

Energy and Climate Change Directorate
Energy Division

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3 February 2017

Dear Alasdair Macpherson

**APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND
DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY
PLANNING (SCOTLAND) ACT 1997 FOR MILLENNIUM SOUTH WIND FARM
EXTENSION TO THE MILLENNIUM WIND FARM, IN THE HIGHLAND PLANNING
AUTHORITY AREA**

Application

I refer to the Application made by Falck Renewables Wind Limited (a company incorporated under Companies Acts with registered number 04501104 and having its registered office at 7-10 Beaumont Mews, London, W16 6EG (the "Company")) dated 22 May 2014 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") for the construction and operation of the Millennium South Wind Farm extension to the Millennium Wind Farm approximately 8km west of Fort Augustus, Highland. The extension comprises 10 wind turbines with a generating capacity of up to 35MW. This letter contains the Scottish Ministers' decision to grant consent.

Planning Permission

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") Scottish Ministers may on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development. This letter contains the Scottish Ministers' decision on such a direction.

Consultation

The Application was advertised and consulted upon in accordance with the requirements of the Electricity Act, the Electricity (Applications for Consent) Regulations 1990 and the

Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the EIA Regulations").

Under paragraph 2(1) of Schedule 8 of the Electricity Act, the relevant Planning Authority must be notified in respect of a section 36 consent application. Notifications were sent to The Highland Council as Planning Authority, as well as to Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA). A wide range of other relevant organisations were also notified and consulted.

In accordance with the EIA Regulations, on 22 May 2014, the Company submitted an Environmental Statement. It complied with the statutory requirements and the Company advertised the application and Environmental Statement in the local and national press giving the public and interested parties the opportunity to make representations.

At the Reporter's request, Further Environmental Information in the form of updated cumulative visualisations and wireframes was submitted, advertised and consulted upon in January 2016.

In addition to representations by the Planning Authority, SNH and SEPA, a total of 26 public representations have been received: 25 representations in support of the proposal and one letter of objection, received by the DPEA shortly prior to the inquiry and hearing sessions.

In addition to the issues identified by consultees, the matters raised related to unacceptable noise and inefficiency of the turbines. A summary of consultation responses and third party representations received prior to the PLI are contained within Chapter 1 the Public Local Inquiry Report.

Public Local Inquiry (PLI)

The Highland Council objected to the application and did not withdraw their objection. In accordance with the terms of paragraph 2(2)(a) of Schedule 8 to the Electricity Act a Public Local Inquiry was held.

The Reporter's report was received by the Scottish Government Energy Consents Unit on 2 June 2016. The Reporter recommended that the application for section 36 consent for Millennium South Wind Farm should be granted and that Ministers should direct that planning permission be deemed to be granted.

There were no claims for expenses lodged at the PLI.

The Scottish Ministers' Considerations

The Scottish Ministers have considered fully and carefully the application, the environmental information, including the Environmental Statement and consultation responses, public representations, as well as the findings, conclusions and recommendations of the Reporter and all other material considerations.

The Public Inquiry report contains the Reporter's findings, reasoned conclusions and recommendations with regard to the proposed development.

Scottish Ministers are satisfied that any adverse environmental effects can be mitigated by conditions or that their impacts would be limited and outweighed by the benefits to renewable energy and climate change.

Scottish Ministers agree with the Reporters' reasoning and conclusions, adopt them for the purposes of their own decision and accept their recommendation.

Environmental Matters

The Scottish Ministers are satisfied that the Environmental Statement has been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation laid down in those Regulations have been followed.

Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest.

Scottish Ministers are satisfied that the Company has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects.

In accordance with section 36(5A) of the Electricity Act, before granting any section 36 consent Scottish Ministers are required to:

- obtain SEPA's advice on matters relating to protection of the water environment; and
- have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

SEPA's advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA noted that new and replacement watercourse crossings proposed at the site have been identified as requiring authorisation under CAR. SEPA advised that these watercourse crossings are likely to be consentable under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended) (CAR).

Scottish Ministers have considered fully the Reporter's findings and reasoned conclusions and adopt them for the purposes of their own decision. Ministers also accept the Reporter's recommendations. In reaching their decision Ministers have also considered the Onshore Wind Energy Supplementary Guidance published by The Highland Council in November 2016. Ministers have included additional conditions on construction hours and borrow pit blasting to control impacts on local amenity.

For the purpose of their assessment of the possible implication for the West Inverness-shire Lochs SPA under regulation 61 of the Conservation of Habitats and Species Regulations 2010, Scottish Ministers agree with and accept and adopt the Reporter's findings and conclusions and, having regard to the strengthened conditions imposed, conclude that the proposed development is not likely to have a significant effect on the SPA.

The original application included a further 3.7km of access track which was objected to by SEPA. This 3.7km of access track was removed from the application prior to PLI and is not included in the approved consent.

The Scottish Ministers' Determination

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 in respect of the construction and operation of the generating station described in Annex 1.

Subject to the conditions set out in Part 2 of Annex 2, Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that **planning permission be deemed to be granted** in respect of the Development described in Annex 1.

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, and the variables around wind farm connections feeding into the distribution and transmission network, a 5 year time scale for commencing development is appropriate. Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction unless the development (as described in Annex 1) to which the planning permission relates is begun before the expiration of that 5 year period.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000, the Company must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

Copies of this letter and the consent have been sent to The Highland Council. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

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

<http://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules>

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

Yours sincerely

Frances Pacitti
Head of Energy Consents
A member of the staff of the Scottish Ministers

ANNEX 1**DESCRIPTION OF THE DEVELOPMENT**

The Development comprises a wind-powered electricity generating station known as Millennium South Wind Farm, an extension to the operational Millennium Wind Farm, located approximately 8km west of Fort Augustus within the administrative area of The Highland Council, all as specified in the Application and accompanying Environmental Statement submitted on 22 May 2014 and references in this consent and deemed planning permission to "the Development" shall be construed accordingly. This is subject to the conditions in Annex 2.

The principal components of the wind farm and ancillary development compromise:

- 10 turbines and turbine foundations;
- Approximately 4.4km of new access track;
- 1 borrow pit, comprising the re-opening of the existing Millennium Wind Farm borrow pit;
- Crane hard-standings at each turbine location;
- A control building and temporary construction compound within the site and a substation hard-standing to the east; and
- The re-use of the temporary construction compound area associated with the existing operational wind farm.

ANNEX 2

PART 1

Conditions applying to the section 36 consent

Duration of the Consent

1. The consent is for a period of 25 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: To define the duration of the consent.

Commencement of Development

2. Development shall be commenced no later than five years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one month before that date.

Reason: In accordance with s58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

Non-assignation

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

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

Serious Incident Reporting

4. 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 the Scottish Ministers informed of any such incidents; in the public interest.

ANNEX 2

PART 2

Conditions applying to Deemed planning permission

Implementation in accordance with approved plans and requirements of this consent

5. Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the application (including the approved drawings listed at Annex D to this decision), environmental statement (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.

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

Design and operation of turbines

6. (1) No development must commence unless and until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height shall not exceed 132 metres above ground level. The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.
- (2) All wind turbine blades shall rotate in the same direction.
- (3) None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority.

Reason: To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area.

Design of sub-station and ancillary development

7. No development must commence unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. 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 statement and in the interests of the visual amenity of the area.

Terms of permission including micro-siting

8. (1) Where ground conditions specifically require it, wind turbines, masts, areas of hard-standing and tracks may be micro-sited within the application site boundary. However, unless otherwise approved in writing by the planning authority (in consultation with SEPA and SNH), micro-siting is subject to the following restrictions:
 - (2) No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than 10m above the position shown the original approved plans;
 - (3) No wind turbine, mast, hard-standing or track shall be moved:
 - a. More than 50m from the position shown on the original approved plans;
 - b. So as to be located within 50m (for turbine/mast foundations) or 50m (for hard-standing, tracks or trenches) of confirmed Groundwater-dependent Terrestrial Ecosystems;
 - c. To a position within an area identified within the approved Environmental Statement and/or plans as having a gradient constraint, being deep peat (that is peat with a depth of 1.5m or greater) or having a peat landslide hazard risk of significant or greater;
 - d. No wind turbine, mast, hard-standing or track shall be moved where a change to its position, location or route has been proscribed under a condition of this permission.
9. Micro-siting shall ensure that, where practicable, no turbine or access track shall be located within 50m of a watercourse, except at watercourse crossings. Where a lesser distance is proposed then written justification for the need for this should be submitted to the planning authority along with details of measures to ensure that impacts upon the watercourse will be mitigated. Except at watercourse crossings, no turbine or access track shall be located within 50m of a watercourse without the prior written approval of the planning authority, in consultation with SEPA. Micro-siting of Turbines 6 and 7 and the access tracks serving them shall seek to minimise the number of water-crossings at these locations. The final siting of these turbines and the access tracks serving them shall be in accordance with the prior written approval of the planning authority, in consultation with SEPA.
10. Turbine 1 shall be relocated out with identified alpine heath habitat. The final siting of this turbine shall be in accordance with the prior written approval of the planning authority, in consultation with SNH.
11. All micro-siting permissible under this condition without requiring the approval of the planning authority must be approved by the development's Environmental Clerk of Works (ECoW). A written record must be kept of any such ECoW approval and shall be maintained for a period extending to no less than four years following the First Export Date.

12. Any micro-siting beyond 50m will require the specific written approval of the planning authority. In making such a request for micro-siting beyond the 50m permissible under this condition, the developer must submit the following supporting information:
- A plan showing the location of the micro-sited turbine(s) relative to the originally approved location;
 - Detailed reasoning for the micro-siting of the turbine(s);
 - An assessment of the visual impact of the micro-siting; and
 - Compliance with conditions set out under ii.b and ii.c of this condition.
13. Within one month of the wind farm being commissioned, the Company must submit an updated site plan to the planning authority showing the final position of all wind turbines, masts, areas of hard-standing, tracks and associated infrastructure within the site. The plan should also highlight 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 require and enable appropriate micro-siting within the site in order to respond to site-specific ground conditions, while enabling the planning authority to retain effective control over any changes to layout that may have ramifications for the environment and/or landscape and visual impact.*

Borrow Pits

14. No development must commence unless and 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 detailed working method statement based on site survey information and ground investigations (including the timing of works and the use of explosives and/or rock-breaking equipment);
 - Details of the handling of any overburden (including peat, soil and rock);
 - Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
 - A programme of implementation of the works described in the scheme;
 - Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.
 - A description of the volume and type of minerals, aggregates and/or fines to be extracted from the borrow pit, including harness and potential for pollution;
 - A site plan and section drawings showing the location and extent of the proposed extraction area;

The approved scheme shall thereafter be implemented in full.

Reason: *To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the*

application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

Borrow Pits – Blasting

15. Blasting shall only take place on the site between the hours of [10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays], with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the planning authority.
16. 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.*

Planning Monitoring Officer

17. No development must commence unless and until the Planning Authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the Planning Authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO"). The terms of appointment shall;
 - a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;
 - b. Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
 - c. Require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.
18. The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: *To enable the development to be suitably monitored to ensure compliance with the consent issued.*

Ecological Clerk of Works

19. (1) No development must commence unless and until the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall;
 - a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan, the Habitat Management Plan approved in accordance with condition 15, [any species or habitat management plans identified in the

Environmental Statement] and other plans approved in terms of condition 12 ("the ECoW works");

- b. Require the EcoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- c. Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- d. Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity
- e. Provide training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
- f. Monitor compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
- g. Advise the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
- h. Direct the placement of the development (including any micro-siting, as permitted by the terms of this consent) and the avoidance of sensitive features;
- i. Have the power to call a halt to development on site where environmental considerations warrant such action.
- j. Detail any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, planning authority and other relevant parties
- k. State any additional persons responsible for 'stopping the job / activity' if a potential breach of a mitigation or legislation occurs.

(2) The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 22.

(3) No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with SNH and SEPA. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

Construction and Environmental Management Plan

20. No development must commence unless and until a Construction and 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 in consultation with SNH and SEPA.

The CEMP shall include (but shall not be limited to)

- a. a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. 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;
- c. a dust management plan;
- d. site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
- e. 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;
- f. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- g. soil storage and management;
- h. a peat management plan, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- i. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- j. 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;
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the construction of the access into the site and the creation and maintenance of associated visibility splays;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines and meteorological masts;
- r. details of watercourse crossings;
- s. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- t. a wetland ecosystems survey and mitigation plan

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

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.*

Water Quality Management Plan

21. No development must commence unless and until a Water Quality Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with SEPA and Marine Scotland Freshwater Laboratories. The Water Quality Management Plan shall highlight drainage provisions for;
- monitoring / maintenance regimes, deployment of water-crossings using bottomless culverts, surface water drainage management (SUDs) and development buffers from watercourses, local springs, lochans and identified GWDTEs;
 - water quality monitoring points on the watercourses within the Aldernaig catchment that could impact on the public water supply abstraction;
 - monitoring at appropriate locations downstream of works and access routes on the tributaries to Loch Lundie and Loch a Bhainne;
 - An outline of temporal and spatial sampling details, parameters to be measured and an action plan, should a problem occur; and
 - the potential cumulative impacts of adjacent developments on water quality, fish populations and macro-invertebrates.
22. No development must commence unless and until a pre- construction monitoring plan for migrating salmonid populations has been submitted to and approved in writing by the Planning Authority in consultation with Marine Scotland Freshwater Laboratories. The monitoring programme shall be based on water quality samples analysing a range of parameters, invertebrate samples and fish populations to establish the presence, abundance and age structure of salmon, trout and eels.

Habitat Management Plan

23. No development must commence unless and until a habitat management plan has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The habitat management plan shall set out proposed habitat management of the wind farm site during the period of construction, operation, decommissioning, restoration and aftercare of the site, and shall include:
- provisions for the maintenance, monitoring and reporting of blanket bog restoration;
 - Pre-commencement fish and macro-invertebrate monitoring surveys and a programme for monitoring the impacts of construction on the resources;
 - Semi-natural woodland planting to assist habitat connectivity with existing woodland areas;
 - Fencing of working corridors to minimise the development footprint on valued habitats together with micro-siting of development footprint to reduce impacts (particularly of turbine 1 to ensure siting away from an area of alpine heath);
 - Minimisation of impacts on woodland habitats at Doire Darach;
 - A walkover habitat survey to identify key habitat features: Pre-construction survey for bats, red squirrel, pine marten and badger to be undertaken in suitable habitat; Should a pine marten den or badger sett be found at any time during construction then all works within 200m of such a site should stop immediately until approved in writing by SNH.
 - A pre-construction survey for wildcat and otter to be carried out within 500m of the wind farm infrastructure. That all contractors are made aware of the

possible presence of wildcat and otter frequenting the site and the law for EPS. Contractors should either cover excavations at the end of the day or leave ramps in the excavations to allow animals to escape. Should a holt or denning site be found then all works within 250m of the holt or 200m of the denning site should stop immediately until approved in writing by SNH.

- h. A pre-construction survey for water vole to be undertaken in the vicinity of the works as new burrows could be established by then; Furthermore that a minimum stand-off distance of 10m is to be left between the edge of a working area and the nearest water vole burrow.

The approved habitat management plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with SNH and SEPA.

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

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

Peat Landslide Management

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

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

The approved peat landslide risk assessment shall thereafter be undertaken in full prior to Commencement of Development.

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

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

submitted to the planning authority on a quarterly basis during the construction and deforestation phases of the Development.

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

Construction Hours

26. Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Out with these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.
27. HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to for from site taking place on a Sunday or on national public holidays.

Reason: *In the interests of local amenity.*

Traffic Management Plan

28. No development must commence unless and until a traffic management plan has been submitted to and approved in writing by the Planning Authority. The traffic management plan shall include:
 - a. The routeing of all traffic associated with the Development on the local road network;
 - b. Measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - c. Details of all signage and lining arrangements to be put in place;
 - d. Provisions for emergency vehicle access;
 - e. Identification of a nominated person to whom any road safety issues can be referred; and
 - f. a plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width and axle configuration of all extraordinary traffic accessing the site.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

Reason: *In the interests of road safety and to ensure that abnormal loads access the site in a safe manner*

Deer Management Statement

29. No development must commence unless and until a deer management statement has been submitted to and approved in writing by the Planning Authority in consultation with SNH. The deer management statement shall address construction displacement and the impacts this may have on neighbouring estates; and how this will be monitored and managed over time. It should also take into account other potentially competing objectives for the site (e.g. habitat restoration) and seek the optimum outcome for both. It shall set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of Development until the date of completion of restoration.

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

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

Programme of Archaeological Works

30. No development must commence unless and until the Planning Authority has approved the terms of a programme of archaeological works to be observed during construction of the Development, to 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 so preserved.

The approved scheme of archaeological works shall thereafter be implemented in full.

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

Erection of Fencing

31. No development must commence unless and until fencing has been erected, in a manner to be agreed with the planning authority, around the archaeological sites referred to in 14.7 (pg.194) of the Millennium South Wind Farm Environmental Statement. No works shall take place within the area inside that fencing without the prior approval in writing of the planning authority.

Reason: *In order to ensure the protection of the archaeological/historic site.*

Site Decommissioning and Restoration Plan

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

(2) No development must commence unless and until (excluding preliminary ground investigation which shall be permitted) until an Interim decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for

Financial Guarantee

33. (1) No development must commence unless and until:

- a. Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration outlined in the Interim Decommissioning and Restoration Plan approved under Condition 3 of this permission have been submitted to, and approved in writing by, the planning authority; and
- b. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the planning authority; and
- c. Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the bond or other financial provision is satisfactory has been issued by, the planning authority.

(2) Thereafter, the Company shall:

- a. Ensure that a bond or other suitable financial provision is maintained throughout the duration of this permission, but subject to the need for a review every five years; and
- b. Pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the site restored.
- c. If after the expiry of 30 days from the date on which any five year review is scheduled to take place, no bond or other suitable financial provision is in place then generation of electricity shall be suspended until the same is rectified.

(3) Each review shall be:

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

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

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

the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, 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 3 years prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA.

The detailed decommissioning, restoration and aftercare plan will 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 provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. 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;
- c. a dust management plan;
- d. 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;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil storage and management;
- g. 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;
- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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.

Record of monthly supply of electricity and removal of redundant turbines

34. (1) The Company shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the planning authority within one month of any request by them. In the event that:
- a. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 12 months, then unless otherwise agreed by the planning authority, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 6 months of the end of the said continuous 12 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition; or
 - b. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Company must notify the planning authority in writing immediately.

Thereafter, the planning authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition.

(2) For the avoidance of doubt, in making a direction under this condition, the planning authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the Company and such other parties as they consider appropriate.

(3) All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved detailed Decommissioning and Restoration Plan (DRP), or, should the detailed DRP not have been approved at that stage, in accordance with other decommissioning and reinstatement measures, based upon the principles of the approved Interim DRP, as may be specified in writing by the planning authority.

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

Aviation Safety

35. (1) No development must commence unless and until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so;
- a. The date of the expected commencement of each stage of construction;
 - b. The height above ground level of the tallest structure forming part of the development;
 - c. The maximum extension height of any construction equipment; and
 - d. The position of the turbines and masts in latitude and longitude.

(2) In addition, the Company shall notify the Civil Aviation Authority (CAA) of all structures of 90m in height.

Reason in the interests of aviation safety.

Aviation Lighting

36. (1) Prior to the erection of the first wind turbine, the Company shall submit a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

(2) No turbines shall be erected on site until the scheme has been approved in writing. The Development shall thereafter be operated fully in accordance with the approved scheme.

Reason: in the interests of aviation safety.

Community Liaison Group

37. No development must commence unless and until a Community Liaison Plan has been approved in writing by the Planning Authority after consultation with the relevant local community councils. The plan shall include the arrangements for establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the Company. The terms and conditions of these arrangements must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures and keep under review the timing of the delivery of turbine components. The terms and conditions should also set out how the Community Liaison Group will ensure that local events and tourist seasons are considered and appropriate measures are taken to co-ordinate deliveries and work with these and any other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments, and detail the continuation of the Community Liaison Group until the wind farm has been completed and is fully operational.

The approved Community Liaison Plan shall be implemented in full.

Reason: To assist with the provision of mitigation measures to minimise potential hazards to road users, including pedestrians, travelling on the road networks

Outdoor Access Plan

38. (1) No development must commence unless and until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the planning authority. The plan shall include details showing:

a. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from

statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;

- b. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- c. All proposed paths, tracks and other routes for use by walkers, horse riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.);
- d. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage).

(2) The approved Outdoor Access Plan, and any associated works, shall be implemented no later than 12 months after the first export of electricity from the wind farm or as otherwise may be agreed within the approved plan.

Reason: To ensure public access to the outdoors is not unnecessarily impeded as a result of this development.

Noise

39. (1) The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from Table A and Table B attached to these conditions, and:
- (a) Prior to the first export date, the Company 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 from the planning authority following a reasonable complaint to it alleging noise disturbance at a dwelling, the Company shall, at its expense, employ an independent consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified meteorological conditions, including wind direction. Within 14 days of receipt of the written request from the planning authority made under this paragraph (b), the Company shall provide the information relevant to the complaint logged in accordance with paragraph (h) to the planning authority in the format set out in Guidance Note 1(e).
 - (c) Where there is more than one property at a location specified in Table A and Table B attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in Table C attached to these conditions, the Company

shall submit to the planning authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits shall be those limits selected from the tables specified for a listed dwelling which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise level limits to the planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.

(d) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the Company 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. Measurements to assess compliance with the noise limits set out in the tables attached to these conditions or approved by the planning authority pursuant to paragraph (c) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

(e) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (f) of this condition, the Company 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 immissions; and
- (ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

(2) 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 planning authority under paragraph (b), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the planning authority.

(a) The Company shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within two months of the date of the written request of the planning authority made under paragraph (b) of this condition, unless the time limit is extended purposes of undertaking the compliance measurements, such data to be provided in to undertake the measurements shall be calibrated in accordance with Guidance Note independent consultant's assessment of the rating level of noise immissions.

(b) Where a further assessment of the rating level of noise immissions from the wind Company shall submit a copy of the further assessment within 21 days of submission limit for the submission of the further assessment has been extended in writing by the planning authority.

(c) The Company shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for each turbine in accordance with this consent, 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 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.

Note: For the purposes of this condition, a "dwelling" is 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.

Table A: Between the hours of 07.00 to 23.00 – noise limits expressed in dB LA_{90,10minute} as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

NSR ID	Standardised 10m Height Wind Speed, m/s, within the site averaged over 10 minute periods								
	4	5	6	7	8	9	10	11	12
Achadh-luachraich	21.3	22.4	24.0	25.5	27.6	29.6	29.3	29.3	29.3
Ardoch House	17.5	18.8	21.6	23.6	25.9	27.8	29.9	32.0	33.7
Bunloinn House	20.0	21.0	22.5	22.4	22.2	21.7	21.4	21.4	21.4
Daingean	20.1	21.3	22.9	22.7	22.7	22.2	21.9	21.9	21.9
Achlain	25.8	26.0	27.0	27.5	27.4	26.9	26.6	26.6	26.6
Balnacarn	25.7	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Balintombuie	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Myrtle Cottage	25.8	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Tir nan Og	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Dalchreichart	25.9	26.0	26.9	27.5	27.4	26.9	26.6	26.6	26.6
Druim Buidhe	21.4	22.6	24.2	25.7	27.8	29.8	29.5	29.5	29.5
Leacan Dubha	25.0	25.7	26.9	28.7	30.8	32.8	32.5	32.5	32.5
Munerigie	24.1	25.0	26.3	28.1	30.1	32.1	31.8	31.8	31.8

Table B: Between the hours of 23.00 to 07.00 – noise limits expressed in dB LA_{90,10minute} as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

NSR ID	Standardised 10m Height Wind Speed, m/s, within the site averaged over 10 minute periods								
	4	5	6	7	8	9	10	11	12
Achadh-luachraich	24.3	25.4	27.0	27.0	26.9	26.4	26.1	29.7	29.7
Ardoch House	20.5	21.8	23.5	23.2	23.1	23.5	23.2	28.6	28.6
Bunloinn House	20.0	21.0	22.5	22.4	22.2	21.7	21.4	21.4	21.4
Daingean	20.1	21.3	22.9	22.7	22.7	22.2	21.9	21.9	21.9
Achlain	25.8	26.0	27.0	27.5	27.4	26.9	26.6	26.6	26.6
Balnacarn	25.7	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Balintombuie	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Myrtle Cottage	25.8	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Tir nan Og	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Dalchreichart	25.9	26.0	26.9	27.5	27.4	26.9	26.6	26.6	26.6
Druim Buidhe	24.4	25.6	27.2	27.2	27.1	26.6	26.3	29.9	29.9
Leacan Dubha	28.0	28.7	29.9	30.2	30.1	29.6	29.3	32.9	32.9

NSR ID	Standardised 10m Height Wind Speed, m/s, within the site averaged over 10 minute periods								
	4	5	6	7	8	9	10	11	12
Munerigie	27.1	28.0	29.3	29.6	29.4	28.9	28.6	32.2	32.2

Note to Table A and Table B: The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

Table C: Coordinate locations of the properties listed in Table A and Table B

NSR ID	Easting	Northing
Achadh-luachraich	225106	803255
Ardochy House	221050	802296
Bunloinn House	221380	809741
Daingean	223998	802704
Achlain	227827	812322
Balnacarn	227425	813073
Balintombaie	228235	812934
Myrtle Cottage	228442	812794
Tir nan Og	228632	812636
Dalchreichart	229176	812655
Druim Buidhe	225171	803264
Leacan Dubha	226639	802905
Munerigie	226920	802898

Note to Table C: The geographical coordinates are provided for the purposes of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions:

(3) These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3 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).

Guidance Note 1

(a) Values of the $LA_{90,10\text{-minute}}$ 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 IEC 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 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 and be not more than 35 metres from it. 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 Company 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 $LA_{90,10\text{-minute}}$ 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 Guidance Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean nacelle wind speed (duly corrected for the presence of the rotating blades), arithmetic mean nacelle orientation, nacelle wind direction and arithmetic mean power generated during each successive 10-minute periods for each wind turbine on the site. The hub height wind speeds recorded from the nacelle anemometers, or as calculated from the power output of each turbine, shall be standardised to a reference height of 10 metres assuming a reference roughness length of 0.05 metres and using the equation given on page 120 of ETSU-R-97. 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. Standardised 10 metre height wind speed data shall be correlated with the noise measurements determined as valid in accordance with Guidance Note 2(b), such correlation to be undertaken in the manner described in Guidance Note 2(c).

(e) Data provided to the planning authority in accordance with paragraphs (e), (f), (g) and (h) of the noise condition shall be provided in comma separated values in electronic format with the exception of data collected to 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 within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Guidance Note 1(d).

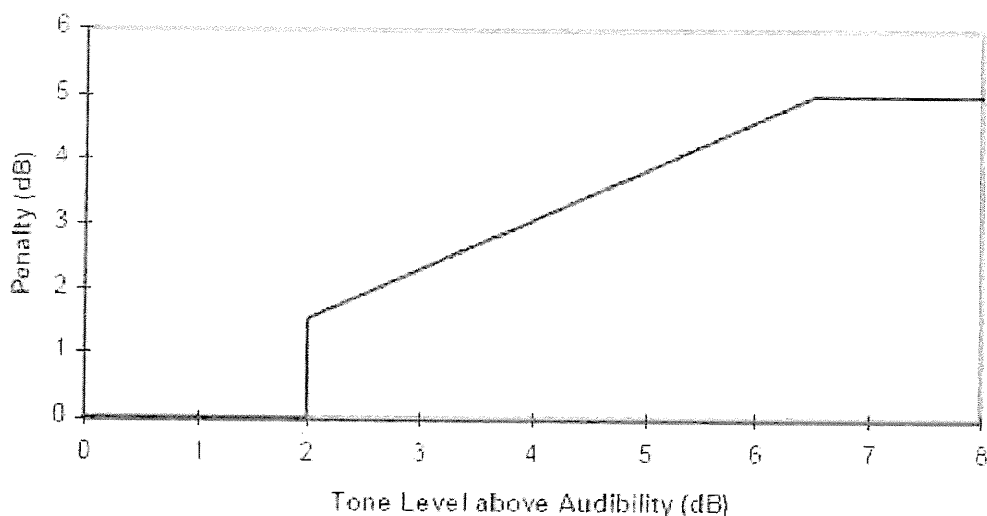
Guidance Note 2

- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the planning authority under paragraph (e) of the noise condition but excluding any periods of rainfall measured in accordance with Guidance Note 1(f).
- (c) Values of the $LA_{90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Guidance 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. If anything other than a 3rd order polynomial is used, a full explanation must be provided as to why the polynomial order has been used.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (e) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which $LA_{90,10\text{-minute}}$ data have been determined as valid in accordance with Guidance Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- (c) For each of the 2-minute samples the tone level above 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. If there is no apparent trend with wind speed then a simple arithmetic mean per wind speed bin shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

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



Guidance Note 4

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

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

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (c) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

(i) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (e) of this condition.

(ii) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

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

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

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.

Definitions:

The Application means the Application submitted by the Company on 22 May 2014;

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 the person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989, such person at the date of the consent being Falck Renewables Wind Limited incorporated under the Companies Acts (Company number 04501104) and having its registered office at 7-10 Beaumont Mews, London, W1G 6EB;

Decommissioning of the wind farm means the date on which all the wind turbine generators forming part of the wind farm have been permanently decommissioned and removed from the Site and the Site has been restored in accordance with the conditions contained in the Section 36 Consent;

The Development means the Millennium South wind powered electricity generating station and associated infrastructure 8km west of Fort Augustus in the Highlands, as described in Annex 1;

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.

Report to the Scottish Ministers

SECTION 36 OF THE ELECTRICITY ACT 1989 SECTION 57 OF TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by David Liddell, a reporter appointed by the Scottish Ministers

- Case reference: WIN-270-4
- Site Address: land 8km west of Fort Augustus
- Application by Falck Renewables Wind Limited
- Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
- The development proposed: construction and operation of the Millennium South Wind Farm
- Dates of inquiry and hearing sessions: 22-23 March 2016

Date of this report and recommendation: 2 June 2016

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Summary of 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 the Millennium South Wind Farm at land 8km west of Fort Augustus

• Case reference	WIN-270-4
• Case type	Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
• Reporter	David Liddell
• Applicant	Falck Renewables Wind Limited
• Planning authority	The Highland Council
• Other parties	Andrew Macdonald for John Macdonald
• Date of application	22 May 2014
• Date case received by DPEA	25 June 2015
• Method of consideration and date	Inquiry session on 22 March 2016 Hearing sessions on 22 and 23 March 2016
• Date of report	2 June 2016
• Reporter's recommendation	Grant S36 consent and deemed planning permission

The Site:

The application site is located approximately 8km west of Fort Augustus, on the southern slopes of a range of mountains between Glen Garry to the south, Glen Moriston to the north and the Great Glen to the east. The operational Millennium Wind Farm is located on the site. This comprises 26 turbines - 16 of these are 115m to blade tip, 10 are 125m to blade tip. The village of Invergarry is around 4km to the south of the nearest proposed turbine. To the west of the site is the site of the consented Beinneun wind farm and its consented extension. The Beinneun wind farm is presently under construction. Aside from the existing wind farm infrastructure, heath and bog habitat types predominate across the site.

Background to the Proposal:

Falck Renewables Wind Limited seeks consent under Section 36 of the Electricity Act and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 to construct and operate an extension to the operational Millennium Wind Farm. The name of the proposed extension is the Millennium South Wind Farm. Falck submitted its application to the Scottish Government on 22 May 2014.

Description of the Development

The Millennium South Wind Farm would have an installed capacity of up to 35MW. It would comprise 10 wind turbines with a maximum height to blade tip of 132m. The hub height would be approximately 80m and the blade radius approximately 51m. The proposed turbines would generally be in locations which are between the existing turbines, although the proposal would extend the wind farm a little to the southwest.

Consultations and Representations

Fort Augustus and Glen Moriston Community Council objects to the proposal due to cumulative landscape and visual impacts. SNH recommends a number of ecological mitigation measures, and says that the development should not dominate the view from Fort Augustus and the Great Glen. SEPA recommended some revisions to the track layout, that there be a 50m buffer zone around all watercourses and that a number of conditions be imposed. The Mountaineering Council of Scotland objects on the grounds of significant cumulative visual impact in an area of outstanding landscape importance. Scotways objects. It is concerned about impacts on the setting of a row of stone cairns on the Ceann a' Mhàim Coffin Road, impacts on associated rights of way and impacts on walkers on Meall Dubh. A number of other consultees made technical recommendations. In addition to the above, 25 letters of support for the development have been received, and one letter of objection.

The Applicant's Case:

The development would not cause unacceptable levels of cumulative landscape or visual effects, which is the only substantial matter in dispute with the council. The character of the landscape, in the area of the existing wind farm, has already changed to a wind farm landscape. The effects of a further 10 turbines on the character of the site or its wider setting would not be significant. The extent of visibility of the overall wind farm would be increased by only a very limited degree. Cumulative visual effects with the existing wind farm would be positive because the overall layout and appearance of the wind farm would be improved. There would be no significant cumulative effects with any other consented wind farms out with the Millennium/Beinneun cluster. Significant visual effects on residential amenity are limited to a few properties at Newton and Aberchalder.

Due to its high elevation and wind speeds and the presence of the existing wind farm, the proposal would be efficient and would help realise EU, UK and Scottish renewable energy policy objectives and targets. The proposal is supported by NPF3 and SPP. It is also supported by Policy 67 of the Highland-wide Local Development Plan, and not in significant conflict with any other policy in the plan. It would be in line with the guidance in the council's draft supplementary guidance on onshore wind energy development.

The Highland Council's Case:

The development would have significant cumulative landscape and visual effects with the existing Millennium and under-construction Beinneun wind farms. The upland area between Glen Garry, Glen Moriston and the Great Glen penetrates a dramatic west highland landscape of high scenic and wildness value, denoted by multiple designations within the surrounding area. The proposed turbines would add to (and intensify the effects of) an extensive wind energy cluster that has become a notable and detracting feature

visible from this wider area. In particular it is the 'in-combination' effects of all the existing, consented and proposed turbines in the cluster which is the basis for the council's objection. The proposed turbines would increase the number and density of turbines, leading to visual overlapping and a cluttered 'top-heavy' appearance when viewed from some locations, in particular from the east

Whilst renewable energy targets are not a cap on development, the good progress made towards meeting them is a material consideration. The impacts of the development mean that it does not comply with Policies 67 and 28 of the Highland-wide Local Development Plan nor with SPP. The proposal cannot draw support from the draft supplementary guidance.

Other Parties' Cases:

John Macdonald is the tenant farmer for part of the site. His hearing statement, submitted by Andrew Macdonald, notes the benefits of the proposal, including that it is an extension to the existing wind farm. It also states that there would be minimal impacts on the farming business.

In further written submissions, SNH and SEPA expanded upon their recommendations in relation to the protection of the water environment and an area of alpine heath habitat.

Reporter's Conclusions:

Significant effects on landscape character would be limited to the site and its immediate surroundings, and do not weigh heavily against the proposal. Effects on designated landscapes would be minor, and not significant.

Although some adverse (additional) cumulative visual effects would occur, these would be fairly limited. Where they would occur (for example along the B862, on Meall Dubh and at the mountain summits south of Glen Garry) they would not be particularly adverse, especially noting the extensive baseline of turbine development. The council is right to be concerned about the cluttered appearance of the turbines, in particular from the east. But such views would be fairly few in number and often at some distance. The great majority of cumulative effects would be with the other existing and consented turbines in the cluster. Given the distances involved, cumulative effects with other operational or consented wind farms would be very limited.

The 'in-combination' effects which the council's objection is said to be based on are shared, to a degree, by the Mountaineering Council of Scotland and Fort Augustus & Glen Moriston Community Council. Such effects are a relevant consideration. But in the context of the very limited landscape and visual impacts, overall, of the proposal, they do not point strongly towards refusing permission in this case.

A condition could require micro-siting to minimise infrastructure close to minor watercourses, whilst taking into account other environmental factors. This approach provides appropriate protection for the water environment. Subject to proposed mitigation, impacts on peat would be minimised. SNH's recommendations can be covered by conditions. Other environmental effects of the proposal can be adequately controlled by planning conditions, or are otherwise limited in extent.

A condition controlling the detailed method of working of the borrow pit would minimise impacts on the setting of the row of cairns associated with the 'coffin road'. The associated rights of way are not discernible on the ground and represent general routes over the hillside. It is highly likely that it would remain possible to follow these general routes across the hillside without the need to pass unduly close to any of the proposed or existing turbines.

On the basis of the carbon balance assessment, the climate change and energy generation benefits of the proposal would be strongly positive. Although progress so far towards meeting 2020 renewable energy targets (both UK and Scottish) is noted, this does not diminish the level of support for further onshore wind development.

Given the limited extent and degree of impacts and the renewable energy benefits of the proposal, the development would accord with Policy 67 of the Highland-wide Local Development Plan, and with the development plan overall. To the extent that weight can be attached to them, both the council's current Interim Supplementary Guidance on onshore wind, and the draft supplementary guidance which would replace it, are supportive of the proposal. It is supported by NPF3 and SPP, and would be development which contributes to sustainable development.

Recommendations:

It is recommended that Scottish Ministers:

- Grant consent under section 36 of the Electricity Act 1989, subject to the conditions set out in Appendix 1.
- Grant deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended) subject to the conditions set out in Appendix 1.

Scottish Government
Planning and Environmental Appeals Division
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

File reference: WIN-270-4

The Scottish Ministers
Edinburgh

Ministers

In accordance with my minute of appointment dated 9 September 2015, I conducted a public inquiry in connection with an application to construct and operate the Millennium South Wind Farm at land 8km west of Fort Augustus. The Highland Council, as the planning authority, has lodged an objection to the proposal which has not been withdrawn.

I held a pre-examination meeting on 10 November 2015 to consider the arrangements and procedures for the inquiry. It was agreed that landscape and visual impacts would be addressed at an inquiry session. There would be hearing sessions on climate change and energy policy, and on planning policy and advice. There were to be further written submissions on ecology, hydrology and carbon balance. The conditions to be attached should consent be issued were the subject of written submissions and a hearing.

The inquiry session was held on 22 March 2016 and the hearings on 22 and 23 March. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 4 April 2016.

I conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 9 November 2015 and 23 & 24 May 2016. Accompanied site inspections took place on 23 March 2016.

My report takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the environmental assessment, further environmental information and the written representations made in connection with the proposal.

Abbreviations

AOD	Above Ordnance Datum
AVP	additional viewpoint
CEMP	Construction Environment Management Plan
CO ²	carbon-dioxide
DPEA	Scottish Government Planning and Environmental Appeals Divisions
ECDU	Scottish Government Energy Consents and Deployment Unit
EIA	Environmental Impact Assessment
ES	Environmental Statement
EU	European Union
FEI	Further Environmental Information
GW	Gigawatts
GWDTE	groundwater-dependant terrestrial ecosystems
HRES	Highland Renewable Energy Strategy
HwLDP	Highland-wide Local Development Plan
ISG	Interim Supplementary Guidance
km	kilometres
kV	kiloVolts
LCA	Landscape Character Area
LCT	Landscape Character Type
LVIA	Landscape and Visual Impact Assessment
m	metres
MCofS	Mountaineering Council of Scotland
ms	milliseconds
MoD	Ministry of Defence
m/s	metres per second
MW	Megawatts
NATS	National Air Traffic Services
NPF3	The 3 rd National Planning Framework
NSA	National Scenic Area
RSPB	Royal Society for the Protection of Birds
SEPA	Scottish Environment Protection Agency
SNH	Scottish Natural Heritage
SG	Supplementary Guidance
SLA	Special Landscape Area
SPA	Special Protection Area
SPP	Scottish Planning Policy
UK	United Kingdom
VP	viewpoint
ZTV	zone of theoretical visibility

CHAPTER 1: BACKGROUND

The proposal

1.1 Falck Renewables Wind Limited ('the applicant') seeks consent under Section 36 of the Electricity Act 1989 and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 to construct and operate an extension to the operational Millennium Wind Farm. The name of the proposed extension is the Millennium South Wind Farm.

1.2 Falck submitted its [application](#) to the Scottish Government on 22 May 2014. The Millennium South Wind Farm ('the proposal') would have an installed capacity of up to 35MW. It would comprise 10 wind turbines with a maximum height to blade tip of 132m. The hub height would be approximately 80m and the blade radius approximately 51m.

1.3 The main components of the proposal are:

- 10 turbines and turbine foundations;
- Approximately 4.4km of new access track;
- 1 borrow pit, comprising the re-opening of the existing Millennium Wind Farm borrow pit;
- Crane hard-standings at each turbine location;
- A control building and temporary construction compound within the site and a substation hard-standing to the east; and
- The re-use of the temporary construction compound area associated with the existing operational wind farm.

1.4 The application initially proposed a further 3.7km of new track to provide an additional access to the site from the south for four-wheel drive vehicles. This additional track, which had been subject to an objection from the Scottish Environment Protection Agency (SEPA), has been removed from the scheme and no longer forms part of the proposal.

1.5 The proposal is a Schedule 2 Development under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 as amended. The application was accompanied by an ES dated May 2014. A full description of the proposal is provided in Chapter 3 of the ES. A Planning Statement, Design and Access Statement and Pre-Application Consultation Report were also submitted. At my request, Further Environmental Information (in the form of updated cumulative visualisations and wireframes) was submitted, advertised and consulted upon in January 2016.

Site description

1.6 The application site is located approximately 8km west of Fort Augustus. The turbines would be located generally on the southern slopes of a range of mountains between Glen Garry to the south, Glen Moriston to the north and the Great Glen to the east. The village of Invergarry is around 4km to the south of the nearest proposed turbine. The turbines would be at elevations of between around 400m and 635m AOD. The electricity cable to the proposed grid connection point would extend to the southeast, down to an elevation of around 150m AOD. The electrical substation would be at this location. The

substation and the grid connection to a proposed 132kV overhead line to the southeast of the site do not form part of the proposed development for which consent is sought, and would be the subject of a separate consenting process. Construction access for the substation and grid connection would be via an existing track from Bridge of Oich. Should this require to be upgraded, a planning application would be made to The Highland Council.

1.7 Most traffic (for both construction and then subsequent operation of the wind farm) would access the site via the existing wind farm access track from the A887 in Glen Moriston, to the north. The existing wind farm comprises 26 turbines. 16 of these are 115m to blade tip, 10 are 125m to blade tip. The proposed turbines would generally be in locations which are between the existing turbines, although the proposal would extend the wind farm a little to the southwest. The control building would be amongst the turbines, at an elevation of around 550m AOD. The borrow pit would be an enlargement of a borrow pit previously worked for the existing wind farm. This lies at the northern edge of the site at around 600m AOD. Aside from the existing wind farm infrastructure, heath and bog habitat types predominate across the site.

1.8 To the west of the site is the site of the consented Beinneun wind farm and its consented extension. The Beinneun wind farm is presently under construction, and my reasoning reflects this. For convenience, however, I refer to these turbines as 'consented' throughout my report.

Consultation responses

1.9 Fort Augustus and Glen Moriston Community Council [objects](#) to the proposal due to cumulative landscape and visual impacts of the increased numbers of turbines in the area. The site is noted as being highly visible from locations throughout Fort Augustus and Glen Moriston, and in particular from Aberchalder.

1.10 [Scottish Natural Heritage](#) (SNH) considers that the proposal is not likely to have an effect on the West Inverness-shire Lochs Special Protection Area (SPA), and that an appropriate assessment of the impacts on the SPA is not required. In addition to the ecological mitigation proposed in the ES, SNH recommends a number of further mitigation measures for protected species. It also recommends that turbine 1 is micro-sited away from an area of alpine heath habitat.

1.11 In relation to landscape and visual impacts, SNH highlights the importance of Fort Augustus and the Great Glen as visitor destinations, and that turbines should not dominate the view from these areas. It notes that the proposal would increase the extent of the wind farm in some views but also that much of the additional impacts would instead be as a result of infilling between existing turbines.

1.12 SEPA¹ recommends some revisions to the track layout and that there be a 50m buffer zone around all watercourses. Conditions relating to construction methods, micro-siting and site restoration are also recommended.

¹ [SEPA consultation response 30 September 2014](#)
[SEPA consultation response 2 July 2014](#)
[SEPA consultation response from 16 June 2014](#)

1.13 The Mountaineering Council of Scotland (MCofS) [objects](#) on the grounds of significant cumulative visual impact in an area of outstanding landscape importance. The MCofS points out that the proposal would be the third extension of the original wind farm, with turbine heights becoming successively higher. The overall density of turbines would be substantially increased. In combination with the consented Beinneun wind farm, the impression from surrounding areas would be of a large scale industrial development on a previously open scenic area. More generally, cumulative impacts with other wind farms in the wider area would mean that wind farms would be the dominant visual characteristic of the uplands between the Moray Firth and Glen Urquhart. The capacity of the area to absorb wind farms has been exceeded.

1.14 Scotways objects to the proposal. Although it welcomes the intention to maintain public access to the site during the construction period, Scotways is concerned about the visual impacts of the borrow pit on the setting of a row of stone cairns on the Ceann a' Mhàim Coffin Road, a Heritage Path which crosses the site. It also wishes to be assured that it would remain possible to traverse the site using existing rights of way without passing closer to any turbine than a distance equivalent to the height to blade tip. Scotways is also concerned about visual impacts from Meall Dubh, a Corbett peak which lies between the sites of the Millennium and Beinneun wind farms.

1.15 The Forestry Commission Scotland² would have preferred to see the electricity cable to the grid connection point avoid an area of ancient semi-natural woodland at Doire Darach, but agreed that micro-siting may be sufficient. It will be important to avoid disturbance to ground flora and to areas where regeneration may be taking place.

1.16 CH2mHILL provided a [technical appraisal](#) of Appendix D1 to the peat landslide and hazard risk assessment for the proposal. CH2mHILL concludes that the material submitted provides a sufficiently robust assessment of the peat landslide risk.

1.17 The Ness District Salmon Fishing Board made a number of recommendations on the need for monitoring of water quality, macro-invertebrates, fish populations and habitats. Marine Scotland's advice covers similar ground. Scottish Water made recommendations in relation to water quality monitoring and the proposed Construction Environment Management Plan (CEMP).

1.18 The Ministry of Defence (MoD) does not object. It requests aviation safety lighting on the turbines, and that it be informed of the final details of the turbine locations and heights, and of construction arrangements, should consent be issued. Neither National Air Traffic Services (NATS) nor Inverness Airport objects.

1.19 [Historic Scotland](#) (now Historic Environment Scotland) reviewed the ES and the potential impacts on 3 heritage assets. Historic Scotland considered that none of the impacts on these assets would be significant, and had no objection to the proposal.

1.20 Apart from wishing to draw Ministers' attention to the cumulative impacts on birds through collisions and displacement, the Royal Society for the Protection of Birds (RSPB) Scotland has no observations to make on the proposal. Transport Scotland recommends conditions in relation to large and abnormal loads. Visit Scotland recommends that any

² [FCS consultation response 8 October 2014](#)
[FCS consultation response 18 July 2014](#)

potential impact on tourism be identified and considered in full. The British Horse Society provided guidance on equestrian access and wind turbines. There are no objections in relation to telecommunications links.

Representations

1.21 The Energy Consents and Deployment Unit (ECDU) received 25 [letters of support](#) for the project. These generally point to the suitability of the site as an existing wind farm and to the energy generation, climate change and local economic benefits of the proposal. Several of those supporting the proposal state that they are investors in existing renewable energy co-operatives in the area. Other than the consultees noted above, no letters of objection were received by ECDU. DPEA received one [letter](#) of objection shortly before the inquiry and hearing sessions. This raised concerns about impacts from noise and shadow flicker at the village of Dalchreichart. The applicant [responded](#) in writing to this representation. I deal with these issues in the chapters below.

1.22 Another supporter is John Macdonald, the tenant farmer for part of the site. His [hearing statement](#), submitted by Andrew Macdonald, notes the benefits of the proposal, including that it is an extension to the existing wind farm. It also states that there would be minimal impacts on the farming business.

Consideration by The Highland Council

1.23 At its meeting of 1 April 2015, the council's South Planning Applications Committee agreed to [object](#) to the proposal on the following grounds:

The development will be significantly detrimental, cumulatively with other wind farms in the area, particularly at:-

- *all of the Millennium wind farm (including its previously consented extensions)*
- *the consented Beinneun wind farm; and*
- *having regard to visual impact, particularly from*
 - *the Thistle Stop Café*
 - *Faichem Caravan Park*
 - *all surrounding higher land, including in particular:*
 - *the Corrieyairack Pass*
 - *the route descending from the Suidhe viewpoint along the B862, and*

as such, the proposed development would be contrary to Policies 67 and 28 of the Highland-wide Local Development Plan.

CHAPTER 2: POLICY CONTEXT

2.1 This chapter sets out the national and local energy and planning policy context relevant to consideration of the proposal.

2.2 Chapter 4 of the ES covers climate change and energy policy, with chapter 5 covering planning policy and guidance. Chapters 2 and 3 of the Planning Statement also cover these matters. The policy context has, however, changed somewhat since these documents were written, and it was therefore agreed to hold hearing sessions covering these matters. Hearing statements were submitted by the [applicant](#) and the [council](#). In addition, the applicant and the council submitted a [statement of agreed matters](#) which covered the policy context and a number of other matters.

National Energy Policy

2.3 The council and the applicant agree that European, UK and Scottish Government energy policy is a material consideration in this case, and that the relevant policy documents include the following:

- The UK Renewable Energy Strategy (2009);
- [The UK Renewable Energy Roadmap](#) (July 2011);
- [The UK Renewable Energy Roadmap Update](#) (2012);
- [The 2020 Routemap for Renewable Energy in Scotland](#) (2011);
- [The Scottish Electricity Generation Policy Statement](#) (2013);
- [The 2020 Routemap for Renewable Energy in Scotland – Update \(2013\)](#);
- [The 2020 Routemap for Renewable Energy in Scotland – Update \(2015\)](#);
- The Scottish Government, [Energy in Scotland](#) (2015); and
- [The Scottish Government, Heads of Planning Letter – ‘Energy Targets’](#) (November 2015).

2.4 The council and the applicant are agreed on the seriousness of climate change and its potential effects and the need to cut CO² emissions. They agree that the Scottish Government’s target of generating the equivalent of 100% of gross electricity consumption from renewable sources by 2020 (the ‘100% target’) is not yet reached and is not capped. In addition to these points on which there is agreement, the main points for the parties in relation to national energy policy are as follows:

2.5 The main points for the applicant:

- The evidence from the June 2015 [EU Renewable Energy Progress Report](#) and ‘leaked’ [letter](#) from the UK Government Energy Secretary indicates that the UK is on track to miss its EU2020 renewable energy target.
- The Scottish Government’s [Energy Statistics for Scotland](#) published in December 2015 show that there remains a challenge in meeting the Scottish Government 2020 100% target. This requires around 16 Gigawatts (GW) of renewables capacity, and the statistics show that there is currently sufficient capacity either operational, in construction or consented to meet this. However, the target relates to installed capacity, and there can be no guarantee that all the consented schemes (which

amount to 7.7GW of capacity) will be constructed and become operational. For a variety of reasons, some may not. This has been recognised in the Scottish Government publication Energy in Scotland.

- Despite recent changes to UK policy, in particular in relation to support for onshore wind energy, the Scottish Government 'Energy Targets' letter to the Heads of Planning confirms that the Scottish Government's policy remains unchanged. The Scottish Government supports onshore wind farms, and this support continues even where renewable energy targets have been reached. The targets must, in any event, be seen in the context of wider energy policy and targets which look further ahead to 2050.
- The proposed development, due to its high elevation and wind speeds, is efficient, would help realise EU, UK and Scottish renewable energy policy objectives and targets, and would help maintain energy security. These renewable energy benefits should not be over-riding, but do carry significant weight.

2.6 The main points for the council:

- The 'leaked' letter from the UK Government Energy Secretary does not have the status of policy and has been superseded by a more recent [announcement](#) to parliament. The letter should be given little or no weight in this case. It does not undermine or carry the same weight as the UK government's stated policies.
- It is accepted that not all consented schemes may be constructed, but it is the case that 'on paper' the 2020 100% target could be met already. The council agrees that the Scottish Government's 'Energy Targets' letter confirms that there should be no cap on support for onshore wind development once the target has been reached. But if one is placing weight on the need to meet the target itself, then the fact that there has been good progress towards doing so, and that there is already sufficient capacity consented to exceed it, must naturally be a material consideration.

National Planning Policy and Guidance

2.7 The statement of agreed matters between the council and the applicant sets out the sections of the 3rd [National Planning Framework](#) (NPF3) and [Scottish Planning Policy](#) (SPP) which those parties agree are of most relevance.

2.8 NPF3 is a long term strategy for Scotland. It is the spatial expression of the Scottish Government's Economic Strategy, and of plans for development and investment in infrastructure.

2.9 SPP is Scottish Government policy on how nationally important land use planning matters should be addressed. It introduces a presumption in favour of development which contributes to sustainable development. Decisions are to be guided by a number of listed principles. It says that the planning system should support the change to a low carbon economy, including deriving the equivalent of 100% of electricity demand from renewable sources by 2020.

2.10 SPP requires planning authorities to set out in their development plan a spatial framework identifying those areas that are likely to be the most appropriate for wind farms. Table 1 of SPP shows the approach to be followed. Group 1 is areas where wind farms will not be acceptable. Group 2 is areas of significant protection. Group 3 is areas with potential for wind farm development, where it is likely to be acceptable subject to detailed consideration against identified policy criteria.

2.11 SPP says that the siting and design of development should take account of local landscape character. Decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects.

2.12 The main points for the applicant:

- NPF3 recognises onshore wind as a key technology in the energy mix which will contribute to Scotland becoming 'a low carbon place' – an essential part of the 'vision' for Scotland.
- The presumption in SPP in favour of development which contributes to sustainable development is an important material consideration in favour of the proposal. The proposal accords with the guiding principles for development in paragraph 29 of SPP and with the outcomes which SPP seeks to achieve, in particular 'a low carbon place'.
- In relation to SPP policy on spatial frameworks for wind farms, the application site would fall into Group 2. But this is only due to the presence within the site of some carbon rich soil, as mapped by SNH. The siting and design of the wind farm has avoided areas of deep peat, so that any significant effects on carbon rich soils would be avoided, as required by SPP.
- The proposal is acceptable when considered against the criteria which paragraph 169 of SPP lists as being likely to be relevant considerations for proposals for energy development.

2.13 The main points for the council:

- Due to its particular impacts, the proposal does not comply with Policy 67 of the Highland-wide Local Development Plan, nor does it therefore represent development which contributes to sustainable development.
- For Group 2 areas, SPP states that wind farms 'may be acceptable in some circumstances'. This wording suggests that scope is limited. NPF3 specifically recognises the national importance of carbon rich soils and deep peat
- The applicant does not appear to have had regard to the need to assess the suitability of the site for wind farm development in perpetuity, as required in paragraph 170 of SPP.

The development plan

2.14 The council and the applicant agree that the development plan comprises [The Highland-wide Local Development Plan](#) (HwLDP) (2012) and the West Highland and Islands Local Plan (2010). There are no policies in the latter plan relevant to the application site.

2.15 The council's objection refers only to policies 67 and 28 of HwLDP. The statement of agreed matters states that policy 67 is the key policy (I agree) and also lists policies 28, 29, 57 and 61 as being of most relevance. The parties' respective hearing statements list a number of other policies as also being relevant, including policy 55.

2.16 Policy 67 Renewable Energy Development says that proposals should relate well to the source of renewable energy. Considerations are to include the contribution towards meeting renewable energy generation targets, economic effects and any benefits of using existing infrastructure. Subject to these considerations, the policy supports proposals that are not significantly detrimental overall. Regard is to be had to a number of considerations, including natural, built and cultural heritage features, species and habitats, landscape and visual impacts, amenity, the water environment, public access and tourism and recreation. Proposals to extend existing development are to be assessed using the same criteria and considerations as for new facilities.

2.17 Policy 28 Sustainable Design supports development which enhances social, economic and environmental wellbeing. Development is to be assessed against a number of criteria, including impacts on residential amenity, the natural environment, cultural heritage, scenery, landscape and community economic and social development.

2.18 Policy 29 Design Quality and Place-Making expects development to make a positive contribution to its location. Policy 57 Natural, Built and Cultural Heritage lists a number of criteria against which development is to be assessed. These vary depending on the importance of the features which may be affected. Policy 61 Landscape requires the design of new development to reflect the landscape characteristics and special qualities of the area in which it is proposed. Policy 55 Peat and Soils says that unnecessary disturbance, degradation or erosion of peat and soils should be avoided.

2.19 The main points for the applicant:

- Cumulative landscape and visual effects are the only substantive matter in dispute between the council and the applicant.
- The proposal is well-located in relation to the available wind resource, would make a valuable contribution to meeting renewable energy targets and would also bring economic benefits. It would make use of existing infrastructure and would not be significantly detrimental overall when judged against the criteria listed in Policy 67. The ES and other evidence in relation to landscape and visual amenity demonstrate that significant impacts would be limited. The proposal is therefore consistent with the requirements of Policy 67.
- The proposal is not in significant conflict with any other development plan policy, and therefore overall is in accordance with the development plan.

2.20 The main points for the council:

- The council does not dispute the potential contribution the development could make to meeting renewable energy targets referred to in Policy 67. However the significant cumulative detrimental impacts with the existing Millennium and consented Beinneun wind farms means that the proposal does not comply with the policy.
- For the same reasons, the proposal is also in conflict with Policy 28.

Highland Council planning guidance

2.21 There are a number of other council documents which, although not at this time forming part of the development plan, are referred to by the parties. Of most note are:

2.22 [Highland Renewable Energy Strategy](#) (HRES) (2006). The parties confirmed at the hearing that the planning-related elements of HRES have been superseded by later council documents.

2.23 [Interim Supplementary Guidance on wind energy](#) ('the ISG') (2012). This elaborates on the criteria listed in Policy 67 of HwLDP. The site is within an 'Area of Search' for wind energy in the spatial framework in the document.

2.24 [Draft Supplementary Guidance Onshore Wind Energy](#) ('the draft SG') (2015). This document sets out a fuller interpretation of the requirements of HwLDP. It is intended, once finalised and adopted, to become formal supplementary guidance to HwLDP, and in time to its successor. The draft SG also contains a draft spatial framework for wind farms, based on the advice in SPP. Due to the presence of deep peat, the appeal site is within a 'Group 2' area.

2.25 The draft SG also sets out the results of landscape sensitivity assessment for the Loch Ness area, including the application site, based on a number of Landscape Character Areas (LCA). The site straddles LCAs 5 and 11, although is mostly in the latter. The presence of the consented Beinneun and operational Millennium wind farms is noted. In respect of the potential for further wind energy development it is stated, for both LCAs 5 and 11, that there are '*possible opportunities for limited additional development where it can be shown to improve the visual relationship of existing schemes, and where existing access infrastructure can be shared*'.

2.26 The main points for the applicant:

- HRES is contrary to national planning policy and its spatial planning elements have since been superseded by other council documents. No weight should be placed on these. At the hearing, it was agreed that limited weight could be placed on those elements related to training and economic benefits as highlighted by the council.
- Given that there has been consultation on the draft SG, the ISG (which the new document would replace) should now only be given limited weight. Elements which

amplify Policy 67 should be given limited weight, but the spatial planning elements, which are not now consistent with SPP, should be given no weight.

- The draft SG, noting that it is a consultation draft and subject to representations, should also be given limited weight. However, the proposal complies with the objectives for the relevant LCAs in this guidance. At the inquiry session, the council's landscape witness said that this element of the guidance appears to have been written with the Millennium South proposal in mind.

2.27 The main points for the council:

- Policies in HRES relating to Education and Training, Community Benefit and the Local Content of Works remain relevant, albeit carrying minimal weight.
- The ISG is in the process of being replaced, and is based on a methodology which is now out of date in relation to SPP. Therefore no weight should be attached to it.
- At the hearing, and consistent with the council's position expressed in the [report of handling](#) for the Druim Ba wind farm, the council accepts that limited weight should be given to the draft SG.
- The proposal cannot draw support from the draft SG as it is in a Group 2 area requiring significant protection and because the cumulative visual effects with the Beinneun and Millennium wind farms mean that the development would not accord with the guidance on the potential for wind energy development in LCAs 5 and 11. There is a question as to whether the size of the proposal is such that it would fit the description of 'limited additional development' which the draft guidance envisages may be acceptable as an extension to existing development in these LCAs.

2.28 My conclusions in respect of policy matters are in chapter 6.

CHAPTER 3: LANDSCAPE AND VISUAL IMPACTS

3.1 Chapter 6 of the ES addresses landscape and visual amenity, and further environmental information ('the FEI') included updated cumulative visualisations and wireframes. These matters were also covered at the inquiry session. Both the council and the applicant submitted an inquiry statement³, a precognition⁴ and a report⁵ expanding upon their precognition. The parties' closing statements⁶ also focussed largely on landscape and visual impacts. The issues covered in this chapter are at the heart of the council's objection.

3.2 The ES draws on SNH's 1998 landscape character assessment for [Lochaber](#), and its 1999 assessment for [Inverness District](#). The former places the site within the Rocky Moorland landscape character type (LCT). Immediately to the north is the Rugged Massif LCT (in the Inverness District assessment). Other LCTs nearby include Wooded Glen, Broad Steep-Sided Glen and Broad Forested Strath. SNH's 2004 [Study into landscape potential for wind turbine development in East and North Highland and Moray](#) is also referred to, as is a further [Assessment of Landscape Sensitivity to Wind Turbine Development in Highland](#) from 2010.

3.3 The site does not fall within any areas designated (either locally or nationally) for landscape or scenic value. The nearest National Scenic Area (NSA), Glen Affric, lies 13km to the northwest of the nearest proposed turbine. Four other NSAs lie at distances of between 23km and 28km. The Loch Lochy and Loch Oich Special Landscape Area (SLA) (identified by the Highland Council) lies 5.5km to the southeast. A further four SLAs lie at distances of between 9km and 24km. There are areas of core wild land in the mountainous countryside all around the site (except to the northeast), the nearest of which approaches to about 8km from the nearest proposed turbine. The Cairngorms National Park is 27km to the east-southeast.

The Environmental Information

3.4 The ES provides wireframe visualisations and photomontages of the wind farm from 20 representative viewpoints (VPs). These are based on those used in the previous ESs for the Millennium wind farm, and were agreed in advance with the council and SNH. There have been changes in the cumulative baseline since the original ES - in particular the consent for an extension to the Beinneun wind farm. This is shown in the FEI for a selected number of the most significant viewpoints, as agreed with the council. At the request of the council, the FEI also provides wire-line visualisations for an additional three viewpoint locations (AVPs).

3.5 The ES assesses the effect on the landscape character of the site as moderate adverse, and not significant in EIA terms. This is because the existing wind farm is said to

³ [Applicant inquiry statement](#)
[Council inquiry statement](#)

⁴ [Council precognition](#)
[Applicant precognition](#)

⁵ [Council inquiry report](#)
[Applicant inquiry report](#)

⁶ [Applicant's closing statement](#)
[Council's closing statement](#)

be very prominent. Similar levels of effect on the character of the Rocky Moorland and Rugged Massif LCTs (which form the wider setting of the site) are predicted, as these are large LCTs within which the existing wind farm has already resulted in some significant effects. Effects on other LCTs are assessed as, at most, slight to moderate.

3.6 The likely effects on the landscape character of NSAs are assessed in the ES as imperceptible. Landscape character effects on the Loch Lochy and Loch Oich SLA (because the extent of visibility of the development from within it would be limited to the northern and eastern edges and to mountain tops and high ridges) are said to be moderate adverse, and not significant. The same degree of effect is predicted for the landscape character of the Loch Ness and Duntelchaig SLA (9.5km east-northeast) and the Moidart, Morar and Glen Shiel SLA (9km to the west). Other SLAs are judged to be too distant for there to be an effect on them. Given the presence of the operational wind farm, no significant effects on wild land characteristics are predicted.

3.7 In relation to the specific viewpoints selected for the ES, its assessment is that there would be significant visual effects only from VP4 (the A82 near the Thistle Stop Café) and VP11 (the summit of Meall na h-Eilde)

3.8 Visual effects on residential receptors are generally assessed as being not significant, with the exception of properties at Newton and Aberchalder (7.2km to the southeast) where the effects are assessed as being moderate to substantial adverse, and significant. There would also be significant cumulative effects with the existing Millennium wind farm, with the consented Beinneun wind farm, with the 'in scoping' Moriston wind farm (if it is approved and built) and with the Beaulay-Denny 400kV grid connection which passes nearby to the east.

3.9 In respect of main roads, the only significant effects predicted are, intermittently when the wind farm would be visible, on the 6.5km stretch of the A82 between Fort Augustus and Aberchalder. There are also predicted to be moderate to substantial adverse effects (significant) on the core path between Fort Augustus and Invergarry, in particular as it passes Loch Lundie. For other recreational receptors, the effects on some views from Loch Garry may be significant. Effects on walkers, climbers and deer stalkers are expected to be moderate to substantial adverse, and significant, from hill summits to the southwest of the site, as illustrated by VP11.

The main points for the applicant

3.10 The core of the applicant's position in respect of the landscape and visual effects of the proposal can be found in the ES and the FEI, and is summarised above. In addition, a number of other key points were made in the applicant's written submissions and at the inquiry.

3.11 The development would not cause unacceptable levels of cumulative landscape or visual effects. The relatively low numbers of objections would seem to bear this out. The council's position on this proposal is inconsistent with its position on the Beinneun extension, and at odds with the professional [advice](#) from its experienced officers. The council's view of the Beinneun extension, reported in the Scottish Government's [decision notice](#) is that *'the proposed wind farm will sit comfortably with the consented Beinneun Wind Farm and those others in close proximity including Millennium 1, 2, 3 and Millennium South.'*

However it is considered that this development would then take much of the remaining landscape capacity for wind energy development on this elevated landscape'. This implies that the overall level of wind turbine development in the areas is acceptable to the council, including the 10 proposed turbines at Millennium South.

3.12 The council's objection is badly phrased. Leaving this aside, of the specific locations mentioned, it is only at VP4 (Thistlestop Café) where the council's own landscape witness, Dr Wimble, agrees that there would be significant visual effects. The three additional viewpoints requested by the council add little or nothing to its case. The wording of the objection refers to cumulative effects, not the 'in combination' effects which the council now says are what the councillors were concerned about.

3.13 The character of the landscape, in the area of the existing wind farm, has already changed to a wind farm landscape. The effects of a further 10 turbines on the character of the site would not be significant. A further 10 turbines would not extend this wind farm landscape further and would not change (or have a significant adverse effect on) the overall character of the two LCTs in which the site is located. The landscape has the capacity to accommodate these turbines although the applicant's landscape witness, Mrs Beauchamp, offered the view (without considering the matter in great detail) that the proposed development may mean that there would be little or no further capacity. Effects on landscape character in the area around Fort Augustus and Glen Moriston would be negligible.

3.14 The Zone of Theoretical Visibility (ZTV) for the proposed development is very similar in extent to that of the existing wind farm, so that the extent of visibility of the overall wind farm would be increased by only a very limited degree. In relation to the objection from the MCofS, the ZTV demonstrates that there would be no views of any of the proposed turbines from the A87 east of Cluanie.

3.15 There would be no significant cumulative visual effects at Invergarry, from most of which the development would not be visible at all. VP2 at the Faichem campsite represents a worst-case scenario, and the impacts there are not significant. Visibility of the turbines from other parts of the campsite would be less due to the presence of intervening woodland and, from some locations, there would be greater visibility of the Beinneun turbines.

3.16 The visual effects from the core path at Loch Lundie (AVP2) would be significant. The cumulative visual effects would be positive because the layout and appearance of the wind farm would be improved. One would normally assess impacts on a core path along its whole route.

3.17 There would be no views of turbines from the northern side of the valley floor of the Great Glen, and limited views of a small number of blade tips from within Fort Augustus. There would be very limited visibility from the southern side of the valley floor of the glen, with greatest visibility, as reported in the ES, being along the A82 between Fort Augustus and Aberchalder. Visual effects from there (represented by VP4) would be significant, although the wind farm layout would appear more coherent than presently. Only short sections of the Great Glen Way (see VP3) are within the ZTV.

3.18 Visual effects from Meall Dubh (AVP1) of the existing and consented turbines would be substantial adverse, and significant. However Mrs Beauchamp confirmed at the inquiry

session that her view is that the additional effects of the proposed turbines, which would be largely behind the existing Millennium turbines, would not be significant.

3.19 There would be significant visual effects on receptors at the summit of Ben Tee (AVP3). But taking into account the baseline of the existing and consented turbines, including the Beinneun extension, the additional cumulative effects of the proposed turbines would not be significant. Similar conclusions are reached for VP11 (Meall na h-Eilde), where Mrs Beauchamp's judgement is that the assessment of significant visual effects in the ES is probably an over-estimate, and that the impacts are around the threshold of significance given the distances involved.

3.20 VP13 at Loch Tarff, referred to in the council's objection as the route descending from the Suidhe viewpoint, is a distant view at nearly 16km and from where the existing and proposed turbines would be seen in a relatively tight group. At this distance, and as a transient view for road users, the effects are not considered to be significantly adverse. Further west, views of the wind farm would become more limited as the road descends.

3.21 Three sections of the Corrieyairack Pass are within the ZTV, the closest of these being between 9.25km and 10.5km of the nearest turbine. VP12 illustrates the view at a distance of 14.6km. The proposed turbines would be seen within the context of the existing wind farm and back-dropped against the rising land beyond. Impacts on users of the pass are not considered to be significant.

3.22 There would be no adverse effects on any of the 'key views' identified in the draft SG. From Meall Fuar-mhonaidh (VP15) the development would be seen at a distance of over 22km and beyond the existing turbines. The turbines would not be in the 'Local Hero' view looking west-northwest from the passing place east of Loch Tarff. Views from the A887 would be filtered, oblique and sporadic (see VP5). Theoretical visibility from the A87 above Loch Garry is sporadic, but in reality the turbines are likely to be screened by roadside conifer plantations.

3.23 The locations of the proposed turbines mean they would integrate well with the existing wind farm, and in fact would fill in the gaps in the current layout, making it more cohesive overall. In this respect, the proposal therefore complies with the advice in chapter 4 of SNH [guidance](#) on the siting and design of wind farms. Cumulative effects with the existing Millennium wind farm would therefore be positive.

3.24 The Millennium and Beinneun wind farms form a cluster, creating a wind farm landscape in the immediate area. Around this is a wider area between these and any other wind farms, with the nearest other consented wind farms being Bhlaraidh at 11.5km distance and, subject to legal challenge, Stronelairg. An 'intensification' of turbines within the Millennium/Beinneun cluster, provided this can be accommodated in an acceptable manner, is therefore appropriate. There would be no significant cumulative effects with any other consented wind farms out with the cluster.

3.25 Cumulative visual effects with the Beaully-Denny overhead power line and pylons would be limited. The same applies to effects with the consented Coire Glas pumped storage scheme – any cumulative visual effects would be limited to higher ground enclosing the upper reservoir from where, at a distance of over 11km and within the context of the existing wind farm, the additional effects would not be significant.

3.26 The site would not have a 'top heavy' appearance and the extent of overlapping of turbines (which would generally occur for receptors who are moving rather than static) would not be greater than at other wind farms.

3.27 Given the differing elevations across the site and the irregular, undulating landform, the difference in size between the proposed and consented turbines would be very difficult to perceive and would not, in itself, result in additional landscape or visual effects. The photomontages bear this out. It was acknowledged at the inquiry that access tracks for Millennium are visible from the surrounding higher ground, as would be the tracks for Millennium South.

3.28 Significant visual effects on residential properties are limited to a few houses at Newton and Aberchalder, and would not be so substantial as to result in a significantly adverse effect on residential amenity.

The main points for the council

3.29 The core of the council's position is contained in its objection, which I relate in paragraph 1.23 above. In addition, a number of other key points were made in the council's written submissions and at the inquiry. In respect of these, the council clarified that footnote 7 of the council's inquiry report should refer to App 4.12, and the conclusion at 5.31 in respect of VP11 should be that the effect is significant.

3.30 Dr Wimble is in broad agreement with the approach, detailed methods and assessment findings in the Landscape and Visual Impact Assessment (LVIA) in the ES, in fact finding there to be a slightly lower magnitude and significance of effect in some instances. However, moderate effects may potentially be significant, whereas the threshold of significance in the LVIA is moderate to substantial. Adverse effects which are not significant should not be ignored. In summarising his views on cumulative effects, Dr Wimble's conclusions relate to additional cumulative effects, in accordance with [SNH guidance](#) Assessing the Cumulative Impacts of Onshore Wind Energy Development. He draws no conclusions as to overall acceptability. The visualisations should have included the proposed access tracks as these would be visible from surrounding higher ground.

3.31 The upland area between Glen Garry, Glen Moriston and the Great Glen penetrates a dramatic west highland landscape of high scenic and wildness value, denoted by multiple designations within the surrounding area. The proposed turbines would add to (and intensify the effects of) an extensive wind energy cluster that has become a notable and detracting feature visible from this wider area, which has a lack of similar development. Despite the extensive wind energy baseline, the proposed turbines would nevertheless lead to significant adverse landscape and visual effects.

3.32 The precise wording of the council's objection should not be subject to forensic scrutiny. The particular locations mentioned in the objection are not necessarily the only ones which were of concern. It is the cumulative effects, in particular the in-combination effects of all the existing, consented and proposed turbines in the cluster, which is the basis for the councillors' objection. The ES does not address this overall impact. Incremental development and subsequent assessment of limited effects could be pursued *ad-infinitum*, and indeed the wind farm cluster has increased incrementally over a number of years.

Landscape capacity is a flexible concept which relates to the degree of change one is prepared to accept. The councillors have taken the view that, in this case, the limits would be exceeded by the proposed development. It would be a step too far or, as put in the council's closing statement, 'the straw bale which breaks the camel's back'.

3.33 There is nothing inconsistent in the councillors (who are very experienced in such matters) reaching one view in respect of this wind farm and a different view in respect of the Beinneun extension. Similarly, they may disagree with the advice of their officials which was an 'on balance' recommendation made without any input from a professional landscape architect. In this case, the impacts would outweigh the benefits of the proposal. Mrs Beauchamp's evidence provides no structured methodology, analysis or track record against which her assertions that the impacts of the proposal would be acceptable can be assessed or challenged. No weight should be given to her views on this point.

3.34 Dr Wimble's judgement is that there would be moderate (and significant) landscape character effects on the site and its immediate surroundings due to the increased development area, density and overlapping of turbines in views. But the effects on the character of the wider setting of the site and of the combined Rocky Moorland/ Rugged Massif LCT would not be significant.

3.35 There would be no significant effect on designated landscapes, although the proposal would contribute to the effect of the existing and consented turbines when viewed from some locations (for example VPs 8 (on the B862), 11 and 13, and AVP3) in the surrounding SLAs. It is also agreed that significant effects on areas of wild land, or on the wildness of the site, would be unlikely. Again, however, the proposal would contribute to the effects of existing and consented turbines when viewed from some locations in wild land areas (See VP11 and VP16 Creag Meagaidh).

3.36 Visual receptors close to the site would experience significant effects. The proposed turbines would be prominent even when seen with operational turbines and would extend and increase the density of turbines in views. Properties on the A82, at Newton and Aberchalder, would experience moderate to substantial adverse visual effects, which would be significant. Effects at the Thistlestop Café (VP4), alone and cumulatively, would be moderate adverse and significant. The core path between Fort Augustus and Invergarry, as it passes Loch Lundie (AVP2), would experience moderate to substantial adverse visual effects, including cumulatively – significant, based on this view rather than the path as a whole. Although the effects at VP2 (Faichem Campsite) are not considered by Dr Wimble to be significant, this is borderline.

3.37 From Meall Dubh (AVP1) - the visual effects would be moderate to substantial adverse and significant. Although the proposed turbines would be close and very prominent, they would be seen in the context of an existing wind farm of equal prominence, and a wider view of an upland massif characterised by wind turbines. Cumulative effects would be moderate adverse and potentially significant.

3.38 From the summits of hills between Glen Garry, Loch Arkaig and the northwest side of Loch Lochy, hill walkers, climbers and deer stalkers would experience moderate to substantial adverse visual effects. From Ben Tee (AVP3) all 10 proposed turbines would be fully visible. Visual effects would be moderate adverse and significant. Most of the turbines would appear amongst the operational wind farm, overlapping with or filling in gaps

between them, although the closest turbines would lie to the front and left of the operational turbines, slightly extending the wind farm westwards and southwards. Cumulative effects would be slight to moderate adverse and not significant. Similar conclusions are drawn for VP11 (Meall na h-Eilde), albeit this is at greater distance.

3.39 Dr Wimble does not differ from the applicant's assessment that the visual effects on the Corrieyairack Pass (VP12) would not be significant. However, whilst evening-out the spread of Millennium turbines the additional turbines would also intensify the overall effects of Millennium and Beinneun.

3.40 Similarly, Dr Wimble agrees that the visual effects from VP13 Loch Tarff would not be significant. The proposed turbines would add to an existing dense grouping of turbines, creating more visual clutter. As they would be located entirely within the baseline grouping and at a moderate distance, the effect would not be particularly noticeable. However the cluster as whole would be a prominent and discordant feature in the view, intensified by the proposed turbines.

3.41 The turbines would appear to fit into gaps between the arrays of the existing wind farm, set within a larger wind farm landscape. This would even-out the Millennium array when seen from some angles, such that the proposed turbines could be considered to largely fit within the existing wind energy cluster. This is a neutral or positive effect, but the adverse effects from the addition of more turbines are more important.

3.42 The proposed turbines would increase the number and density of turbines, leading to visual overlapping and a cluttered 'top-heavy' appearance when viewed from some locations. In particular from the east, Millennium and Beinneun would be seen as a densely crowded cluster of overlapping turbines contrasting with the smooth outlines of the host hill and with the mountains further west. There would also be visual coalescence between Millennium and Beinneun when seen from the southeast.

3.43 There would be wider-scale cumulative landscape and visual effects of this cluster with developments in the surrounding area, including the Beaully-Denny overhead line and, potentially, other proposed wind farms – most notably Bhlaraidh. However, Dr Wimble's view is that Millennium South itself would not lead to significant effects over and above these due to its location largely within the existing cluster.

Reporter's findings

3.44 Written submissions to the inquiry, and some of the evidence given on the day, explored the nature of the council's concerns about the proposals, and whether this was consistent with its position on the Beinneun extension.

3.45 As to whether the council was acting consistently, the applicant's case boils down to two key points. Firstly that, given the similar nature of the proposals and that they would extend the same wind farm cluster, it is inconsistent for the council not to object to the Beinneun extension (without having even visited the site or voted at committee on the matter) yet, at the same committee meeting, to object to Millennium South on the basis that it would have significant adverse cumulative impacts with the other turbines in the cluster. Secondly, the council's reported position in respect of the Beinneun extension is that its cumulative impacts, including with Millennium South, would be acceptable.

3.46 I see little need to dwell long on the first point. Although both proposals would extend the same wind farm cluster, they would do so in different ways and in different locations. It seems to me entirely plausible, even if the differing impacts of the schemes were to be relatively slight, for the council to support one scheme and not the other.

3.47 As for the second point, the council stated that it is not clear whether its position, as reflected in the Scottish Government's decision letter for the Beinneun extension, is a direct quote from its consultation response or just a summary of it. However the council has not gone so far as to say that the decision letter misrepresented its position, and so I take it at face value. The most straightforward interpretation is that the council thought that both Beinneun and Millennium South could be accommodated within the landscape capacity of the area.

3.48 In any event, it is not for me to consider the differing impacts of the schemes and take a view on whether the council's respective positions were correct. Nor do I place too much weight on the apparent inconsistency in the council's stated positions. This is primarily a matter for the council which has, in any event, provided directly to me its detailed evidence in respect of the Millennium South proposal. Regardless of any inconsistency, my role, taking account of the parties' evidence, is to advise Ministers on whether I consider the application for Millennium South should be approved. The council's reported position in respect of the Beinneun extension assists me little in this task.

3.49 Of more relevance, I think, is the evidence about the wording of the council's objection and the nature of the councillors' concerns which underlie it.

3.50 I agree with the applicant that the council's objection could probably have been more precisely drafted. In arguing that (as an objection based on elected members' concerns rather than stemming from the detailed advice of officers) the wording of the objection ought not to be subject to forensic analysis, the council seems to acknowledge this. But I do have sympathy with the council on this point. The objection is concise and, in the circumstances of this case, it is in its evidence to the inquiry where the council can explain the basis for its objection in more detail. In that context, I think it is important that I do not place too narrow an interpretation on the council's objection, and take proper account of the fuller evidence the council presents to the inquiry.

3.51 It is worth touching on one or two aspects of the council's objection at this point.

3.52 The applicant queried whether the first two bullet points of the objection were intended to mean that there would be cumulative impacts 'at' the site of the Millennium and Beinneun wind farms. Bearing in mind what I say above about how to interpret the council's objection, and having noted the council's evidence to the inquiry, it seems to me that the 'at' in the council's objection might perhaps have better been 'with'. Therefore the objection would be referring to cumulative impacts with the existing and consented turbines in the cluster, then going on to list where such impacts would be experienced. Such an interpretation, although not expressly adopted by the council in its evidence, seems to me to be consistent with the case the council has made.

3.53 The applicant further criticises the objection because, of those locations then listed as having significant adverse cumulative visual impacts, the ES and Mrs Beauchamp find

significant effects at only one of these. Furthermore, Dr Wimble agrees with these findings. I address the visual impacts at each of these locations below. Dr Wimble did point out, however, that the objection says there would be impacts ‘particularly at’ (so not only at) two of the locations listed and then ‘all surrounding higher land in particular’ the two other locations mentioned. The council’s evidence covers other locations which it says are encompassed in the objection, and I address impacts from these locations.

3.54 Finally, in respect of the council’s objection, there was some discussion as to the nature of the cumulative effects on which it is based. The applicant highlights the fact that Dr Wimble largely agrees with the findings in the ES and with those of Dr Beauchamp. Few significant cumulative effects are found and therefore, the applicant says, the council’s evidence does not bear out its objection.

3.55 I note at paragraphs 3.31 and 3.32 above the council’s explanation of the nature of the councillors’ concerns about cumulative impact. There is a difference, it is stated, between the additional cumulative effects of the proposed turbines (on which Dr Wimble’s cumulative assessments are made) and the total ‘in-combination’ effects of all the turbines in the cluster which are said to be the nature of the council’s concerns. This point was highlighted by Dr Wimble and then repeated in the council’s closing statement. The applicant is, I think, right to point out that such an interpretation does not follow obviously from the wording of the council’s objection. And I received no evidence from any councillor or, directly, from any council official present at the meeting at which the councillors decided to object. This was, nevertheless, the position taken by the council in its evidence. With that in mind, and noting also my conclusion that an over-literal interpretation of the council’s objection would not be appropriate, I proceed on the basis that it is the ‘in-combination’ effects of all the turbines in the cluster which underlies the councillors’ concerns about the proposal. I come back to such impacts below, after dealing with the effects on and from the various key locations highlighted in the council’s objection and in the other evidence.

3.56 Of these effects, I deal first with landscape character.

3.57 In respect of whether the effects on the landscape character of the site and its immediate surroundings would be significant in EIA terms, I agree that this is arguable either way. There would be an intensification of the development within the existing site by infilling additional turbines (and new stretches of track). The wind farm would also be extended slightly to the southwest. Although this would be only a slight increase in the ‘spread’ of the wind farm, it would take it closer to the Beinneun wind farm. On balance, I find that it is prudent to consider that there would be a significant effect on landscape character at the level of the site and its immediate surroundings. However this kind of effect is inevitable in wind farm developments and is not, in of itself, something which in my view weighs heavily against the proposal.

3.58 I stress again that I address ‘in-combination’ effects below. But noting that my judgement in paragraph 3.57 above is a fine one, and precautionary, I agree with the parties that the effects on the landscape character of the much wider Rocky Moorland and Rugged Massif LCTs which form the wider setting of the site would not be significant. Given their separation from the proposed turbines and the presence of the existing turbines, I also agree with the conclusions in the ES that there would only be, at most, slight to moderate effects on the other surrounding LCTs.

3.59 In respect of impacts on designated landscapes, the council points out that, although not itself designated for any scenic or landscape value, the upland area in which the site is located is surrounded by designated landscapes and areas of wild land. That is so, although the technical evidence before me, on behalf of both the council and the applicant, is that there would be no significant effects on such areas. In light of the distances between the site and NSAs and the Cairngorms National Park, and the limited visibility from these areas, I agree that the effects of the proposed turbines on them would be minor, and not significant. Some of the council's SLAs come somewhat closer, and the assessment in the ES is that there would be significant visual impacts from locations within the Loch Lochy and Loch Oich SLA. Nevertheless, and noting the same factors as for the NSAs (as well as the presence of the existing and consented turbines in the cluster), I agree that there would be no additional significant effects on the SLAs. On the same basis again, I concur with the view that there would be no significant effects on wild land areas.

3.60 I turn now to visual effects.

3.61 The council's concerns are, as discussed above, about cumulative effects. What is proposed is a fairly tight extension to an existing wind farm, which would extend its overall footprint to a limited degree. The Beinneun wind farm (and its extension) sits a short distance to the west of the site and is currently under construction. The proposed turbines would generally not be significantly closer to receptors than the existing and consented turbines in the cluster. I therefore agree that it makes most sense to focus primarily on the cumulative visual effects of the proposal, whilst having some regard to the rather more theoretical impacts of the development in isolation from the existing and consented turbines in the cluster. I consider here the additional cumulative impacts of the proposed turbines on a number of locations, before returning more generally to the council's concerns about the 'in-combination' effects.

3.62 The ZTV shows that there would (except in the immediate vicinity of the wind farm cluster itself) be fairly limited visibility of the turbines in arc from west of the site round clockwise to the north-east – broadly between Glen Garry and Loch Ness. The turbines would often be seen, where visible from such locations, beyond either the existing Millennium turbines or the Beinneun turbines. Generally only up to around 6 of the turbines would be visible, and not all of these at hub height given their position on the southern slopes of the massif. Little of the council's written or oral evidence focusses on locations in this area, and none of the visual effects here are assessed as significant. Noting this context, I agree that the visual effects from this area would not be significant and do not count significantly against the proposal. The MCofS raised concerns about impacts to the east of Cluanie on the A87, but the ZTV shows that the turbines would not be visible from there.

3.63 The council's concerns seem to focus more on impacts on locations to the south and east, and along the Great Glen. I deal first with impacts from lower elevations and more settled locations.

3.64 In respect of VP2 (the Faichem Campsite) it was evident during my accompanied site inspection that the viewpoint is at or close to the location in the campsite from which the greatest number of proposed turbines would be visible. As one moves further east and north within the site, nearby trees would provide greater screening of the turbines. With this in mind, and given the presence of the existing turbines, I do not foresee significant effects

on users of the campsite. The campsite sits at the edge of Invergarry, with the village itself largely sitting lower down in the glen, for the most part on the north side of the river. The ZTV shows that there would be little or no visibility from the village itself.

3.65 Turning now to impacts on locations along the Great Glen, the ZTV shows that there would be very little visibility of turbines from the north side of the glen. VP3 seeks to illustrate the impacts on the Great Glen Way at a location on the south side of Loch Oich. The wireframe drawing shows that all of the proposed turbines would be theoretically visible from here, although the photomontage shows that the conifer plantations on the hills immediately above Invergarry would obscure the view of most of the turbines. I acknowledge that there may be greater views of the turbines from other locations along the Great Glen Way, and of course it may be the case that future felling of trees could open up more views. Even allowing for this, and again noting the context of the existing turbines, I find that impacts on users of the Great Glen Way would likely be very limited.

3.66 Further north along the Great Glen, VP4 shows the likely impacts from a location on the A82, just to the north of the Thistle Stop Café. This is representative of views from the café, from residential properties in this area and, to a degree, of views from the A82 between Aberchalder and Fort Augustus.

3.67 The parties are in agreement that visual effects from this location, and on the properties along this stretch of the A82, would be significant. I accept that the additional turbines may result in a more cohesive overall design for the wind farm. The presence of turbines 8, 9 and 10 would, when viewed from this location, make the easternmost group of existing turbines appear to be less of an outlying group. The lateral spread of the wind farm would be extended by only a fairly short distance to the west. Although the array would be denser, it would not be excessively so. Overall, I agree that the additional visual effects from this stretch of the A82 would be significant. Given, however, the distances involved, I do not consider that such impacts would be so adverse as to be significantly harmful to the residential amenity of any of the properties here.

3.68 Impacts from near Loch Lundie, on the core path between Fort Augustus and Invergarry, are illustrated in AVP2. The parties' landscape witnesses agree that visual effects at this location would be significant. However the wireframe shows that the turbines would appear to fit well with the existing array. I walked most of the length of this path between Invergarry and Bridge of Oich during my site inspections. Whilst there would generally be visibility of the turbines as the path passes to the south and east of Loch Lundie, there would be limited or no visibility from most other locations, and the 'fit' with the existing turbines should be borne in mind. I think that the path may be more likely to be affected by the presence of the proposed substation and grid connection. Overall, however, I do not consider that significant effects on the path would occur.

3.69 The ZTV illustrates that there would be limited visibility of the turbines from Fort Augustus. VP7 illustrates the effects from the burial ground to the south of the town, from which there would be greatest visibility. This shows very limited visual effects in addition to those of the visible existing turbines, which would generally be closer and more noticeable. I agree that the effects would not be significant, nor would impacts on the town generally.

3.70 I turn now to effects on higher ground. AVP3 shows the predicted effects from Meall Dubh. I accept Dr Wimble's view that the impacts of the additional turbines may potentially

be significant. I note Scotways' concerns about the impacts on walkers here. However, in the context of the extensive existing and consented turbine development close to this mountain, any additional effects on the experience of those walking to this summit would likely be relatively minor.

3.71 Impacts on the summit of Meall na h-Eilde, a Corbett lying 14km to the southwest, are illustrated in VP11. Impacts on Ben Tee, slightly higher and somewhat closer at 9.4km to the southwest, are shown in AVP3. These illustrate the impacts on recreational users on the high ground southwest of the site, south of Glen Garry. I accept that, when considered alone, the effects of the proposed turbines on the experience of these summits may be significant – I found the existing turbines to be fairly noticeable when walking to the summit of Ben Tee. The presence of these and of the (under construction) consented turbines cannot be ignored. In this context, the additional impacts of the proposed turbines would not be significant.

3.72 VP12 shows the impacts on part of the Corrieyairack Pass. Dr Wimble agreed with the applicant's assessment that the impacts from here would not be significant, although he did point to the intensification of the development. I note that other stretches of the pass would also provide views of the turbines, and I walked along the route during my site inspection. I note that there would be greater numbers of turbines in view but, it seems to me, this would be to some degree offset as the design of the wind farm would appear more unified from these locations. Overall, I do not consider that users of the pass would be significantly affected.

3.73 Impacts from the B862 near Loch Tarff are shown in VP13, referred to in the council's objection as the route descending from the Suidhe viewpoint. Dr Wimble agrees with the applicant that the visual effects from this location would not be significant. However, I take note of his view that the wind farm cluster would have an excessively clustered appearance from this location. I agree with that analysis. There would be a high degree of overlapping of turbines, many of which would be at different elevations. The proposed turbines would contribute to this effect, which would detract from the views (in fine weather at least) towards the mountains further west. However, I accept the points made by the applicant that this is a transitory view, a relatively fleeting one, and at a distance of nearly 16 km to the nearest proposed turbine (perhaps a little over 14km to the nearest existing turbine). It seems to me (although I do not have an up to date cumulative visualisation) that a similar effect would be experienced from VP8, further to the west along the B862. This, at just over 11km distance, is somewhat closer than VP13 although, again, it is a relatively brief view which would be experienced when travelling along this road. These are adverse effects which I take due account of.

3.74 The council did not focus on any other locations as experiencing significant visual effects. For the other representative viewpoints, Dr Wimble agrees with the conclusions in the ES that none of these would be significant. Noting the distances involved, and the baseline of existing and consented turbines in the cluster, I agree.

3.75 Drawing together the above, I find that significant effects on landscape character would be limited to the site and its immediate surroundings, and do not weigh heavily against the proposal. Effects on designated landscapes would be minor, and not significant.

3.76 In respect of visual effects, I focus primarily on additional cumulative effects. There is a high degree of consensus between the landscape witnesses on this point. Although some adverse effects would occur, this is almost inevitable for wind farm development. Such effects would be fairly limited and, where they would occur (for example along the B862 near VP4 and at the mountain summits south of Glen Garry) they do not appear to me to be particularly adverse, especially noting the extensive baseline of turbine development. I do share the council's concerns about the cluttered appearance of the turbines, in particular from the east. But such views would be fairly few in number and often at some distance. I find that the great majority of cumulative effects would be with the other existing and consented turbines in the cluster. Given the distances involved, cumulative effects with other operational or consented wind farms would be very limited. I take account of the potential for cumulative effects with the 'in scoping' Moriston wind farm. But given the early stage this proposal is at, I place very limited weight on any such effects. I also take account of the potential for cumulative impacts with the Glendoe pumped storage scheme and the Beaully-Denny transmission line. But noting the presence of the existing and consented turbines in the cluster, any additional cumulative effects of the proposed turbines with these developments would be minor. Overall, I find the additional cumulative visual effects of the proposal to be fairly limited.

3.77 I now address the 'in-combination' effects which the council's evidence to the inquiry stated was behind the councillors' decision to object to the proposal. It seems to me that the objections of the MCoS and Fort Augustus & Glen Moriston Community Council are based, in part, on similar concerns. Although the SNH guidance may focus more on the assessment of additional cumulative effects, I accept that the overall 'in combination' effects of the wind farm cluster is a relevant consideration.

3.78 In respect of landscape character, I accept that the wind farm cluster, as currently existing and consented, has a significant effect on the landscape character of the site and of the massif (broadly to the west of Fort Augustus and bounded by the A87 to the south and west and the A887 to the north) on which it sits. Existing effects on the overall character of the Rugged Massif and Rocky Moorland LCTs, which extend significantly beyond this massif, are somewhat less. But my findings above, broadly in line with the landscape witnesses, are that the Millennium South development would only have (arguably) significant landscape effects at the level of the site and its immediate surroundings.

3.79 In-combination with the existing and consented turbines, there would also be significant visual effects. However, it is the existing and consented turbines which would have the greatest effect. The contribution of the proposed turbines is, for the most part, not significant. Notably, the ZTV of the cluster would not be significantly extended by the Millennium South turbines. And although there would be an intensification of development on the site and a greater density of turbines, on the other hand there are advantages in extending an existing wind farm within, generally speaking, the same footprint and in making use of the existing infrastructure. I acknowledge that there may be a limit to the extent to which the cluster should be extended, and that the in-combination effects should be kept in mind. But in the context of what I find to be the very limited landscape and visual impacts, overall, of the proposal, I do not think that such considerations point strongly towards refusing permission in this case.

CHAPTER 4: OTHER MATTERS

Hydrology, hydrogeology and geology

4.1 Chapter 8 of the ES covers hydrology, hydrogeology and geology. This is supported by a number of appendices, including Appendix D.1: Peat Slide Risk Assessment. In the light of SEPA's consultation responses about the need for buffer zones around watercourses, I invited both the applicant⁷ and [SEPA](#) to provide further written submission on this matter.

4.2 SEPA says that the Water Framework Directive and SPP aim to protect all watercourses. It objects to the proposal unless there is a 50m buffer around all watercourses (regardless of their size and degree of permanence) which have been mapped or been found during the site surveys, except in the vicinity of watercourse crossings. SEPA also recommends changes to the track layout around turbines 6 and 7 to minimise the number of water crossings in this location.

4.3 These changes would require the micro-siting of all but one of the turbines and their hard-standings, and some sections of track. SEPA advises that micro-siting should not involve turbines moving closer to groundwater-dependant terrestrial ecosystems (GWDTEs) or to areas of deeper peat. Given all these (potentially competing) objectives, SEPA considers that these revisions should be made prior to consent being issued.

4.4 The ES proposes 50m buffers to all watercourses illustrated on the Ordnance Survey 1:50,000 and 1:10,000 scale mapping. This is said by the applicant to be in line with the aim to protect all watercourses in the Water Framework Directive. The applicant's written submissions explain that a number of additional minor watercourses were identified during site surveys. These comprised forestry drains, land and field drains or very small, ephemeral drains and watercourses.

4.5 The applicant, in its written submissions, proposes that a minimum 25m buffer be applied to these additional watercourses where they have a width of greater than 2m, are on steep ground or are considered not to be ephemeral in nature. Others would have a minimum 10m buffer zone applied to them. A drawing is provided which shows these proposed buffers.

4.6 The applicant also proposed that a condition require that where a 50m buffer cannot be achieved, justification for this would need to be submitted, along with details of how any impacts on the watercourse would be mitigated.

4.7 I recognise that SEPA is looking for best practice. But the applicant has explained that the smaller watercourses are relatively minor, and intermittent. It has not been suggested to me that the Water Framework Directive requires 50m buffers to all watercourses. A condition could require micro-siting to minimise infrastructure close to minor watercourses whilst taking into account other environmental factors, including the presence of GWDTEs and deeper peat, and the need for turbine 1 to avoid alpine heath habitat.

⁷ [Applicant further written submissions](#)
[Applicant comments on written submissions of SNH and SEPA](#)

4.8 Given the relatively low level of environmental effects of the proposal, and bearing in mind that it would be an extension of an existing wind farm and largely within the same overall footprint, I think this approach provides appropriate protection for the water environment whilst supporting the development of renewable energy.

4.9 Subject to mitigation and good construction practice, other construction impacts on surface and ground water, including cumulative impacts, are considered not to be significant. Having considered all the environmental information before me, including the consultation responses of SEPA, I reach the same conclusion.

4.10 Peat depth probing indicates that there are areas of peat around turbines 8, 9 and 10, but only turbine 10 would be located in an area of deep peat (at around 1.5m depth). Peat slide risk at all 10 turbine locations is assessed as either low or negligible. There are areas of medium risk along some sections of the proposed access tracks, but mitigation is expected to reduce the risk to a level which is insignificant. It is anticipated that no stretches of floating track would be required, although this would depend on final analysis of ground conditions. It is proposed that a detailed peat management plan be prepared and submitted for the approval of the planning authority. Overall, I am content that, subject to the proposed mitigation, impacts on peat would be minimised.

Ecology

4.11 Chapter 12 in the ES covers ecology, and a number of technical appendices detail the results of habitats and species surveys. I also requested further written submissions from the applicant (see Footnote 7 above) and [SNH](#) on the potential impacts of turbine 1 on alpine heath habitat.

4.12 The ES reports on the surveys which were carried out. These indicate that there are potentially 8 areas of GWDTE within the survey area. The presence of bats, pine martin and red squirrel was confirmed, and the habitat on-site could be suitable for other protected species. Surveys also revealed the presence of macro-invertebrates and brown trout in one of the watercourses.

4.13 Recorded bat activity was relatively low, in particular at higher elevations near the sites of the proposed turbines, and no roosts were found. The elevated and exposed nature of the site is such that its suitability to support bat populations is considered to be low. Pine martin and red squirrel were identified within the woodlands which lie around 2.5km south of the nearest turbines.

4.14 Subject to mitigation measures, including further pre-construction surveys, impacts on protected species are not considered to be significant. I note that SNH is content with the mitigation proposed, although it has recommended some additional measures which are incorporated in the proposed conditions. Having regard to the evidence before me, I am satisfied that, subject to the imposition of appropriate conditions, there would be no significant effects on protected species.

4.15 In respect of habitats on the site, the ES generally assesses the impact on habitats as minor, expect for moderate impacts on blanket sphagnum moss around the locations of turbines 2 and 5. The ES recommends that a Habitat Management Plan is implemented to

facilitate restoration of blanket bog and semi-natural broadleaf woodland planting. A Deer Management Plan is also recommended.

4.16 Following further written submissions, the applicant is content with SNH's proposal that turbine 1 be micro-sited to avoid a habitat which SNH considers to be an area of internationally important alpine heath.

Ornithology

4.17 Chapter 13 of the ES covers ornithology. Appendix F.1 is the Ornithological Baseline Report.

4.18 The West Inverness-shire Lochs SSSI and SPA encompasses Lochs Lundie, Garry, Loyne, Cluanie and others. These are identified for their populations of black-throated diver and common scoter. These lochs lie to the south and west of the site, the closest at a distance of 3.7km from the nearest turbine. SNH considers that the proposal is not likely to have an effect on the SPA, and that an 'appropriate assessment' of the impacts on the SPA is not required.

4.19 Bird surveys identified a number of bird species breeding or flying at or near the site. The ES says that golden eagle, black-throated diver and golden plover are considered to be particularly at risk from onshore wind farms. The collision risk for golden eagle is considered to be barely perceptible, as are the likely construction impacts from habitat loss and displacement on golden plover. Black-throated diver were only recorded at Loch a Bhainne, around 1.5km from the nearest turbine. Impacts on other bird species are assessed as negligible.

4.20 Calculation of the cumulative collision risk for golden eagle with other wind farms within 20 kilometres amounts to 5.622 mortalities per 25 years. The contribution to this of the appeal proposal is 0.187 mortalities. It is anticipated that, as there are no golden eagle territories identified within 10km of the site, mortalities are likely to be non-breeding birds. Overall, the impact on the wider golden eagle population in the northern Highlands is assessed as not significant.

4.21 Proposed mitigation includes further pre-construction surveys during the bird breeding season, buffer zones where required around breeding sites, and species protection plans. This can all be controlled through conditions.

4.22 Noting the evidence in the ES, the mitigation proposed and the consultation response from SNH, which has raised no objection, I am satisfied that the proposal would have no significant impacts on birds, including on the SPA.

Cultural Heritage

4.23 Chapter 14 of the ES covers cultural heritage.

4.24 A number of undesignated cultural heritage assets were identified within the site. These include a small marker cairn near the site of turbine 1, a deserted settlement at Dail a' Chuirn near the proposed grid connection point, and a row of cairns at Ceann a' Mhàim to the north of the existing borrow pit which would be re-opened.

4.25 The marker cairn near turbine 1 is thought likely to be a land marker or navigation aid of the type which was commonly used by shepherds or landowners and which remain relatively common features. It is considered to have low cultural significance. The cairn could be fenced off to protect it during construction. Turbine 1 would have a substantial effect on the setting of the cairn, although this would depend on its final position, noting that it requires to be micro-sited away the alpine heath habitat. However I place little weight on such impacts given the low cultural significance of the cairn.

4.26 The deserted settlement at Dail a' Chuirn is also said to be fairly typical, and of low cultural significance. The proposed substation would be around 250 metres from the settlement and, given this distance, would not have a significant impact on its setting.

4.27 The row of cairns is associated with the 'coffin road' Heritage Trail referred to in the consultation responses from Scotways. The location of the cairns is thought to mark the first view north to Glen Moriston and to the site of the former church and cemetery at Achlain to which each funeral party would have been travelling over the hill from Invergarry. The description of the cairns in the ES as being of local importance and low sensitivity is perhaps an under-estimate. However, the setting of the cairns is already affected by the presence of the borrow pit, and by the turbines further to the south (in the opposite direction to the key view northwards from the cairns). In this context, and subject to a condition which provides for the detailed plan for the working of the borrow pit to be agreed, I do not consider that any further impacts on the setting of the cairns should be a significant factor counting against the proposal.

4.28 There are a number of scheduled monuments in the wider area around the appeal site, including a section of military road near Achlain, Balnacan township and a cairn at Tir nan Org. There is also the category B listed Ceannacroc Bridge. Due to a combination of the distances involved and limited visibility of the turbines, I do not consider that the settings (which are generally limited in extent) of these assets would suffer a significant adverse effect. I note that Historic Scotland reached a similar conclusion.

Public access

4.29 Chapter 10 of the ES covers impacts on public access. My findings in respect of visual impacts on those core and other paths around the site (and on walkers and others in the surrounding higher ground) are at chapter 3 above.

4.30 In respect of direct impacts on public access, there are two recorded rights of way which cross from Invergarry northwards over the massif (and through the site) to Achlain in Glen Moriston. These are associated with the 'coffin road' and row of cairns mentioned in paragraph 4.27 above. Scotways⁸ wishes to be assured that it would remain possible to use these rights of way without passing closer to any turbine than a distance equivalent to the height to blade tip. The council's access officer had [no objection](#) to the proposal.

4.31 Based on an examination of the map provided by Scotways in its initial consultation response, it appears possible, depending on final micro-siting, that turbines 8, 9 and/or 10 could be sited within such a distance of the lines of these rights of way as marked on the

⁸ [Scotways consultation response](#) 18 July 2014
[Scotways further response](#) 28 November 2014

map. However, as Scotways points out, these routes are not discernible on the ground and represent general routes over the hillside. I observed from my site inspections that they traverse numerous watercourses and some fairly challenging ground conditions. With this in mind, it seems to me to be highly likely that it would remain possible to follow these general routes across the hillside without the need to pass unduly close to any of the proposed, or for that matter existing, turbines.

4.32 There would, more generally, be some inevitable impacts on public access during the construction period. I note the applicant's intention to maintain access to the site during construction, albeit that temporary diversions may need to be put in place.

4.33. In light of the above, I do not consider that the proposal, either during construction or once operational, would have significant adverse effects on public access.

Noise and shadow flicker

4.34 Chapter 7 and Appendix C3 of the ES cover noise.

4.35 Noise limits for the existing wind farm are controlled by planning condition. The applicant proposes that a similar condition be imposed on the current proposal. The impacts from the level of predicted construction noise are assessed as being negligible. The council's environmental health officials did not object to the proposal, and the council and the applicant have reached agreement on the terms of a planning condition controlling operational noise. Having regard to the technical evidence in respect of noise impacts, I am satisfied that these would not be significant. The nearest houses are well beyond the distance at which Scottish Government guidance says that shadow flicker is likely to occur.

Aviation

4.36 Subject to the imposition of the condition requested by the MoD, there would be no significant impact on aviation safety.

Transport and Access

4.37 Chapter 9 of the ES covers transport and access. Construction traffic would use the existing wind farm access from Glen Moriston. Abnormal loads are expected to use the same routes as previously. Numbers of construction vehicles (including HGVs) would be a relatively small proportion of traffic on the affected routes, and would be temporary in nature. Both Transport Scotland and the council's transport officials are content that, subject to conditions, the transport impacts of the proposal would be acceptable. Once the wind farm was operational, the level of traffic movements would be negligible. I therefore conclude that there would be no significant effects arising from the transport and access arrangements for the proposal

Impacts on tourism

4.38 I conclude above that, in relation to landscape and visual impacts, including cumulatively with other wind farm development, there would be few significant effects. This includes visual impacts from the Thistle Stop Café and Faichem Campsite highlighted by the council, and from the hills and mountains around the site. The proposal would not

significantly extend the area over which the wind farm cluster would be visible. I therefore have no evidence before me which would lead me to conclude that the proposal would result in a significant adverse effect on tourism.

The benefits of the proposal

4.39 The applicant provided an updated carbon balance assessment (see Footnote 7 above) in December 2015 which takes account of the removal of the southern access track (and associated borrow pits) and of minor changes to the layout. In making the revised calculations, more up to date assumptions were also used.

4.40 This assessment predicts that, over the life-time of the wind farm, the net CO² emissions are expected to be 75,210 tonnes, with the range being 56,242 tonnes minimum and 297,580 tonnes maximum.

4.41 When considered against a 'grid-mix' of electricity generation, the carbon payback period is expected to be 1.5 years, with the range being 0.8 years minimum and 4.1 years maximum. The payback time would reduce if considered against fossil fuel-mix or coal-fired electricity generation. The wind farm would generate an amount of electricity equivalent to the needs of around 25,000 homes, or 20,000 homes based on the higher than average electricity use in the Highlands.

4.42 I have no reason to conclude that this assessment has not been undertaken in line with current good practice, and I accept the results of these calculations. In light of the short carbon pay-back period which is expected, I conclude that the climate change and energy generation benefits of the proposal are strongly positive.

4.43 Chapter 10 of the ES covers socio-economic impacts. It is estimated that of construction costs of around £43 million, perhaps £3 million would be spent locally and £12.5 million within the wider region. There would be 40-50 Full Time Equivalent jobs created during the construction period. During the operational period, 1 to 2 staff would be directly employed. The ES concludes that these economic benefits would not be significant in EIA terms.

4.44 The hearing statement from the applicant's planning witness, Mr Bell, provides details of the proposed community ownership scheme for the wind farm, and this was discussed further at the hearing session. This is proposed to be covered by condition 5 of the Section 26 consent.

4.45 Mr Bell's statement refers to the proposed community payments to the two community councils for the communities nearby, and notes that it is recognised that such payments are not material considerations in planning decisions. In addition to these payments, the applicant also proposes a community ownership scheme, based on that of the existing Millennium wind farm⁹.

4.46 The community ownership scheme would provide for members of the public to invest in the wind farm through a 'Benefit for the Community Scheme'. Marketing of the scheme would target the local community, and local people would have priority if the scheme was over-subscribed. Members of the scheme would then receive an annual return on their

⁹ [Great Glen Energy Co-op – Share Offer Document](#)

investment. Additional revenues, if any, above those paid to members would supplement the community payments I refer to above.

4.47 The hearing statement refers to Scottish Government guidance [Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments](#) published on 15 September 2015. Extracts from this guidance are quoted, including that shared ownership *'can be reflected in a planning application through indirect economic and social impacts'* and that *'by creating a clear link between shared ownership and the resulting socio-economic impacts which are a material consideration, projects may benefit from the emphasis on community participation'*. It is clear, it is stated, that giving the community who will receive the economic benefit a stake in a development creates a link between the development and the benefits such that they (the benefits) would be material considerations.

4.48 I think there is some difficulty, in this case, with the argument that any great weight should be attached to the proposed community ownership scheme. The applicant acknowledges that community benefit payments are not a material consideration, in planning cases at least. Any additional community benefit payments which the community ownership scheme might provide, once the members have received their returns, would logically fall into the same category. It was suggested by the applicant at the hearing that, perhaps, such payments themselves may not be material but the socio-economic benefits which derive from them could be. I find nothing in Scottish Government policy which would give strong support to such an approach. That leaves one with the returns to members.

4.49 I acknowledge that people living locally would be invited to invest in the scheme, and that many may do so. But the numbers who would do so are not known at this stage. Many of the investors may not live in the local area, or spend their returns there. More importantly, I think, each would receive a private return on their investment, to do with as they see fit. In my view this scenario is far from *'creating a clear link between shared ownership and the resulting socio-economic benefits'* which the above guidance envisages.

4.50 During the hearing session on conditions, Mr Bell explained that the condition covering the community benefit scheme is proposed as a condition of the Section 36 consent, not of the deemed planning permission. This is because, it was said, the 1989 Electricity Act allows Ministers to place any condition on a consent they see fit whereas, as has been acknowledged, considerations under planning legislation may be somewhat narrower. This may be so. However, it has not been put to me that it is Minister's position that they would, for the types of community benefits which may not be material under planning legislation, wish to place any significant weight upon them when considering an application under Section 36 of the Electricity Act.

4.51 The applicant described its approach to community benefit and community ownership as an exemplar. I have no reason to doubt this, nor do I seek to discourage the applicant from following through on its intentions in this regard. However, in the circumstances of this case, I find that I should place little or no weight on any socio-economic benefits which might arise from the proposed community ownership scheme.

CHAPTER 5: PROPOSED CONDITIONS

5.1 I provided the council and the applicant with a copy of ECDU's [model conditions](#) for wind farms. I asked these parties to try and reach agreement on an agreed set of conditions to be imposed in the event that the application is allowed. Following discussion at the hearing session, a final set of [proposed conditions](#) was submitted by the applicant. There is a large measure of agreement between the council and the applicant on the conditions to be attached, with only two matters on which there is disagreement. Neither party proposes any planning obligations or similar agreements.

5.2 Should Ministers decide to allow the application, I recommend that, subject to the changes I set out below, the conditions provided by the parties be imposed. Although these often differ from the model conditions in structure and content, they have been agreed and appear to me to be, subject to the changes I recommend, appropriate, well-drafted and comprehensive. For ease of reference, I have provided a full set of conditions at Appendix 1 incorporating the changes I recommend below, and with some other minor editing for clarity and consistency.

Consultation with statutory agencies

5.3 Several of the model conditions, and several of the council's proposed conditions in this case, refer to consultation with the relevant statutory agencies (for the most part SEPA and/or SNH) when agreeing further details specified in the condition. The applicant would prefer that such references are removed, pointing to recent practice in England. The concern is that this could appear to give the third party control over the discharge of the condition, and it seems there has been a legal challenge to a decision on this basis.

5.4 The council stated that retaining reference to the statutory agencies is sensible as it makes clear to all parties that such a consultation may need to take place. It does not obligate an agency to respond, nor the council to follow the advice.

5.5 It seems to me that, as drafted, there is nothing in the proposed conditions which would give a third party consultee any undue influence. As the council points out, all the conditions say is that the agencies be consulted. As this is in line with the approach in the model conditions, and because the agencies would have a legitimate expectation of being consulted (for example in relation to certain micro-siting) I recommend that these references are retained.

Section 36 Conditions

Condition 3 – Non-assignment

5.6 The applicant is concerned that, at face value, the second sentence of the model condition would allow Ministers to assign the consent to another party, even when not requested to do so by the applicant or current assignee. I agree that this is a valid interpretation, and I can understand why this is of concern. My reading of the model condition as a whole, and the reason for it, is that this would not be the intention of Ministers, but the condition proposed by the applicant, and agreed by the council, would remove any uncertainty.

Condition 5 – Community Ownership

5.7 I address this matter at the end of chapter 4. Whilst, as I say there, I do not wish to deter the applicant from progressing such a scheme, I find that I can place little weight on any socio-economic benefits which may derive from it in this case. In this context, I am not persuaded that such a condition would be appropriate, and I recommend that it be deleted. If Ministers decide otherwise, they may wish to consider whether they would want the condition to require a greater level of information about the details of the scheme (and the benefits which would derive from it) than it currently allows for. Different wind farm developers and operators will have different approaches to community benefits and community ownership. Therefore, if imposing such a condition, Ministers may also want to consider whether this condition would remain appropriate were the consent to be assigned to another party.

Deemed Planning Permission Conditions

Condition 1 – Duration of the Deemed Planning Permission

5.8 This essentially repeats the requirements of Condition 1 of the Section 36 conditions. If Ministers are content that it is appropriate that these requirements are repeated (the council and applicant are agreed on this matter) then this condition may be retained.

Condition 2 – Terms of permission including micro-siting

5.9 I note above SEPA's concerns that not all watercourses on site would be protected by a 50m buffer zone, although I find that in this case that should not be an absolute requirement. This condition proposes that, where a 50m buffer is not met, the applicant provides an explanation as to why this is the case, and details of how impacts on watercourses will be mitigated.

5.10 I don't think this goes sufficiently far in addressing this issue. I recommend that the condition requires that micro-siting should actively seek better separation with watercourses. Where a 50m buffer cannot be achieved (and I accept that in some cases it won't be, and that for more minor watercourses a lesser separation would provide appropriate protection in this case), it should be for the planning authority, in consultation with SEPA, to agree to this beforehand. SEPA also recommended that the access track layout around turbines 6 and 7 be amended to minimise the number of watercourse crossings. I recommend adding this requirement to the condition.

5.11 The proposed condition contains a requirement that, as recommended by SNH, turbine 1 be micro-sited away from an area of alpine heath habitat. SNH was critical of the applicant's survey and analysis in respect of this habitat. In this light, I think it appropriate that the final siting of this turbine should be agreed by the council (in consultation with SNH) rather than by the Ecological Clerk of Works alone.

Condition 11 – Traffic Management Plan

Condition 12 – Abnormal Loads

5.12 The applicant proposes a traffic management condition, along the lines of the equivalent ECDU model condition. This would require a traffic management plan to be submitted to the council for agreement.

5.13 The council's proposed condition does likewise, but has much more detail in respect of the various elements to be included in the traffic management plan. The council's experience is that this more detailed treatment makes it clearer, up-front, what is required, and ultimately assists the timely discharge of the condition. I accept that this may be the council's experience of wind farm developments in the past. However, this would be the latest in a series of extensions to the wind farm and, in the light of this experience, the applicant ought to be able to foresee any important traffic management issues. I therefore recommend that the applicant's proposed Condition 11 be imposed. This would include details of deliveries of abnormal loads, rendering Condition 12 unnecessary.

5.14 I acknowledge, however, that the council's approach is also a reasonable one, informed as it is by much experience of wind farm development. Ministers could adopt this approach if they wish. Should they do so, I would recommend the change, suggested by the applicant, which limits any responsibility for videoed trial runs and road repairs to the stretch of road marked on the additional [drawing](#) supplied.

CHAPTER 6: OVERALL CONCLUSIONS AND RECOMMENDATIONS

National Energy Policy

6.1 There is no dispute that, leaving aside consideration of the environmental impacts of the proposal, national energy policy supports the principle of renewable energy development such as the one proposed here. There is no dispute about the potential contribution the proposed development can make to renewable energy targets. Given this context, Ministers will not need detailed advice as to the contents of EU, UK and Scottish Government renewable energy policies and targets, or on the weight they should attach to them.

6.2 That aside, I find that the 'Energy Targets' letter to the Heads of Planning provides a clear and up to date summary of the Scottish Government's position in this regard. Although, as the council points out, Ministers may wish to note the progress so far towards meeting the particular 2020 targets (both UK and Scottish), the letter gives no encouragement to the notion that such progress should diminish the level of support for further renewable energy development, including onshore wind. Further, the applicant has rightly drawn attention to the fact that the 2020 100% target is not yet met and that not all consented schemes can be relied upon to progress towards implementation.

The Development Plan

6.3 Policy 67 of HwLDP is agreed to be the key development plan policy.

6.4 The proposal is on a site with high wind-speeds, and therefore well-related to the source of renewable energy. Local economic impacts would be positive, albeit have not been assessed as significant in EIA terms. The development would also make effective use of the existing wind farm infrastructure. In these respects, the proposal accords with Policy 67.

6.5 Of the potential effects listed in the policy, landscape and visual impacts are the basis of the council's objection. I find in chapter 3 that significant effects on landscape character would be limited to the site and its immediate surroundings, and do not weigh heavily against the proposal. Effects on designated landscapes would be minor, and not significant. Overall, I find the additional cumulative visual impacts of the proposal to be fairly limited. I acknowledge the council's concerns about the 'in-combination' effects of the proposal with the other existing and consented turbines in the cluster. But in the context of the very limited impacts of the proposal, I do not think that such considerations point strongly towards refusing permission.

6.6 Impacts on the water environment, peat, ecology, ornithology, cultural heritage, public access, tourism, transport and aviation are found not to be significant, and can be controlled by conditions. Noting my findings in respect of visual impacts and noise, impacts on amenity would be very limited.

6.7 I therefore conclude that the relatively minor nature and limited extent of effects of the type mentioned in the policy are such that the proposal would not be significantly detrimental overall, either individually or cumulatively with other development. I assess the

proposal against other relevant council guidance below and generally find little conflict, and indeed some support. The policy requires site restoration after consent expires, which could be secured by conditions in this case. Noting the renewable energy and climate change benefits of the proposal, I therefore conclude that it is supported by Policy 67.

6.8 Policy 28 Sustainable Design is also referred to in the council's objection, and lists a number of considerations. Those of most relevance to the proposed development cover the same types of impact as are covered in Policy 67. On the basis of the evidence before me, and noting my conclusion in respect of Policy 67, I see no significant conflict with Policy 28.

6.9 Similarly, I find that, in terms of the relevant considerations in this case, policies 29 Design Quality and Place-Making, 57 Natural, Built and Cultural Heritage and 61 Landscape add very little to the requirements set out in policies 67 and 28. The proposal therefore accords with these policies. In respect of Policy 55 Peat and Soils, a peat management plan would be required by conditions and I am satisfied that unnecessary disturbance, degradation or erosion of peat would be avoided.

6.10 None of the other policies of HwLDP add significantly to an assessment of the proposal against the terms of the development plan. Overall, therefore, I conclude that the development would be in accordance with the development plan.

Highland Council planning guidance

6.11 I note the contents of the policies in HRES which the council says remain relevant, albeit of minimal weight. I find these to be of limited relevance to the application before me and they do not have a significant bearing on my recommendation.

6.12 The ISG is in the process of being replaced, does not form part of the development plan, and its spatial framework is based on a methodology which is not now supported by SPP. I recognise that the council no longer relies upon it in assessing wind energy proposals but, as the applicant pointed out at the hearing, it is referred to specifically in Policy 67 so in my view it is right that I have regard to it insofar as it elaborates on Policy 67.

6.13 I set out above that my assessment of the proposal is such that it generally accords with, indeed is supported by, Policy 67. I see nothing in the more detailed advice in the ISG which leads me to reach a different conclusion, and there is no specific evidence before me arguing that the proposal is significantly contrary to the ISG. To the extent that it informs my recommendation, I find that the proposal draws support from the contents of the ISG.

6.14 The spatial framework in the draft SG is generally consistent with the approach advocated in SPP. The detailed considerations covered are based on those listed in Policy 67 of HwLDP and, again, generally consistent with those listed in paragraph 169 of SPP as likely to be relevant for energy infrastructure. I find above that the proposal is consistent with policy 67. To this extent, I find that it is also supported by the draft SG. Although the site is in a Group 2 Area (an area of significant protection) in the draft spatial framework, this is solely due to the presence of deep peat, the impacts on which I have found would be minimised.

6.15 I note the council's position in respect of the landscape sensitivity assessment in the draft SG. It seems to me that, in this regard, the key question is whether the development would be consistent with the guidance I quote at paragraph 2.25 above. The judgement of the applicant's landscape witness is that the layout of the additional turbines would give a more coherent design overall. The council's landscape witness agreed that there would be some benefits in this regard, although also pointed to adverse cumulative impacts as a result of increasing the number of turbines. In my view the design improvements are such that the proposal can draw some support from the draft SG here. The resulting increased density of turbines would have some adverse visual effects from some locations, but these seem to me to be relatively few, and for the most part at some distance. Existing access infrastructure would be shared, in line with the guidance. Overall, I see no significant conflict with the guidance, and indeed the proposal seems to me generally to be a good fit with the kind of additional development it envisages for LCAs 5 and 11, which the site straddles.

National Planning Policy

6.16 As with national energy policy, there is clear support in NPF3 and SPP for the principle of renewable energy development, including onshore wind. As the council points out, this is not unqualified, and these documents also stress the importance of protecting the environment and communities.

6.17 The council and the applicant agree that the site falls within a Group 2 area in SPP. They also agree that the proposal is acceptable in respect of impacts on peat and carbon rich soils, the presence of which being the sole reason the site is not within Group 3: Areas with potential for wind farm development. I find above that impacts on peat have been minimised, and can be adequately controlled by conditions. Although Table 1 of SPP relates only to the approach to spatial frameworks for wind farms, this context does indicate that, subject to detailed consideration, the site is in an area with potential for wind farm development, whether temporarily or 'in perpetuity'. The presence of the existing and consented turbines at the Millennium and Beinneun wind farms would seem to support such a conclusion.

6.18 I find above that the proposal is consistent with policies 67 and 28 of HwLDP, and with the development plan more generally. These policies cover many of the matters listed in paragraph 169 of SPP, and I see no significant conflict with any of the others.

6.19 I turn now to the presumption in favour of development which contributes to sustainable development, and the guiding principles in paragraph 29 of SPP. My findings above show no significant conflict with any of these principles. Indeed the proposal would deliver energy infrastructure, help to mitigate climate change and, insofar as it is an extension to an existing wind farm, make efficient use of existing capacities of land and infrastructure. I therefore conclude that the development would contribute to sustainable development and that, overall, it draws strong support from SPP and NPF3.

Electricity Act 1989

6.20 Schedule 9 of the Act requires Ministers to have regard to the desirability of preserving natural beauty, 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 light of my findings above and the limited nature of the impacts of the development, I conclude that, subject to the imposition of the conditions I recommend, the granting of consent would not result in unacceptable impacts as regards those matters.

Overall conclusions

6.21 I conclude that the proposed development is supported by national energy and planning policy. It would be consistent with the Highland-wide Local Development Plan and other relevant Highland Council planning guidance. The environmental effects of the proposal can be adequately controlled by planning conditions, or are otherwise limited in extent and outweighed by the renewable energy and climate change benefits which would occur.

Recommendations

6.22 I recommended that Scottish Ministers:

- Grant consent under section 36 of the Electricity Act 1989, subject to the conditions set out in Appendix 1.
- Grant deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended) subject to the conditions set out in Appendix 1.

David Liddell

Reporter

APPENDIX 1 – RECOMMENDED CONDITIONS

Conditions to be attached to Section 36 Consent

1 Duration of the Consent

This Section 36 consent shall expire after a period of 25 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 25 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of the Site Decommissioning and Restoration Plan. Written confirmation of the First Export Date shall be submitted in writing to the planning authority within one month of the First Export Date.

Reason: Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, re-assessment to be made of the environmental impacts of the development and the success, or otherwise, of species protection, habitat management and other offered mitigation measures.

2 Commencement of Development

The Commencement of the Development shall be no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. 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: In accordance with s58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

3 Non-assignation

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

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

4 Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification

of the nature and timing of the incident to the Scottish Ministers, 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 the Scottish Ministers informed of any such incidents; in the public interest.

Deemed Planning Permission Conditions

1 Duration of the Deemed Planning Permission

This deemed planning permission shall expire after a period of 25 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 25 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 3 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the planning authority within one month of the First Export Date.

Reason: Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, re-assessment to be made of the environmental impacts of the development and the success, or otherwise, of species protection, habitat management and other offered mitigation measures.

2 Terms of permission including micro-siting

Where ground conditions specifically require it, wind turbines, masts, areas of hard-standing and tracks may be micro-sited within the application site boundary. However, unless otherwise approved in writing by the planning authority (in consultation with SEPA and SNH), micro-siting is subject to the following restrictions:

- i. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than 10m above the position shown on the original approved plans;
- ii. No wind turbine, mast, hard-standing or track shall be moved:
 - a. More than 50m from the position shown on the original approved plans;
 - b. So as to be located within 50m (for turbine/mast foundations) or 50m (for hard-standing, tracks or trenches) of confirmed Groundwater-dependent Terrestrial Ecosystems;
 - c. To a position within an area identified within the approved Environmental Statement and/or plans as having a gradient constraint, being deep peat (that is peat with a depth of 1.5m or greater) or having a peat landslide hazard risk of significant or greater;

- iii. No wind turbine, mast, hard-standing or track shall be moved where a change to its position, location or route has been proscribed under a condition of this permission.

Micro-siting shall ensure that, where practicable, no turbine or access track shall be located within 50m of a watercourse, except at watercourse crossings. Where a lesser distance is proposed then written justification for the need for this should be submitted to the planning authority along with details of measures to ensure that impacts upon the watercourse will be mitigated. Except at watercourse crossings, no turbine or access track shall be located within 50m of a watercourse without the prior written approval of the planning authority, in consultation with SEPA. Micro-siting of Turbines 6 and 7 and the access tracks serving them shall seek to minimise the number of water-crossings at these locations. The final siting of these turbines and the access tracks serving them shall be in accordance with the prior written approval of the planning authority, in consultation with SEPA.

Turbine 1 shall be relocated out with identified alpine heath habitat. The final siting of this turbine shall be in accordance with the prior written approval of the planning authority, in consultation with SNH.

All micro-siting permissible under this condition without requiring the approval of the planning authority must be approved by the development's Environmental Clerk of Works (ECoW). A written record must be kept of any such ECoW approval and shall be maintained for a period extending to no less than four years following the First Export Date.

Any micro-siting beyond 50m will require the specific written approval of the planning authority. In making such a request for micro-siting beyond the 50m permissible under this condition, the developer must submit the following supporting information:

1. A plan showing the location of the micro-sited turbine(s) relative to the originally approved location;
2. Detailed reasoning for the micro-siting of the turbine(s);
3. An assessment of the visual impact of the micro-siting; and
4. Compliance with conditions set out under ii.b and ii.c of this condition.

Within one month of the wind farm being commissioned, the developer must submit an updated site plan to the planning authority showing the final position of all wind turbines, masts, areas of hard-standing, tracks and associated infrastructure within the site. The plan should also highlight 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 require and enable appropriate micro-siting within the site in order to respond to site-specific ground conditions, while enabling the planning authority to retain effective control over any changes to layout that may have ramifications for the environment and/or landscape and visual impact.

3 Site Decommissioning and Restoration Plan

There shall be no Commencement of Development (excluding preliminary ground investigation which shall be permitted) until an Interim Decommissioning and Restoration Plan (IDRP) for the site has been submitted to, and approved in writing by, the planning authority in consultation with SNH and SEPA. Thereafter:

- i. not later than 3 years prior to the decommissioning of the Development, the IDRPs shall be reviewed by the Company, to ensure that the IDRPs reflect best practice in decommissioning prevailing at the time and ensures that site specific conditions, identified during construction of the site and subsequent operation and monitoring of the Development are given due consideration. A copy shall be submitted to the planning authority for its written approval, in consultation with SNH and SEPA; and
- ii. not later than 12 months prior to the decommissioning of the Development, a detailed Decommissioning and Restoration Plan (DRP), based upon the principles of the approved interim plan, shall be submitted to, and approved in writing by, the planning authority, in consultation with SNH and SEPA.

The IDRPs and subsequent DRPs shall include, unless otherwise agreed in writing with the planning authority and in accordance with legislative requirements and published best practice at time of decommissioning, details about the removal of all elements of the Development, relevant access tracks and all cabling, including where necessary details of:

- a. justification for retention of any relevant elements of the Development;
- b. the treatment of disturbed ground surfaces,
- c. management and timing of the works;
- d. environmental management provisions; and
- e. a traffic management plan to address any traffic impact issues during the decommissioning period.

The DRPs shall be implemented as approved. In the event that the Final DRPs are not approved by the planning authority in advance of the decommissioning, unless otherwise agreed by the planning authority the Interim IDRPs shall be implemented.

Reason: To ensure that all wind turbines and associated Development are removed from site should the wind farm become largely redundant; in the interests of safety, amenity and environmental protection.

4 Financial Guarantee

There shall be no Commencement of Development until:

- i. Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Interim Decommissioning and Restoration Plan approved under Condition 3 of this permission have been submitted to, and approved in writing by, the planning authority; and
- ii. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the planning authority; and

- iii. Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the bond or other financial provision is satisfactory has been issued by, the planning authority.

Thereafter, the Company shall:

- Ensure that a bond or other suitable financial provision is maintained throughout the duration of this permission, but subject to the need for a review every five years; and
- Pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the site restored.
- If after the expiry of 30 days from the date on which any five year review is scheduled to take place, no bond or other suitable financial provision is in place then generation of electricity shall be suspended until the same is rectified.

Each review shall be:

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

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

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

5 Record of monthly supply of electricity and removal of redundant turbines

The Company shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development and retain the information for a period of at least 12 months. The information shall be made available to the planning authority within one month of any request by them. In the event that:

- i. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 12 months, then unless otherwise agreed by the planning authority, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 6 months of the end of the said continuous 12 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition; or
- ii. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Company must notify the planning authority in writing immediately. Thereafter, the planning authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition. For the avoidance of doubt, in making a direction under this condition, the planning authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the Company and such other parties as they consider appropriate.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved detailed Decommissioning and Restoration Plan (DRP), or, should the detailed DRP not have been approved at that stage, in accordance with other decommissioning and reinstatement measures, based upon the principles of the approved Interim DRP, as may be specified in writing by the planning authority.

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

6 Design and Operation of Turbines

Each wind turbine shall have 3 blades and all turbines shall rotate in the same direction as those already deployed within the existing Millennium Wind Farm. The overall height of each wind turbine shall not exceed 132m to the tip of the blades when the turbine is in the vertical position.

Prior to the erection of any wind turbine, details of the colour and finish of the towers, nacelles and blades shall be submitted to and approved in writing by the planning authority. No name, sign, or logo shall be displayed on any external surfaces of the wind turbines other than those required to meet statutory health and safety requirements. The development shall thereafter be carried out and operated in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

7 Transformers

For the avoidance of any doubt all wind turbine transformers shall be located within the tower of the wind turbine to which they relate.

Reason: To reduce any ancillary elements to the development in terms of its visual and landscape impacts.

8 Approval of Ancillary Development

There shall be no Commencement of Development until full details of the location, layout, external appearance, dimensions and surface materials of all control and/or substation buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the planning authority (in consultation with SEPA and SNH, as necessary). Thereafter, development shall progress in accordance with these approved details. For the avoidance of doubt, details relating to the control and substation buildings shall include additional architectural design, LVIA and other relevant assessment work, carried out by suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

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

9 Aviation Lighting

Prior to the erection of any turbine a proposed scheme of aviation lighting shall be submitted to, and approved in writing by, the planning authority after consultation with the Ministry of Defence. Thereafter the approved scheme of aviation lighting, should one be required, shall be fully implemented on site.

The Company shall provide both the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the planning authority and Highland and Islands Airports Limited, containing the following information:

- a. The date of commencement and completion of the development;
- b. The exact position of the wind turbine towers in latitude and longitude;
- c. A description of all structures over 90m in height;
- d. The maximum extension height of all construction equipment;
- e. The height above ground level of the tallest structure; and
- f. In the interests of air safety, if the MOD requests the same, technical details of infra-red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

In addition, the Company shall notify the Civil Aviation Authority (CAA) of all proposals over 90m in height through:

Off Route Airspace 5
Directorate of Airspace Policy
Civil Aviation Authority
CAA House
45-59 Kingsway
London WC2B 6TE
Email: Mark.smailes@caa.co.uk.

10 Borrow Pits

There shall be no Commencement of Development until a proposed scheme for the working of the borrow pit within the site has been submitted to, and approved in writing by, the planning authority in consultation with SEPA. Thereafter, the scheme shall be implemented as approved. The scheme shall make provision for:

- i. Methods of working (including the timing of works and the use of explosives and/or rock-breaking equipment);
- ii. A description of the volume and type of minerals, aggregates and/or fines to be extracted from the borrow pit, including harness and potential for pollution;
- iii. A site plan and section drawings showing the location and extent of the proposed extraction area;
- iv. Overburden (peat, soil and rock) handling and management;
- v. Drainage infrastructure, including measures to prevent the drying out of surrounding peatland; and
- vi. A programme for the re-instatement, restoration and aftercare of the borrow pit once working has ceased.

Reason: To ensure that a scheme is in place to control the use of the borrow pit to minimise the level of visual intrusion and any adverse impacts as a result of the construction phase of the Development.

11 Traffic Management Plan

There shall be no Commencement of Development unless a traffic management plan has been submitted to and approved in writing by the planning authority. The traffic management plan shall include:

- i. The routing of all traffic associated with the Development on the local road network;
- ii. Measures to ensure that the specified routes are adhered to, including monitoring procedures;
- iii. Details of all signage and lining arrangements to be put in place;
- iv. Provisions for emergency vehicle access;
- v. Identification of a nominated person to whom any road safety issues can be referred; and
- vi. A plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the planning authority.

Reason: In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.

12 Community Liaison Group

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

Reason: To assist with the provision of mitigation measures to minimise potential hazards to road users, including pedestrians, travelling on the road networks.

13 Outdoor Access Plan

There shall be no Commencement of Development until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the planning authority. The plan shall include details showing:

- i. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- iii. All proposed paths, tracks and other routes for use by walkers, horse riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.);
- iv. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage).

The approved Outdoor Access Plan, and any associated works, shall be implemented no later than 12 months after the first export of electricity from the wind farm or as otherwise may be agreed within the approved plan.

Reason: To ensure public access to the outdoors is not unnecessarily impeded as a result of this development.

14 Programme of Archaeological Work

There shall be no Commencement of Development until a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development has been submitted to, and been approved in writing by, the planning authority. All arrangements thereby approved shall be implemented by the developer in accordance with the approved timetable for investigation.

Reason: In order to protect the historic interest of the site.

15 Erection of Fencing

There shall be no Commencement of Development until fencing has been erected, in a manner to be agreed with the planning authority, around the archaeological sites referred to in 14.7 (pg.194) of the Millennium South Wind Farm Environmental Statement. No works shall take place within the area inside that fencing without the prior approval in writing of the planning authority.

Reason: In order to ensure the protection of the archaeological/historic site.

16 Construction Environmental Management Plan (CEMP)

There shall be no Commencement of Development until a finalised Construction Environmental Management Document is submitted to and agreed in writing by the planning authority. The document shall include provision for:

- A Schedule of Mitigation (SM).
- Processes to control / action changes from the agreed Schedule of Mitigation.
- The following specific Construction and Environmental Management Plans:
 - i. Peat Management Plan – to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and SNH. This should for example highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage.
 - ii. Management of Geotechnical Risks including provision of a completed Peat Landslide Risk Assessment which shall include but not be limited to the following:
 - a. No work shall commence on site within any area identified with a peat landslide hazard ranking of significant or greater. Works can only proceed within any such area once further investigation and assessment has been

carried out and mitigation proposals have been submitted to and approved by the planning authority. Thereafter the approved mitigation proposals shall be incorporated in the geotechnical risk register and implemented in full.

- b. No work shall commence on turbine foundations, other foundations, crane hard-standings, drainage, cabling or track construction until the applicant has complied with the relevant conditions attached to the consent.
- c. Excess peat excavations shall not be placed onto another peat surface until the adequacy of the ground to support the load has been determined, the additional risk of peat landslide has been assessed and the planning authority has given its approval.
- d. All water discharged from excavations shall be directed into a suitably designed drainage system which complies with statutory requirements. The drainage network design must be submitted for approval to the planning authority in consultation with SEPA and SNH.
- e. During the period of consent, all excavations shall be suitably supported to prevent collapse and, where peat is present, to prevent the development of tension cracks. Peat removed from drainage ditches as part of maintenance shall be considered as excavated peat.
- f. No work shall commence on site without the prior written approval of the planning authority of a Construction Method Statement which shall cover all the activities specified below. Thereafter the Construction Method Statement, as approved by the planning authority, shall be implemented. The Construction Method Statement shall cover:
 - i. Geotechnical Risk Management System incorporating the range of site-specific mitigation measures identified during the peat landslide risk assessment;
 - ii. Track construction. This method statement shall reflect the conclusions and recommendations of the peat landslide risk assessment. Geo-textile floating track (where proposed) should be at a gradient of 1:10 or under. If tracks cannot be implemented at this gradient, full details of proposed alternative layouts and routes should be submitted to the planning authority for approval prior to the commencement of the track. This method statement will also address the issues of track restoration and 'cut and fill' heights/widths;
 - iii. A track construction/reinstatement plan;
 - iv. A peat and soil stripping management plan incorporating the mineral and slope stability of the site identified in the peat landslide risk assessment and outlining the storage and proposed use and replacement of peat, topsoil and subsoil. The scheme shall have regard to the drainage implications of soil movement and storage;

- v. The height and location of all stockpiles of roadstone following approval by the planning authority.
- g. The applicant shall undertake an on-going assessment and call out service provided by professionally qualified geotechnical personnel, whose appointment has been approved by the planning authority. The applicant shall develop and adopt a formalised reporting procedure which records ground conditions, site workings, monitoring results and construction progresses pertinent to the stability of all development works. In addition, changes in the anticipated ground conditions and monitoring results shall be used to update the Hazard Ranking and the Geotechnical Risk Register regularly. The Geotechnical Risk Register is to be submitted to the planning authority at quarterly intervals per annum (or other interval to be determined by planning authority). Should a change in the Hazard Ranking be identified, the applicant shall carry out corrective action, re-design and/or mitigation as appropriate and as recommended by the geotechnical personnel and approved by the planning authority in consultation with SEPA and SNH.
- h. The geotechnical personnel approved in terms of (g) above shall undertake regular walkover inspections of the site as construction progresses. This inspection should cover the whole of the site, to note any natural changes over time in addition to changes within the construction areas. Any changes to the peat environment shall be recorded and used to update the Hazard Ranking and the Geotechnical Risk Register regularly.
- iii. Water Quality Management Plan - highlighting drainage provisions including monitoring / maintenance regimes, deployment of water-crossings using bottomless culverts, surface water drainage management (SUDs) and development buffers from watercourses, local springs, lochans and identified GWDTEs. This plan must also highlight water quality monitoring points on the watercourses within the Aldernaig catchment that could impact on the public water supply abstraction, and monitoring at appropriate locations downstream of works and access routes on the tributaries to Loch Lundie and Loch a Bhainne. The plan must outline temporal and spatial sampling details, parameters to be measured and an action plan, should a problem occur. The plan must consider the potential cumulative impacts of adjacent developments on water quality, fish populations and macro-invertebrates.
- iv. Pollution Prevention Plan.
- v. Site Waste Management Plan.
- vi. Construction Noise Mitigation Plan.
- vii. Species Protection Plan advancing:
 - a. A pre-construction survey for wildcat and otter to be carried out within 500m of the wind farm infrastructure. That all contractors are made aware of the possible presence of wildcat and otter frequenting the site and the law for EPS. Should a holt or denning site be found then all works within 250m of the holt or 200m of the denning site should stop immediately and SNH's Dingwall

office contacted for advice. The contractors should either cover excavations at the end of the day or leave ramps in the excavations to allow animals to escape.

- b. A pre-construction survey for pine marten to be undertaken in suitable habitat.
 - c. A pre-construction survey for water vole to be undertaken in the vicinity of the works as new burrows could be established by then. Furthermore that a minimum stand-off distance of 10m is to be left between the edge of any working area and the nearest water vole burrow.
 - d. A pre-construction monitoring plan for migrating salmonid populations. The monitoring programme should be based on water quality samples analysing a range of parameters, invertebrate samples and fish populations to establish the presence, abundance and age structure of salmon, trout and eels.
 - e. A walkover habitat survey should be completed to identify key habitat features.
- viii. Habitat Management Plan to advance blanket bog restoration; semi-natural woodland planting to assist habitat connectivity with existing woodland areas; fencing of working corridors to minimise the development footprint on valued habitats together with micro-siting of development to reduce impacts (particularly of turbine 1 to ensure siting away from an area of alpine heath); and minimisation of impacts on woodland habitats at Doire Darach.
- ix. Peatland Management Plan including protection of GWDTEs.
- x. Pre-commencement fish and macro-invertebrate monitoring surveys and a programme for monitoring the impacts of construction on these valued resources;
- xi. Deer Management Plan addressing construction displacement and the impacts this may have on neighbouring estates; and how this will be monitored and managed over time. It should also take into account other potentially competing objectives for the site (e.g. habitat restoration) and seek the optimum outcome for both.
- Details of the appointment of an appropriately qualified Ecological Clerk of Works with roles and responsibilities which shall include but not necessarily be limited to:
 - i. Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
 - ii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
 - iii. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;

- iv. Directing the placement of the development (including any micro-siting, as permitted by the terms of this consent) and the avoidance of sensitive features; and
 - v. The power to call a halt to development on site where environmental considerations warrant such action.
- Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, planning authority and other relevant parties.
 - Statement of any additional persons responsible for 'stopping the job / activity' if a potential breach of a mitigation or legislation occurs.

Unless otherwise agreed in writing by the planning authority the development shall proceed in accordance with the agreed CEMD.

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

17 Planning Monitoring Officer

There shall be no Commencement of Development until the planning authority has approved the terms of appointment by the developer of an independent and suitably qualified consultant to assist the planning authority in the monitoring of compliance with conditions attached to this deemed planning permission during the period from commencement of development to the date of final commissioning.

Reason: To enable the development to be suitably monitored during the construction phase to ensure compliance with the consent issued.

18 Noise

The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from Table A and Table B attached to these conditions, and:

- (a) Prior to the first export date, the Company 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 from the planning authority following a reasonable complaint to it alleging noise disturbance at a dwelling, the Company shall, at its expense, employ an independent consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified meteorological conditions, including wind direction.

Within 14 days of receipt of the written request from the planning authority made under this paragraph (b), the Company shall provide the information relevant to the complaint logged in accordance with paragraph (h) to the planning authority in the format set out in Guidance Note 1(e).

(c) Where there is more than one property at a location specified in Table A and Table B attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in Table C attached to these conditions, the Company shall submit to the planning authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits shall be those limits selected from the tables specified for a listed dwelling which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise level limits to the planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.

(d) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the Company 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. Measurements to assess compliance with the noise limits set out in the tables attached to these conditions or approved by the planning authority pursuant to paragraph (c) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

(e) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (f) of this condition, the Company 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 immissions; and
- (ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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

(f) The Company shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the

Guidance Notes within two months of the date of the written request of 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 immissions.

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

(h) The Company shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for each turbine in accordance with this consent, 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 Company 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.

Note: For the purposes of this condition, a "dwelling" is 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.

Table A: Between the hours of 07.00 to 23.00 – noise limits expressed in dB LA_{90,10minute} as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

NSR ID	Standardised 10m Height Wind Speed, m/s, within the site averaged over 10 minute periods								
	4	5	6	7	8	9	10	11	12
Achadh-luachraich	21.3	22.4	24.0	25.5	27.6	29.6	29.3	29.3	29.3
Ardoch House	17.5	18.8	21.6	23.6	25.9	27.8	29.9	32.0	33.7
Bunloinn House	20.0	21.0	22.5	22.4	22.2	21.7	21.4	21.4	21.4
Daingean	20.1	21.3	22.9	22.7	22.7	22.2	21.9	21.9	21.9
Achlain	25.8	26.0	27.0	27.5	27.4	26.9	26.6	26.6	26.6
Balnacarn	25.7	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Balintombuie	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Myrtle Cottage	25.8	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Tir nan Og	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Dalchreichart	25.9	26.0	26.9	27.5	27.4	26.9	26.6	26.6	26.6
Druim Buidhe	21.4	22.6	24.2	25.7	27.8	29.8	29.5	29.5	29.5
Leacan Dubha	25.0	25.7	26.9	28.7	30.8	32.8	32.5	32.5	32.5
Munerigie	24.1	25.0	26.3	28.1	30.1	32.1	31.8	31.8	31.8

Table B: Between the hours of 23.00 to 07.00 – noise limits expressed in dB LA_{90,10minute} as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

NSR ID	Standardised 10m Height Wind Speed, m/s, within the site averaged over 10 minute periods								
	4	5	6	7	8	9	10	11	12
Achadh-luachraich	24.3	25.4	27.0	27.0	26.9	26.4	26.1	29.7	29.7
Ardoch House	20.5	21.8	23.5	23.2	23.1	23.5	23.2	28.6	28.6
Bunloinn House	20.0	21.0	22.5	22.4	22.2	21.7	21.4	21.4	21.4
Daingean	20.1	21.3	22.9	22.7	22.7	22.2	21.9	21.9	21.9
Achlain	25.8	26.0	27.0	27.5	27.4	26.9	26.6	26.6	26.6
Balnacarn	25.7	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Balintombuie	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Myrtle Cottage	25.8	25.9	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Tir nan Og	25.8	26.0	26.9	27.5	27.3	26.8	26.5	26.5	26.5
Dalchreichart	25.9	26.0	26.9	27.5	27.4	26.9	26.6	26.6	26.6
Druim Buidhe	24.4	25.6	27.2	27.2	27.1	26.6	26.3	29.9	29.9
Leacan Dubha	28.0	28.7	29.9	30.2	30.1	29.6	29.3	32.9	32.9
Munerigie	27.1	28.0	29.3	29.6	29.4	28.9	28.6	32.2	32.2

Note to Table A and Table B: The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

Table C: Coordinate locations of the properties listed in Table A and Table B

NSR ID	Easting	Northing
Achadh-luachraich	225106	803255
Ardochy House	221050	802296
Bunloinn House	221380	809741
Daingean	223998	802704
Achlain	227827	812322
Balnacarn	227425	813073
Balintombuie	228235	812934
Myrtle Cottage	228442	812794
Tir nan Og	228632	812636
Dalchreichart	229176	812655
Druim Buidhe	225171	803264
Leacan Dubha	226639	802905
Munerigie	226920	802898

Note to Table C: The geographical coordinates are provided for the purposes of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions:

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3 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).

Guidance Note 1

(a) Values of the $LA_{90,10\text{-minute}}$ 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 IEC 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 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 and be not more than 35 metres from it. 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 Company 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 $LA_{90,10\text{-minute}}$ 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 Guidance Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean nacelle wind speed (duly corrected for the presence of the rotating blades), arithmetic mean nacelle orientation, nacelle wind direction and arithmetic mean power generated during each successive 10-minute periods for each wind turbine on the site. The hub height wind speeds recorded from the nacelle anemometers, or as calculated from the power output of each turbine, shall be standardised to a reference height of 10 metres assuming a reference roughness length of 0.05 metres and using the equation given on page 120 of ETSU-R-97. 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. Standardised 10 metre height wind speed data shall be correlated with the noise measurements determined as valid in accordance with Guidance Note 2(b), such correlation to be undertaken in the manner described in Guidance Note 2(c).

(e) Data provided to the planning authority in accordance with paragraphs (e), (f), (g) and (h) of the noise condition shall be provided in comma separated values in electronic format with the exception of data collected to 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 within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Guidance Note 1(d).

Guidance Note 2

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

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

(c) Values of the $LA_{90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Guidance 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. If anything other than a 3rd order polynomial is used, a full explanation must be provided as to why the polynomial order has been used.

Guidance Note 3

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

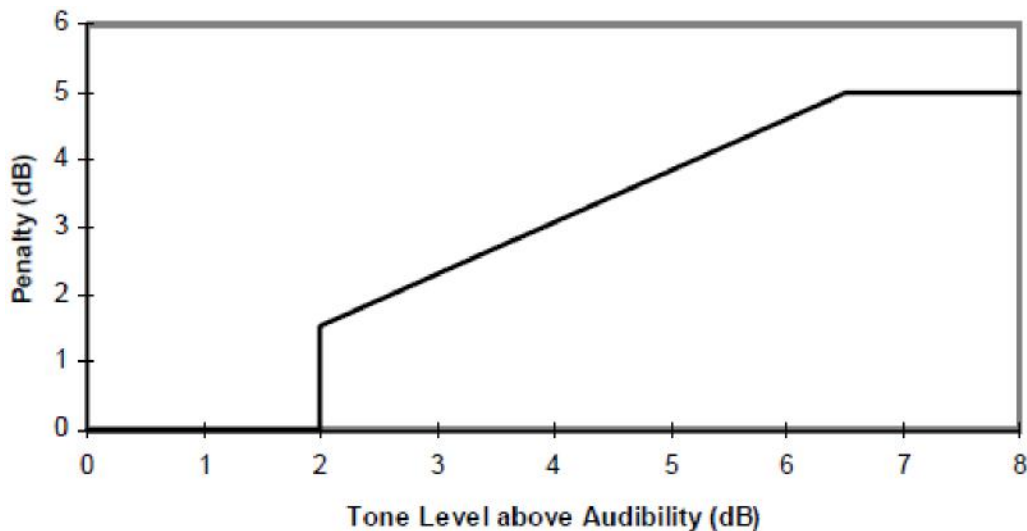
(b) For each 10-minute interval for which $LA_{90,10\text{-minute}}$ data have been determined as valid in accordance with Guidance Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above 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. If there is no apparent trend with wind speed then a simple arithmetic mean per wind speed bin shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

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



Guidance Note 4

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

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

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (c) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

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

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

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

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

Interpretation

'Commencement' of the Development Means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997.

'Development' means the construction and operation of the Millennium South Wind Farm authorised by this consent and deemed planning permission.

APPENDIX 3: SCHEDULE OF DOCUMENTS

Application Documents

Application Covering Letter to the Energy Consents Unit dated 22 May 2014 (APP1.1)
Environmental Statement dated May 2014 – Non-Technical Summary (APP1.2)
Environmental Statement dated May 2014 – Volume 1: Main Text (APP1.3)
Environmental Statement dated May 2014 – Volume 2: Technical Appendices (APP1.4)
Environmental Statement dated May 2014 – Volume 3: Figures (APP1.5)
Supporting Document: Planning Statement dated May 2014 (APP1.6)
Supporting Document: Design and Access Statement dated May 2014 (APP1.7)
Supporting Document: Pre-Application Consultation Report dated May 2014 (APP1.8)
Applicant Position Statement dated 28 May 2015 (APP1.10)

Consultation Responses and related correspondence

SEPA 30 September 2014
SEPA 2 July 2014
SEPA 16 June 2014
FCS 8 October 2014
FCS 18 July 2014
Applicant response to Forestry Commission Scotland consultation dated 20 August 2014
Applicant response to Scotways consultation response dated 7 November 2014
Applicant response to SEPA consultation dated 17 September 2014
British Horse Society 3 July 2014
BT 16 June 2014
CAA June 2014
Defence Infrastructure Organisation 23 June 2014
Fort Augustus & Glenmoriston Community Council 17 June 2014
Fort Augustus & Glenmoriston Community Council 30 June 2014
Halcrow - Peat Landslide and Hazard Risk Assessment 8 July 2014
Highlands and Islands Airports Ltd 30 May 2014
Historic Scotland 25 June 2014
John Muir Trust 26 May 2014
John Muir Trust removing objection to 4x4 track - 17 June 2014
Marine Scotland 27 June 2014
Visit Scotland 2 June 2014
Mountaineering Council of Scotland 30 June 2014
NATS 18 June 2014
Ness District Salmon Fishery Board 7 July 2014
OfCom 17 July 2014
RSPB Scotland 9 July 2014
Scottish Water 18 July 2014
Scotways 18 July 2014
Scotways 28 November 2014
SNH 20 June 2014
The Crown Estate 27 June 2014
The Joint Radio Company 28 May 2014
Transport Scotland 23 July 2014

Representations and related correspondence

Objection from The Highland Council 2 April 2015

Objection from Mr and Mrs Barnes 24 February 2016

Applicant's response to Mr and Mrs Barnes' objection 15 March 2016

[Letters of support](#)

Further Environmental Information and related correspondence

Covering Letter

Figure 01 ZTV and Viewpoint Location Plan

Figures 02-14 Visualisations and Wireframes

FEI – Text

Transport Scotland – comments on Further Environmental Information

SNH – comments on Further Environmental Information

Marine Scotland Science – comments on Further Environmental Information

Historic Environment Scotland – comments on Further Environmental Information

Ministry of Defence – comments on Further Environmental Information

Highlands and Islands Airports Ltd – comments on Further Environmental Information

Applicant Core Documents

APP1.1	Application Covering Letter to the Energy Consents Unit dated 22 May 2014
APP1.2	Environmental Statement dated May 2014 – Non-Technical Summary
APP1.3	Environmental Statement dated May 2014 – Volume 1: Main Text
APP1.4	Environmental Statement dated May 2014 – Volume 2: Technical Appendices
APP1.5	Environmental Statement dated May 2014 – Volume 3: Figures
APP1.6	Supporting Document: Planning Statement dated May 2014
APP1.7	Supporting Document: Design and Access Statement dated May 2014
APP1.8	Supporting Document: Pre-Application Consultation Report dated May 2014
APP1.9	Report to The Highland Council South Planning Applications Committee dated 1 April 2015
APP1.10	Applicant Position Statement dated 28 May 2015
APP1.11	DPEA Pre-Examination Meeting Notes (meeting of 10 November 2015)
APP1.12	Millennium South – Further Written Submissions, dated 11 December 2015
APP1.13	Millennium South Wind Farm Additional Information: Updated Visualisations, dated January 2016
APP1.14	The Highland Council response to the Scottish Government dated 2 April 2014
APP2.1	Fort Augustus and Glenmoriston Community Council
APP2.2	John Muir Trust
APP2.3	Mountaineering Council of Scotland
APP2.4	The Scottish Rights of Way Society (Scotways) together with Applicant response dated 7 November 2014
APP2.5	The Scottish Rights of Way Society (Scotways): Further Response
APP2.6	Scottish Natural Heritage
APP2.7	DELETED
APP2.8	Highland Council Access Officer

APP2.9	Forestry Commission Scotland
APP2.10	Visit Scotland
APP2.11	Third Party Representations (as available through DPEA)
APP2.12	Scottish Environment Protection Agency response dated 2 July 2014
APP3.1	European Commission – Renewable Energy Progress Report (June 2015)
APP3.2	Scottish Government: The Electricity Generation Policy Statement (June 2013)
APP3.3	Scottish Government, 2020 Routemap for Renewable Energy in Scotland (2011)
APP3.4	Scottish Government, 2020 Routemap for Renewable Energy in Scotland – Update (December 2013)
APP3.5	Scottish Government ‘Energy in Scotland’ (January 2015)
APP3.6	Scottish Government, 2020 Routemap for Renewable Energy in Scotland – Update (17 September 2015)
APP3.7	Scottish Government, Energy Statistics for Scotland (December 2015)
APP3.8	DECC: Digest of United Kingdom Energy Statistics (June 2015) (Extract – Chapter 6)
APP3.9	Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments (September 2015)
APP3.10	Letter of 29 October 2015 from Amber Rudd in relation to EU 2020 Renewables
APP3.12	Committee on Climate Change Fifth Carbon Budget Report November 2015 (Extract)
APP3.11	DELETED
APP3.13	The Scottish Parliament Official Report: Economy, Energy and Tourism Committee (5 February 2014)
APP3.14	DECC: The UK Renewable Energy Roadmap (2011)
APP3.15	DECC: The UK Renewable Energy Roadmap Update (December 2012)
APP3.16	The Scottish Parliament, Report on the achievability of the Scottish Government’s Renewable Energy Targets (23 November 2012)
APP3.17	UN COP21 Paris Agreement Dec 2015
APP4.1	The Highland Council, The Highland wide Local Development Plan (2012)
APP4.2	The Highland Council, The Highland wide Local Development Plan Main Issues Report (September 2015)
APP4.3	National Planning Framework 3 (NPF3) 2014
APP4.4	Scottish Planning Policy (SPP) 2014
APP4.5	Scottish Planning Policy: Some Questions Answered (5 December 2014)
APP4.6	Scottish Government ‘Onshore Wind Turbines’ Online Guidance (May 2014)
APP4.7	Circular 4/1998: The Use of Conditions in Planning Permissions
APP4.8	The Highland Renewable Energy Strategy and Planning Guidelines (“HRES”) (May 2006)
APP4.9	The Highland Council Interim Supplementary Guidance : Onshore Wind Energy (2012)
APP4.10	The Highland Council, Spatial Planning for Onshore Wind Energy in Highland - Consultation Document (2015)
APP4.11	Falck, Representation to the Highland Council Spatial Planning for Onshore Wind Energy in Highland Consultation document (21 May 2015)
APP4.12	The Highland Council, Draft Onshore Wind Energy Supplementary Guidance – Consultation Document (25 September 2015) (including Map extract – Enlargement from Draft Supplementary Guidance)

APP4.13	Falck, Representation to the Highland Council Draft Onshore Wind Energy Supplementary Guidance Consultation document (January 2016)
APP4.14	Letter from Scottish Government Chief Planner on Energy Targets and Scottish Planning Policy dated 11 November 2015
APP4.15	The UN COP21 Paris Agreement (December 2015)
APP4.16	The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000
APP4.17	Applicant Planning Policy Hearing Statement
THC4.18	Highland Council Planning Policy Hearing Statement
APP4.19	Falck Representation on THC HWLDP2 Main Issues Report Consultation
APP5.1	Landscape Institute and Institute of Environmental Management and Assessment – Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
APP5.2	Countryside Agency and Scottish Natural Heritage – Landscape Character Assessment: Guidance for England and Scotland (2002)
APP5.3	Scottish Natural Heritage – Siting and Designing Wind Farms in the Landscape,
APP5.4	Scottish Natural Heritage – Guidance: Assessing the Cumulative Impacts of Onshore Wind Energy Developments (March 2012)
APP5.5	Countryside Agency and Scottish Natural Heritage – Landscape Character Guidance for England and Scotland: Topic Paper 6, Techniques and Criteria for Judging Capacity and Sensitivity
APP5.6	Landscape Institute – Photography and Photomontage in Landscape and Visual Impact Assessment: Advice Note 01/11 (2011)
APP5.7	Scottish Natural Heritage – Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations, Guidance (June 2015)
APP5.8	Scottish Natural Heritage – Visual Representations of Wind Farms: Good Practice Guidance, Version 2.1 (December 2014)
APP5.9	Visualisation Standards for Wind Energy Developments, The Highland Council Planning and Development Service 2013 (Updated March 2015)
APP5.10	Macaulay Land Use Research Institute and Edinburgh College of Art (2004). Study into landscape potential for wind turbine development in East and North Highland and Moray. Scottish Natural Heritage Commissioned Report No. 070
APP5.11	D.R. Miller, S. Bell, M. McKeen, P.L. Horne, J.G. Morrice and D. Donnelly. Assessment of Landscape Sensitivity to Wind Turbine Development in Highland. Macaulay Land Use Research Institute, September 2010
APP5.12	Environmental Resources Management 1998. Lochaber: landscape character assessment. Scottish Natural Heritage Review No 97
APP5.13	Richards, J. 1999. Inverness District landscape character assessment. Scottish Natural Heritage Review No 114
APP5.14	Stanton, C. 1996. Skye and Lochalsh landscape assessment. Scottish Natural Heritage Review No 71
APP5.15	Turnbull Jeffrey Partnership 1996. Cairngorms landscape character assessment. Scottish Natural Heritage Review No 75
APP5.16	Scottish Natural Heritage Landscape Group 1999. Ben Alder, Ardverikie and Creag Meagaidh landscape character assessment. Scottish Natural Heritage Review No 120
APP5.17	Applicant Landscape and Visual Precognition
THC5.18	Highland Council's Landscape and Visual Precognition
APP5.19	SNH consultation response to Beinneun Windfarm S36 application Dec 2011

APP5.20	SNH consultation response to Beinneun Windfarm Extension application Nov 2014
THC5.21	Highland Council's Landscape and Visual Inquiry Statement (8 Jan 2016)
APP5.22	Applicant's Landscape and Visual Inquiry Statement
APP5.23	Report to The Highland Council's planning committee for the Millennium Wind Farm six turbine extension (12 May 2009)
APP6.1	Opinion Of The Lord President In The Reclaiming Motion In The Petition of Trump International Golf Club Scotland Limited and The Trump Organization Llc Against The Scottish Ministers
APP6.2	Opinion Of Lord Malcolm in The Petition of William Grant & Sons Distillers Limited For Judicial Review of A Decision of The Scottish Ministers Made on 22 December 2011 Granting Detailed Consent Under The Electricity Act 1989, Section 36 for an Application by Dorenell Limited (UK) for The Construction of A Wind Farm on The Glenfiddich Estate, Morayshire
APP6.3	Limekiln Wind Farm s.36 Inquiry Report 20 February 2014 (WIN-270-1) (extract)
APP6.4	Allt Duine Wind Farm s.36 Decision Letter
APP6.5	Inquiry Report, Harburnhead and Fauch Hill s.36 Wind Farms (Extract)
APP6.6	DPEA Decision Notice Lochend Wind Farm (P/PPA/270/2108)
APP6.7	Afton Wind Farm s.36 Decision Letter
APP6.8	Millennium Wind Farm Extension S36 Decision letter 2009
APP6.9	R (on the application of Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Energy & Climate Change (Deemed Planning)
APP6.10	Beinneun Extension Wind Farm S36 Decision letter June 2015
APP7.1	Statement of Agreed Matters between the Applicant and The Highland Council (to be submitted 1 March 2016)
APP7.2	List of proposed conditions (to be submitted 1 March 2016)
APP7.3	Great Glen Energy Cooperative Ltd Share Offer (2008)

Council Core Documents

THC01	National Energy Policy and National & Local Planning Policy Hearing Statement
THC02	Landscape and Visual Impact Inquiry Report
THC03	UK Secretary of State for Energy & Climate Change - Oral Statement to Parliament (22.06.2015)
THC04	Priorities for UK energy climate change policy DECC - Rt Hon Amber Rudd
THC05	Millennium South Photographs and Wirelines
THC06	Millennium South Development History
THC07	Fig 01 Windfarms and Wild Land
THC07	Fig 02 Windfarms and Landscape Designations

Hearing Documents

Hearing Agenda
Council Hearing Statement (THC01)
Applicant Hearing Statement
Hearing Statement by Andrew Macdonald on Behalf of John Macdonald

Inquiry Documents

Council Inquiry Statement
Council Inquiry Report (THC02)
Council Precognition
Applicant Inquiry Statement
Applicant Inquiry Report
Applicant Precognition
Inquiry Document 1 – Druim Ba Report of Handling

Written Submissions

Aplicant 11 December 2015
SEPA 18 December 2015
SNH 5 January 2015
Applicant 21 January 2016

Other Documents

Statement of Agreed Matters
Applicant Closing Statement
Council Closing Statement
ECDU model onshore wind farm conditions
Parties' proposed conditions
Figure 1 Deemed Planning Permission Condition 12

APPENDIX 4: APPEARANCES

The Applicant

David Hardy, Squire Patton Boggs
David Bell, Jones Lange LaSalle
Richard Dibley, Falck Renewables Ltd
Jean Curran, ATMOS
Gillian Beauchamp, Wardell Armstrong

The Council

James Findlay QC
James Miller, Ironside Farrar
Dr Guy Wimble, Ironside Farrar
Karen Lyons, The Highland Council