencement of the works erection of the first wind turbine, 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;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The MoD 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: in the interests of aviation safety.

9. Air Traffic Control Mitigation Scheme

No wind turbine shall be operated, other than for testing and evaluation as agreed with Inverness Airport, until an Air Traffic Control Mitigation Scheme (ATCMS) is agreed and put in place, which addresses the impact of the wind turbines upon the following:

1. Inverness Primary Surveillance Radar
2. Air Traffic Control Surveillance Minimum Altitude Chart
3. Instrument Flight Procedures (IFPs)_
4. Crane and Lifting equipment used during construction

The ATCMS shall be submitted to and approved, in writing, by the planning authority, in consultation with the operator of Inverness Airport and approved by the Civil Aviation Authority. No wind turbine(s) forming part of the development shall be operational until and unless all measures required by the ATCMS have been fully implemented. The development shall thereafter be operated fully in accordance with the approved ATCMS.

“Air Traffic Control Mitigation Scheme” means a scheme comprising the appropriate measures (as varied from time to time) which when operated ensures that the impact of the development upon the aerodrome (Inverness Airport) and its surrounding airspace is not adversely affected by the development, thus ensuring the continued safety of aircraft operating at the aerodrome. The scheme shall include the appropriate measures to be implemented and that are to be in place for the operation life and any decommission of the development.

Reason: in the interests of aviation safety.

10. Design and operation of wind turbines

(1) No turbine shall be erected until details of the proposed wind turbines (including external finish and colour which should be non-reflective pale grey semi-matt) and any anemometry masts and all associated apparatus have been submitted to, and approved in writing by, the Planning Authority. The approved details shall be implemented.

(2) The tip height of the turbines shall not exceed 149.9 metres above ground level.

(3) The turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

(4) All wind turbine blades shall rotate in the same direction.

(5) All wind turbine transformers shall be located within the tower of the wind turbine to which they relate.

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.

11. Signage

No wind turbine, anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plan shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

Reason: In the interests of the visual amenity of the area.

12. Design of sub-station, ancillary buildings and other ancillary development

(1) No development shall commence on the sub-station unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the planning authority.

(2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the Environmental Impact Assessment Report (EIAR) dated March 2021 and additional information (AI) dated November 2021 and October 2022 and in the interests of the visual amenity of the area.

13. Electrical Cabling

All electrical cabling between the wind turbines and the switchgear control building shall be installed and kept underground.

Reason: In the interests of visual amenity.

14. Micro-siting

(1) Unless otherwise approved in writing by the planning authority, all wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on plan reference Site Layout Plan Figure 4.1 (October 2022) contained within the Additional Environmental Information. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the redline boundary, but micro-siting is subject to the following restrictions:

a. no wind turbine shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on the Site Layout Plan ;

- b. no wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on the Site Layout Plan unless approved in writing by the Planning Authority in consultation with SEPA and SNH;
- c. no access track shall be moved more than 50m from the position shown on the Site Layout Plan unless and approved in writing by the Planning Authority in consultation with SEPA and SNH;
- d. With the exception of watercourse crossings and related tracks, no element of the Development shall be micro -sited to a location within 50 metres of a watercourse (or closer to a watercourse if approved within such distance);
- e. Any micrositing changes shall respect the exclusion zones and hydrological layout constraints shown on EIAR Figure 9.4 , such that no infrastructure would be moved to the extent that impacts would be any greater than those reported in EIAR Chapter 9 ;
- f. no micro -siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- g. all micro -siting permissible under this condition shall be approved in advance in writing by the Ecological Clerk of Works ("ECoW").

(2) No later than one month after the date of Final Commissioning an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall 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.

15. Unexploded Ordinance

(1) No development shall commence unless and until a scheme to identify and manage the risk of any unexploded ordinance on site is submitted to, and approved in writing by the Planning Authority.

(2) The approved scheme shall be implemented.

Reason: To ensure any risk of unexploded ordinance is appropriately mitigated, prior to and during the construction phase of the development.

16. Private Water Supplies

No development shall commence unless and until a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this section 36 consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

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

17. 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 will 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 recreational amenity.

18. Construction Hours

(1) The hours of operation of the construction phase of the development hereby permitted shall be limited to 0700 hours to 1900 hours on Monday to Saturday and no work shall take place on Sundays or public holidays unless previously approved in writing by the planning authority. Out with 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 reason, emergency responses or to undertake any necessary environmental controls is permitted out with these hours.

Reason: in the interests of local amenity.

19. Construction Traffic Management Plan

(1) No development shall commence until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by the Planning Authority in consultation with Transport Scotland.

(2) The CTMP shall include 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 CTMP 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 commencement of deliveries of abnormal loads to site the proposed route for any abnormal loads on the trunk road networks, 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 Transport Scotland and the Planning Authority.

(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 Transport Scotland and the Planning Authority before delivery commences.

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.

20. Additional Signing and Temporary Traffic Control Measures

(1) During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised quality assured traffic management consultant to be approved in writing by The Highland Council in consultation with Transport Scotland before delivery commences.

(2) Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements.

(3) All such movements on The Highland Council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events.

Reason: To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

21. Abnormal Indivisible Loads Deliveries

No deliveries of abnormal indivisible loads shall take place until an assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the Planning Authority in consultation with the Trunk Road Authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the Planning

Authority. Thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

Reason: To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

22. Programme of Archaeological Works

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

(2) The programme of archaeological works shall include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be protected or preserved.

(3) The approved programme of archaeological works shall be implemented in full.

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

23. Construction Environmental Management Plan

No construction works shall commence until a Construction Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority.

The CEMP shall include:

- a) Adherence to the mitigation outlined in the Schedule of Mitigation (EIAR, Appendix 14.1).
- b) Adherence to the measures outlined in the Summary of Good Practice and Mitigation Measures (EIAR, Appendix 14.1).
- c) Adherence to the Outline Construction and Decommissioning Environmental Management Plan (EIAR, Appendix 4.2).
- d) Adherence to the Outline Borrow Pit Management Plan (EIAR, Appendix 4.1)
- e) Adherence to the FRA and Surface Water Management Plan (EIAR, Appendix 9.3).
- f) A peat management plan including peat slide hazard and risk assessment and emergency plans for peat slide,
- g) Any species protection plans (as required by condition 24);
- i) All new watercourse crossings shall be designed following the recommendations in the Watercourse Crossing Schedule (EIAR, Appendix 9.1) with single span bridges designed to pass the 1 in 200-year flood plus an allowance for climate built for WXC01, 07 and 08. All existing watercourse crossings which require to be replaced shall be designed following recognised best practice guidance.

The Development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority.

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 Statement accompanying the application, or as otherwise agreed, are fully implemented.

24. Ecology

(1) No development must commence unless and until a Bird, Mammal and Fish Protection Plan (the Plan) has been submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot. The Plan shall address:

- a. Otters;
- b. Badgers;
- c. Wildcat;
- d. Pine Marten;
- e. Water Vole;
- f. Bats;
- g. Fish within and downstream of the development area, including the River Findhorn; and
- h. Breeding Birds

(2) The Plan shall contain the outcome of pre-construction surveys for these species and proposed mitigation measures to be employed.

(3) The Plan shall provide details of water quality monitoring and mitigation measures in accordance with current best practice to protect the fish population.

(4) The approved Plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to the mitigation measures to better protect these species.

(5) Where a review indicates that amendments are required an updated and amended Plan (the "Amended Plan") shall be submitted for the written approval of the Planning Authority in consultation with NatureScot.

(6) The approved Plan and any subsequent approved Amended Plan shall be implemented in full.

(7) A summary of the mitigation measures required by this condition shall be provided to the Planning Authority, together with details of the process of controlling implementation of all the mitigation measures.

Reason: To ensure that appropriate surveys are carried out to understand potential impacts on birds, mammals and fish and to ensure that suitable protection and mitigation measures are put in place.

25. Ecological Clerk of Works

(1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by the Planning Authority. The terms of appointment shall:

a. impose a duty to monitor compliance with the environmental, ecological and hydrological commitments provided in the EIAR, and the Construction Environmental Management Plan approved in accordance with condition 23, Peat Management Plan approved in accordance with condition 23(f), Habitat Management Plan approved in accordance with condition 34, any Species Surveys and Species and Bird Protection Plans approved in accordance with condition 24, Water Quality Management Plan approved in accordance with condition 24 of this permission ("the ECoW Works");

b. advise on the micro-siting proposals issued pursuant to condition 15;

c. require the ECoW to report to the nominated construction project manager any incidences of noncompliance with the ECoW works at the earliest practical opportunity;

d. Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and

e. Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity.

(2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works;

(3) No later than six months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for approval.

(4) The ECoW shall be appointed on the approved terms throughout the construction, decommissioning, restoration and aftercare phases of the Development.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the decommissioning, restoration and aftercare phases.

26. Television Reception

(1) No development shall commence unless and until a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of the first wind

turbine. The results of the baseline television reception survey shall be submitted to the Planning Authority.

(2) The approved Television Reception Mitigation Plan shall be implemented in full.

(3) Any claim by any person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any wind turbine to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer and the results of the investigation shall be submitted to the Planning Authority

(4) Should any impairment to the television signal be attributable to the Development, the impairment shall be remedied so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: To ensure local television services are sustained during the construction and operation of the Development.

27. Financial Guarantee

(1) No development shall take place unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 33 is submitted to the Planning Authority.

(2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 32.

(3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 32.

(4) The value of the financial guarantee shall be reviewed by agreement between 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 decommissioning, restoration.

Reason: to ensure that there are 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.

28. Replanting of Forestry

No development shall commence unless and until a finalised woodland planting scheme to compensate for the removal of woodland has been submitted for the

written approval of the Planning Authority in consultation with Scottish Forestry. The Scheme shall comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:

- a) details of the location of the area to be planted;
- b) the nature, design and specification of the proposed woodland to be planted;
- c) the phasing and associated timescales for implementing the scheme;
- d) proposals for the maintenance and establishment of the Replanting.

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

29. Redundant Turbines

(1) Unless otherwise agreed in writing by the Planning Authority, if one or more wind turbines fails to generate electricity for a continuous period of twelve months a scheme setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored shall be submitted for the written approval of the Planning Authority no later than one month after the date of expiry of the twelve month period.

(2) The approved scheme shall be implemented within six months of the date of its approval, to the satisfaction of the Planning Authority.

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

30. Site Decommissioning, Restoration and Aftercare

(1) The Development shall be decommissioned and cease to generate electricity by no later than the date falling thirty five years from the date of Final Commissioning. The total period for decommissioning and restoration of the site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation by the Development without the prior written approval of the Scottish Ministers in consultation with the Planning Authority.

(2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site and final site restoration. It shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

(3) No later than 2 years prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare strategy shall be submitted for the written approval of the

Planning Authority. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provision which shall include:

- i. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- ii. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns and any construction compound boundary fencing;
- iii. a dust management plan;
- iv. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities and measures to clean the site entrances and the adjacent local road network;
- v. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- vi. soil storage and management;
- vii. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains and location of settlement lagoons for silt laden water;
- viii. sewage disposal and treatment;
- ix. temporary site illumination;
- x. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- xi. details of watercourse crossings; and
- xii. a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the finalised decommissioning plan.

(4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until otherwise agreed in writing in advance with the Planning Authority.

Reason: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

31. Noise

The rating level of noise emissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the levels set out in Table 1 and Table 2.

(a) Prior to the First Export Date, the wind farm operator shall submit to the Planning Authority for written approval a list of proposed independent consultants who may

undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

(b) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Planning Authority) in accordance with the procedures described in the attached Guidance Notes.

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

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

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

Measurements to assess compliance with the noise limits of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.

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

- i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.
- ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Local Authority under paragraph

(B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise emissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

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

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

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

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

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

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

(i) Prior to the First Export Date, the wind farm operator shall submit to the Planning Authority for written approval, a scheme of mitigation to be implemented in the event that the rating level, after adjustment for background noise contribution and any tonal penalty, is found to exceed the conditioned limits. The scheme shall define any

reduced noise running modes to be used in the mitigation together with sound power levels in these modes and the manner in which the running modes will be defined in the SCADA data.

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

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.

Guidance Notes for Noise Condition

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

Note 1

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

(b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the

complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

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

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

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

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

Note 2

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

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Planning Local Authority but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the LA90,10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

(a) Where, in accordance with the approved assessment protocol noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

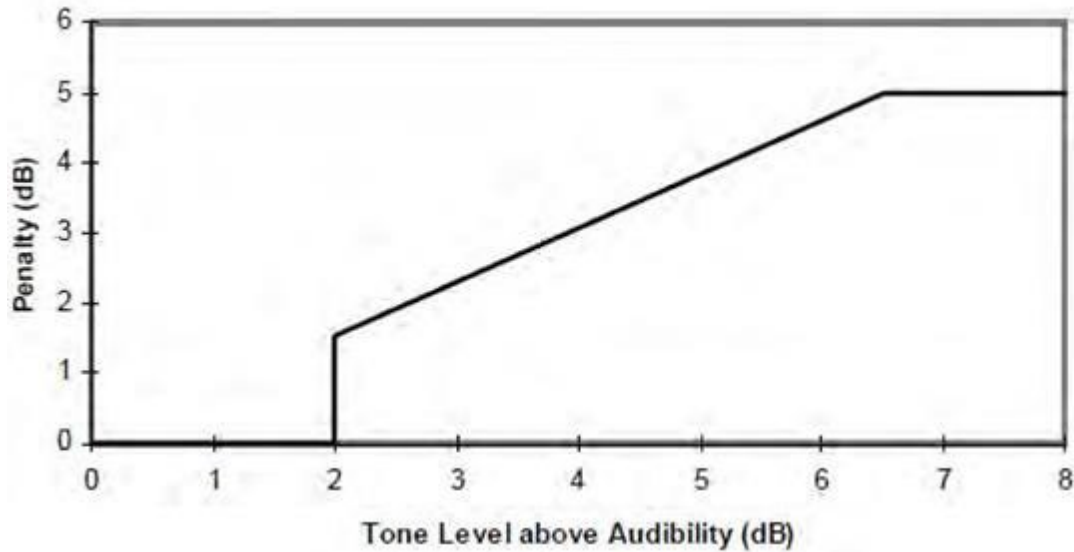
(b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise emissions during 2 minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

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

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

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

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

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol.

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

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty lies at or below the noise limits approved by the Planning Authority then no further action is necessary. If the rating level at any integer wind speed exceeds the noise limits approved by the Planning Authority then the development fails to comply with the conditions.

Reason: To protect amenity and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

32. Finalised Peat Management Plan

No development shall commence until a finalised Peat Management Plan has been submitted to and approved in writing by the Planning Authority. The details shall include:

(a) the mitigation measures described within the Environmental Impact Assessment Report submitted March 2021;

(b) All tracks on greater than 1m peat to be floated (as outlined in Appendix 4.3 of the EIR Report); and

(c) And demonstrate how micro-siting and other measures such as floating tracks have been used to further minimise peat and blanket bog and wet heath peat habitat disturbance. Specific attention should be taken to Micro-siting T10 to minimise peat deep peat disturbance.

Reason: To ensure that a plan is in place to deal with the storage and reuse of peat within the application site, including peat stability and slide risks.

33. 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 EIAR accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit at the end of the construction period.

34. Borrow Pits - Blasting

Blasting shall only take place on the site between the hours of 08.00 to 18.00 on Monday to Friday inclusive and 08.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the planning authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

35. Habitat Management Plan

No development shall commence until a Finalised Habitat Management Plan ("HMP"), has been submitted to, and approved in writing by the Planning Authority. The information shall include:

- (a) the mitigation measures described within the Environmental Impact Assessment Report (EIAR) received March 2021.
- (b) the proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat on site;
- (c) the delivery peatland improvement works over an area of no less than 131 ha (as proposed in Appendix 7.4 and shown in Figure 7.9).
- (d) the removal of self-seeded trees, additionally exploring opportunities to remove the seed source or sources.
- (e) the provision for regular monitoring and review to be undertaken in order that 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 for the written approval of the Planning Authority.

Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full.

Reason: In the interests of protecting ecological features.

36. Commencement of Development

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

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

Table of Noise Limits Relating to Noise Condition

Table 1 - Day time Noise Limits relating to Condition 31

House ID	House Name	1	2	3	4	5	6	7	8	9	10	11	12
H4	DAVA SCHOOLHOUSE	15.5	15.5	15.5	18.4	22.6	26.4	28.3	28.4	28.4	28.4	28.4	28.4
H5	BRAEMORAY	16.5	16.5	16.5	19.4	23.6	27.4	29.3	29.4	29.4	29.4	29.4	29.4
H6	AITNOCH FARMHOUSE	21.6	21.6	21.6	24.5	28.7	32.5	34.4	34.5	34.5	34.5	34.5	34.5
H7	REFOUBLE	18.3	18.3	18.3	21.2	25.4	29.2	31.1	31.2	31.2	31.2	31.2	31.2
H8	LITTLE AITNOCH	26.3	26.3	26.3	29.2	33.4	35.2	38.0	39.2	39.2	39.2	39.2	39.2
H9	DRUMLOCHAN	18.0	18.0	18.0	20.9	25.1	28.9	30.8	30.9	30.9	30.9	30.9	30.9
H10	MILLTOWN	18.7	18.7	18.7	21.6	25.8	29.6	31.5	31.6	31.6	31.6	31.6	31.6
H11	KERROW FARMHOUSE	27.2	27.2	27.2	30.1	34.3	38.1	40.0	40.1	40.1	40.1	40.1	40.1
H12	KENNELS	19.0	19.0	19.0	21.9	26.1	29.9	31.8	31.9	31.9	31.9	31.9	31.9
H13	BRAEMORAY LODGE	26.9	26.9	26.9	29.8	34.0	37.8	39.7	39.8	39.8	39.8	39.8	39.8
H14	THE LODGE	22.7	22.7	22.7	25.6	29.8	33.6	35.5	35.6	35.6	35.6	35.6	35.6
H15	THE WHITE HOUSE	27.0	27.0	27.0	29.9	34.1	37.9	39.8	39.9	39.9	39.9	39.9	39.9
H16	Unknown 1	23.8	23.8	23.8	26.7	30.9	34.7	36.0	36.7	36.7	36.7	36.7	36.7
H17	1 DRUMORE COTTAGES	23.8	23.8	23.8	26.7	30.9	34.7	36.0	36.7	36.7	36.7	36.7	36.7
H18	Unknown 2	23.8	23.8	23.8	26.7	30.9	34.7	36.0	36.7	36.7	36.7	36.7	36.7
H19	ACHNABECHAN FARM	25.4	25.4	25.4	28.3	32.5	35.0	36.0	38.3	38.3	38.3	38.3	38.3
H20	CULFEARN	24.9	24.9	24.9	27.8	32.0	35.8	37.7	37.8	37.8	37.8	37.8	37.8
H21	FORESTERS COTTAGE	24.4	24.4	24.4	27.3	31.5	35.0	36.0	37.3	37.3	37.3	37.3	37.3
H22	TOMBAIN	22.3	22.3	22.3	25.2	29.4	33.2	35.1	35.2	35.2	35.2	35.2	35.2
H23	FACTORS COTTAGE	23.6	23.6	23.6	26.5	30.7	34.5	36.4	36.5	36.5	36.5	36.5	36.5
H24	TOMNARROCH	25.2	25.2	25.2	28.1	32.3	36.1	38.0	38.1	38.1	38.1	38.1	38.1
H25	TOMDOW	21.4	21.4	21.4	24.3	28.5	32.3	34.2	34.3	34.3	34.3	34.3	34.3
H26	TOMDOW COTTAGE	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H27	LEONACH COTTAGE	24.2	24.2	24.2	27.1	31.3	35.1	37.0	37.1	37.1	37.1	37.1	37.1
H28	Unknown 3	24.2	24.2	24.2	27.1	31.3	35.1	37.0	37.1	37.1	37.1	37.1	37.1
H29	BIRCH COTTAGE	24.0	24.0	24.0	26.9	31.1	34.9	36.8	36.9	36.9	36.9	36.9	36.9
H30	Unknown 4	23.8	23.8	23.8	26.7	30.9	34.7	36.6	36.7	36.7	36.7	36.7	36.7
H31	SMIDDY HOUSE	23.5	23.5	23.5	26.4	30.6	34.4	36.3	36.4	36.4	36.4	36.4	36.4
H32	ROSE COTTAGE	23.5	23.5	23.5	26.4	30.6	34.4	36.3	36.4	36.4	36.4	36.4	36.4
H33	THE OLD POST OFFICE HOUSE	23.5	23.5	23.5	26.4	30.6	34.4	36.3	36.4	36.4	36.4	36.4	36.4
H34	BUNGALOW	23.2	23.2	23.2	26.1	30.3	34.1	36.0	36.1	36.1	36.1	36.1	36.1

H35	Unknown 5	22.9	22.9	22.9	25.8	30.0	33.8	35.7	35.8	35.8	35.8	35.8	35.8
H36	MUCKLE LYNE	25.6	25.6	25.6	28.5	32.7	36.3	38.2	38.5	38.5	38.5	38.5	38.5
H37	LITTLE LYNE	25.3	25.3	25.3	28.2	32.4	36.2	38.1	38.2	38.2	38.2	38.2	38.2
H38	HEAD FORESTERS HOUSE	21.6	21.6	21.6	24.5	28.7	32.5	34.4	34.5	34.5	34.5	34.5	34.5
H39	1 FORESTRY HOUSES	21.3	21.3	21.3	24.2	28.4	32.2	34.1	34.2	34.2	34.2	34.2	34.2
H40	2 FORESTRY HOUSES	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H41	3 FORESTRY HOUSES	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H42	Unknown 6	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H43	4 FORESTRY HOUSES	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H44	5-6 FORESTRY HOUSES	21.1	21.1	21.1	24.0	28.2	32.0	33.9	34.0	34.0	34.0	34.0	34.0
H45	GLENERNIE HOUSE	17.9	17.9	17.9	20.8	25.0	28.8	30.7	30.8	30.8	30.8	30.8	30.8
H46	WESTER TILLIEGLENS	17.5	17.5	17.5	20.4	24.6	28.4	30.3	30.4	30.4	30.4	30.4	30.4
H47	BALLENRIECH	15.7	15.7	15.7	18.6	22.8	26.6	28.5	28.6	28.6	28.6	28.6	28.6
H48	TILLIEGLENS	14.5	14.5	14.5	17.4	21.6	25.4	27.3	27.4	27.4	27.4	27.4	27.4
H49	RELLUGAS 1	12.5	12.5	12.5	15.4	19.6	23.4	25.3	25.4	25.4	25.4	25.4	25.4
H50	RELLUGAS 2	12.6	12.6	12.6	15.5	19.7	23.5	25.4	25.5	25.5	25.5	25.5	25.5
H51	AUCHNAGAIRN	14.9	14.9	14.9	17.8	22.0	25.8	27.7	27.8	27.8	27.8	27.8	27.8
H52	TILLIDVIE HOUSE	13.9	13.9	13.9	16.8	21.0	24.8	26.7	26.8	26.8	26.8	26.8	26.8
H53	MILLS OF AIRDRIE	22.2	22.2	22.2	25.1	29.3	33.1	35.0	35.1	35.1	35.1	35.1	35.1
H54	SCORE	22.1	22.1	22.1	25.0	29.2	33.0	34.9	35.0	35.0	35.0	35.0	35.0
H55	THE MOUNT	23.1	23.1	23.1	26.0	30.2	33.9	35.9	36.0	36.0	36.0	36.0	36.0

Table 2 – Night time Noise Limits relating to Condition 31

House ID	House Name	1	2	3	4	5	6	7	8	9	10	11	12
H4	DAVA SCHOOLHOUSE	15.5	15.5	15.5	18.4	22.6	26.4	28.3	28.4	28.4	28.4	28.4	28.4
H5	BRAEMORAY	16.5	16.5	16.5	19.4	23.6	27.4	29.3	29.4	29.4	29.4	29.4	29.4
H6	AITNOCH FARMHOUSE	21.6	21.6	21.6	24.5	28.7	32.5	34.4	34.5	34.5	34.5	34.5	34.5
H7	REFOUBLE	18.3	18.3	18.3	21.2	25.4	29.2	31.1	31.2	31.2	31.2	31.2	31.2
H8	LITTLE AITNOCH	26.3	26.3	26.3	29.2	33.4	37.2	38.0	39.0	39.2	39.2	39.2	39.2
H9	DRUMLOCHAN	18.0	18.0	18.0	20.9	25.1	28.9	30.8	30.9	30.9	30.9	30.9	30.9
H10	MILLTOWN	18.7	18.7	18.7	21.6	25.8	29.6	31.5	31.6	31.6	31.6	31.6	31.6
H11	KERROW FARMHOUSE	27.2	27.2	27.2	30.1	34.3	38.0	38.1	39.2	40.1	40.1	40.1	40.1
H12	KENNELS	19.0	19.0	19.0	21.9	26.1	29.9	31.8	31.9	31.9	31.9	31.9	31.9
H13	BRAEMORAY LODGE	26.9	26.9	26.9	29.8	34.0	37.8	39.5	39.8	39.8	39.8	39.8	39.8
H14	THE LODGE	22.7	22.7	22.7	25.6	29.8	33.6	35.5	35.6	35.6	35.6	35.6	35.6
H15	THE WHITE HOUSE	27.0	27.0	27.0	29.9	34.1	37.9	38.1	39.2	39.9	39.9	39.9	39.9
H16	Unknown 1	23.8	23.8	23.8	26.7	30.9	34.7	36.6	36.7	36.7	36.7	36.7	36.7
H17	1 DRUMORE COTTAGES	23.8	23.8	23.8	26.7	30.9	34.7	36.6	36.7	36.7	36.7	36.7	36.7
H18	Unknown 2	23.8	23.8	23.8	26.7	30.9	34.7	36.6	36.7	36.7	36.7	36.7	36.7
H19	ACHNABECHAN FARM	25.4	25.4	25.4	28.3	32.5	36.3	38.0	38.0	38.0	38.3	38.3	38.3
H20	CULFEARN	24.9	24.9	24.9	27.8	32.0	35.8	37.7	37.8	37.8	37.8	37.8	37.8
H21	FORESTERS COTTAGE	24.4	24.4	24.4	27.3	31.5	35.3	37.2	37.3	37.3	37.3	37.3	37.3
H22	TOMBAIN	22.3	22.3	22.3	25.2	29.4	33.2	35.1	35.2	35.2	35.2	35.2	35.2
H23	FACTORS COTTAGE	23.6	23.6	23.6	26.5	30.7	34.5	36.4	36.5	36.5	36.5	36.5	36.5
H24	TOMNARROCH	25.2	25.2	25.2	28.1	32.3	36.1	38.0	38.1	38.1	38.1	38.1	38.1
H25	TOMDOW	21.4	21.4	21.4	24.3	28.5	32.3	34.2	34.3	34.3	34.3	34.3	34.3
H26	TOMDOW COTTAGE	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H27	LEONACH COTTAGE	24.2	24.2	24.2	27.1	31.3	35.1	37.0	37.1	37.1	37.1	37.1	37.1
H28	Unknown 3	24.2	24.2	24.2	27.1	31.3	35.1	37.0	37.1	37.1	37.1	37.1	37.1
H29	BIRCH COTTAGE	24.0	24.0	24.0	26.9	31.1	34.9	36.8	36.9	36.9	36.9	36.9	36.9
H30	Unknown 4	23.8	23.8	23.8	26.7	30.9	34.7	36.6	36.7	36.7	36.7	36.7	36.7
H31	SMIDDY HOUSE	23.5	23.5	23.5	26.4	30.6	34.4	36.3	36.4	36.4	36.4	36.4	36.4
H32	ROSE COTTAGE	23.5	23.5	23.5	26.4	30.6	34.4	36.3	36.4	36.4	36.4	36.4	36.4
H33	THE OLD POST OFFICE HOUSE	23.5	23.5	23.5	26.4	30.6	34.4	36.3	36.4	36.4	36.4	36.4	36.4
H34	BUNGALOW	23.2	23.2	23.2	26.1	30.3	34.1	36.0	36.1	36.1	36.1	36.1	36.1

H35	Unknown 5	22.9	22.9	22.9	25.8	30.0	33.8	35.7	35.8	35.8	35.8	35.8	35.8
H36	MUCKLE LYNE	25.6	25.6	25.6	28.5	32.7	36.5	38.0	38.0	38.5	38.5	38.5	38.5
H37	LITTLE LYNE	25.3	25.3	25.3	28.2	32.4	36.2	38.0	38.0	38.2	38.2	38.2	38.2
H38	HEAD FORESTERS HOUSE	21.6	21.6	21.6	24.5	28.7	32.5	34.4	34.5	34.5	34.5	34.5	34.5
H39	1 FORESTRY HOUSES	21.3	21.3	21.3	24.2	28.4	32.2	34.1	34.2	34.2	34.2	34.2	34.2
H40	2 FORESTRY HOUSES	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H41	3 FORESTRY HOUSES	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H42	Unknown 6	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H43	4 FORESTRY HOUSES	21.2	21.2	21.2	24.1	28.3	32.1	34.0	34.1	34.1	34.1	34.1	34.1
H44	5-6 FORESTRY HOUSES	21.1	21.1	21.1	24.0	28.2	32.0	33.9	34.0	34.0	34.0	34.0	34.0
H45	GLENERNIE HOUSE	17.9	17.9	17.9	20.8	25.0	28.8	30.7	30.8	30.8	30.8	30.8	30.8
H46	WESTER TILLIEGLENS	17.5	17.5	17.5	20.4	24.6	28.4	30.3	30.4	30.4	30.4	30.4	30.4
H47	BALLENRIECH	15.7	15.7	15.7	18.6	22.8	26.6	28.5	28.6	28.6	28.6	28.6	28.6
H48	TILLIEGLENS	14.5	14.5	14.5	17.4	21.6	25.4	27.3	27.4	27.4	27.4	27.4	27.4
H49	RELGAS 1	12.5	12.5	12.5	15.4	19.6	23.4	25.3	25.4	25.4	25.4	25.4	25.4
H50	RELGAS 2	12.6	12.6	12.6	15.5	19.7	23.5	25.4	25.5	25.5	25.5	25.5	25.5
H51	AUCHNAGAIRN	14.9	14.9	14.9	17.8	22.0	25.8	27.7	27.8	27.8	27.8	27.8	27.8
H52	TILLIDVIE HOUSE	13.9	13.9	13.9	16.8	21.0	24.8	26.7	26.8	26.8	26.8	26.8	26.8
H53	MILLS OF AIRDRIE	22.2	22.2	22.2	25.1	29.3	33.1	35.0	35.1	35.1	35.1	35.1	35.1
H54	SCORE	22.1	22.1	22.1	25.0	29.2	33.0	34.9	35.0	35.0	35.0	35.0	35.0
H55	THE MOUNT	23.1	23.1	23.1	26.0	30.2	33.9	35.9	36.0	36.0	36.0	36.0	36.0

Definitions:

"The Application" means the application submitted by the Company on 24 March 2021;

"Bank Holiday" means:

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January;
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January;
- Good Friday;
- The first Monday in May;
- The first Monday in August;
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day;
- Christmas Day, if it is not a Sunday or if it is a Sunday, 27th December; and
- Boxing Day, if it is not a Sunday or, if it is a Sunday, the 27th December.

"Commencement of Development" means the date on which Development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997;

"the Company" means RES UK & Ireland Limited, incorporated under the Companies Acts (company number: 04913493) and having its registered office at Beaufort Court Egg Farm Lane, Off Station Road, Kings Langley, Hertfordshire, WD4 8LR or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.

"The Development" means the development described in Annex 1 ; "dwelling" means a building within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent and deemed planning permission;

"dwelling" means a building within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent and deemed planning permission;

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

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

"Public Holiday" means Easter Monday and the third Monday in September.

"radar mitigation scheme" means a scheme designed to mitigate the impact of the wind farm upon the operation of the primary surveillance radar at Inverness Airport and the air traffic control operations of the airport which are reliant upon that radar

APPENDIX 2: CORE DOCUMENTS

[List of Core Documents](#)

APPENDIX 3: APPEARANCES and WEBCAST

Appearances

Inquiry Session	Participating Parties
Landscape and Visual Impact Inquiry	<u>Applicant</u> Marcus Trinick KC Samantha Oxley for <u>The Highland Council</u> James Findlay KC Carol Anderson
Hearing Sessions	Participating Parties
Conditions Hearing Session	<u>Applicant</u> <u>Marcus Trinick KC</u> <u>Elizabeth Tainsh</u> <u>The Highland Council</u> James Findlay KC <u>Simon Hindson</u>
Policy Hearing Session	<u>The Applicant</u> Marcus Trinick KC David Bell <u>The Highland Council</u> <u>James Findlay KC</u> <u>Simon Hindson</u>

[Link to Webcast of Inquiry and Hearing Sessions](#)

[Link to Webcast of Inquiry and Hearing Sessions](#)

Annex 1

S.36 Electricity Act 1989 Consent – Description of Development

The Development comprises a wind-powered electricity generating station known as Cairn Duhie Wind Farm, located approximately 1.5km south-east of Ferness, off the A939 between Nairn and Grantown on Spey within the administrative area of The Highland Council. The location of the Development is shown on Figure 1.1 within Volume 1 of the Environmental Impact Statement Report submitted on 24th March 2021.

The development includes:

- Up to 16 three bladed, horizontal axis wind turbines;
- Associated turbine foundations and hardstandings;
- Approximately 8.3km of access tracks including nine passing places;
- Creation of new site entrance from public road network;
- Two temporary construction compounds;
- Control building and substation compound;
- Battery energy storage facility;
- On-site borrow pit;
- On-site control building and substation compound;
- A concrete batching plant;
- Associated ancillary works and engineering operations.

Description of the Development – Deemed Planning Permission under S.57(2) of the Town and Country Planning (Scotland) Act 1997

The erection and operation of a wind farm of up to 16 wind turbines and associated development on land situated within in the administrative area of The Highland Council, located approximately 1.5km south-east of Ferness, off the A939 between Nairn and Grantown on Spey. The location of the proposed development is shown edged red on the attached plan (being Figure 1.1 of the Environmental Impact Assessment Report submitted in on 24th March 2021).