THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE 20 AUGUST 2013

Agenda Item	5.7
Report No	PLS 048/13

13/01180/S36 : CARBON FREE MOY LIMITED (CFML)
MOY ESTATE TOMATIN BY INVERNESS

Report by Head of Planning and Building Standards

SUMMARY

Description: Application to increase the potential generational capacity of the

consented Moy Wind Farm from 41MW to 66MW.

Recommendation - Raise No Objection

Ward: 20 Inverness South

Development Category: Section 36 Application – Electricity Act 1989.

Pre-determination Hearing: Not Required

Reason referred to Committee: 5 or more objections.

1 INTRODUCTION

- 1.1 The application is to facilitate an increased power output from the 20 turbine wind farm project previously granted planning permission, on appeal, within Moy Estate. It offers a potential 66MW of generating capacity, an increase from the potential 41MW generating capacity associated with the approved scheme.
- 1.2 The application was submitted to the Scottish Government for approval under Section 36 of the Electricity Act 1989. Should Ministers approve the development, it will carry deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997. The Council is a consultee on the proposed development. Should the Council object to the development, Scottish Ministers will require to hold a Public Local Inquiry to consider the development before determining the application.
- 1.3 As the application is not significantly different to the earlier planning application, the supporting information relies upon the Environmental Statement (ES) prepared for the planning application. In a similar way this report seeks to focus on the key differences between the applications and to update Committee on changes to those policy/material considerations relevant to the applications to help the Committee determine its position on the consultation from the Scottish

Government. Attached to this report (Annex A) is the report on the planning application determined by Committee on 20 December 2011. Annex B is the Appeal Decision Notice dated 29 February 2012 that grants planning permission for the Moy Wind Farm.

2 PROPOSED DEVELOPMENT

- 2.1 The application comprises the same main project elements contained in the planning application:
 - 20 wind turbines each with a maximum tip height 126.5m;
 - on-site access tracks providing access to all turbine locations;
 - a single storey with pitched roof site control building and parking compound;
 - a temporary hard-cored construction compound;
 - meteorological mast of maximum 80m height;
 - on-site underground cabling to connect the turbines to the control building;
 - two borrow pits (183,000 tonnes of rock to be excavated); and
 - a new road access from the B9154.
- 2.2 While the application will maintain the same maximum blade tip height, the final turbine selected may have a greater rotor diameter. The applicant has advised that all candidate turbines have a tip height of 126.5m or less but most use a lower tower height (75m) with a larger rotor diameter (100m 103m diameters).
- 2.3 The operational lifespan of the wind turbines is 25 years after which time the development will be decommissioned, with above ground facilities being removed and site restoration being undertaken.
- 2.4 It is anticipated that connection from the substation will be northwards to Inverness via a buried cable along verges within the A9 Trunk Road. This will be the responsibility of Scottish Hydro Electric Transmission Ltd (SHETL) and subject to a separate application at a later date.

2. SITE DESCRIPTION

- 2.1 The proposed wind farm site extends to approximately 345 hectares of land within Moy Estate, with development including turbine sites and other infrastructure utilising 19.5ha. The principal development area involves flatter moorland set above narrow ravines which contain the principal watercourses of the Allt Na Beinne and Allt Odhar and existing estate access tracks which are to be extended.
- 2.2 The initial section of the wind farm access track is to be built on the lower fields at Moy from the B1954. This will include including a bridge over the Moy Burn.
- 2.3 The nearest occupied residential / noise sensitive properties are around Moy Hall located approx. 1.5km away from the closest turbine. Further to the north west (5/6km) lies the community of Daviot and to the south west (7km) Tomatin. West of the site lies the main A9(T) road and the principal rail line connecting Inverness to Perth.

2.4 When assessing a wind farm development consideration of similar developments within a 60km distance of the site is required. The list below presents the projects that are operational, approved or have been submitted but are not yet determined around this development site – a number of these projects lie within an adjacent authority – Moray Council.

<u>Operational</u>	Approved or Under Construction	Not yet Determined
 Farr Wind Farm Millennium (I, II and III) Fairburn Novar (I &II) Beinn Tharsuinn Beinn Oighrean Corriemony Berry Burn Paul's Hill Cairn Uish Findhorn 	 Lochluichart Corriegarth Dunmaglass Corriemollie Moy Tom Nan Clach 	 Allt Duine Glenmorie Coire na Cloiche Glen Kyllachy Corriegarth (S36)

2.5 It is also noteworthy that a number of applications that were in the planning system at the time of the Council's determination of the Moy wind farm planning application have now been determined. This includes the refusal of Glenkirk, Daviot and Druim Ba wind farms.

3. PLANNING HISTORY

- 3.1 **27 April 2013** EIA Scoping opinion provided by Scottish Government for a potential Section 36 application wind farm development.
 - **29 February 2012** Moy wind farm (20 turbines) granted planning permission on appeal (Ref 11/01205/FUL).
 - **16 Sept 2010** temporary planning permission granted for meteorological mast on Moy Estate (3 years) (Ref 10/02543/FUL).

4. PUBLIC PARTICIPATION

4.1 Advertised: EIA adverts Inverness Courier and Edinburgh Gazette

Representation deadline: 3 July 2013.

Timeous representations: 5 – Objections.

Late representations: 0

4.2 Material considerations raised by parties making representations are summarised as follows:

- Planning Policy
- Landscape
- Visibility
- Cumulative Impact
- Peatlands
- Ornithology / Collision Risk to Birds
- Noise
- Tourism
- Radar
- Health Impact from Wind Turbines
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

Consultations undertaken by the Planning Authority.

- 5.1 <u>Strathnairn Community Council</u> has highlighted that, whilst there is some support for the project in the locality, residents closer to the development have a number of concerns particularly in respect of operational and construction noise. The community is already experiencing adverse impacts (flicker and visual distraction) from an existing small scale turbine at Daviot. There are also concerns over the unknown and potential adverse impacts that the grid connection may cause.
- 5.2 <u>Planning & Development Service Historic Environment Team</u> has no comments in addition to those made on the planning application. A planning condition to require a pre-commencement walk-over survey is sought if consent is granted.
- 5.3 <u>TECS Environmental Health</u> has no objection but requests that a condition be attached to any consent to ensure noise levels are maintained at levels below 35dB LA90 at all neighbouring properties. This would amend, slightly the previous condition set by the DPEA.
- 5.4 <u>TECS Roads</u> has no objections but requests planning conditions to secure a traffic management plan and access restrictions to the site access from off the A9. TECS highlight the need for the applicant's traffic impacts studies to be updated to reflect current timescales.
- 5.5 <u>Planning & Development Service Access Officer</u> has no objection but requests that an access management plan be secured by condition.

Consultation initiated by Energy Consent Unit

5.6 <u>Trunk Road Network Management Division</u> has no objection but requests previous planning conditions are equally applied to any consent.

- 5.7 <u>Historic Scotland</u> has no objection.
- 5.8 <u>Scottish Natural Heritage (SNH)</u> has no objection. The potential turbines have an increased rotor diameter (potential 103m), which has increased the potential risk of collision with birds, some of which are protected species for example Red Kite. Revised collision risk assessment does not indicate that the potential increase in risk would affect population rates of such species in the North of Scotland.
- 5.9 <u>Royal Society for the Protection of Birds (RSPB)</u> has no objection. It notes the revised collision risk assessment particularly with regard to Red Kites.
- 5.10 <u>Scottish Environmental Protection Agency (SEPA)</u> has no objection. It requests a continuation of the planning conditions with any approval. It has provided Scottish Ministers with a positive assessment of the carbon payback calculations associated with this project.
- 5.11 British Telecommunication (BT) has no objection.
- 5.12 <u>Joint Radio Company</u> has no objection.
- 5.13 National Air Traffic Systems (NATS) has no objection.
- 5.14 Civil Aviation Authority (CAA) has no objection.
- 5.15 Crown Estates has no objection.
- 5.16 <u>Scottish Rights of Way and Access Society</u> has no objection. Society asks that any proposed diversions, alterations or improvements to the access network are agreed in advance with the Highland Council's access team and are made a condition of any planning consent granted.
- 5.19 <u>Ministry of Defence (MOD)</u> has no objection. It requests the standard planning condition to ensure it is informed on any commencement of construction and final details on turbine height and location, construction equipment, etc.

6. DEVELOPMENT PLAN POLICY

Highland Wide Local Development Plan, July 2012

- 6.1 The following policies are relevant to the assessment of the application: -
 - Policy 28 Sustainable Development
 - Policy 31 Developer Contributions
 - Policy 26 Wider Countryside
 - Policy 53 Minerals
 - Policy 55 Peat and Soils
 - Policy 57 Natural, Built and Cultural Heritage
 - Policy 58 Protected Species
 - Policy 59 Other Important Species
 - Policy 60 Other important Habitats and Article 10 Features

- Policy 61 Landscape
- Policy 67 Renewable Energy including significant effects on: -
 - Natural, Built and Cultural Heritage
 - Other Species and Habitat Interests
 - Landscape and Visual Impact
 - Amenity at Sensitive Locations
 - Safety and Amenity of Individuals and Individual Properties
 - The Water Environment
 - Safety of Airport, Defence and Emergency Service Operations
 - The Operational Efficiency of Other Communications
 - The Quantity and Quality of Public Access
 - Other Tourism and Recreation Interests
 - Traffic and Transport Interests
- Policy 72 Pollution
- Policy 77 Public Access

7 OTHER MATERIAL POLICY CONSIDERATIONS

Scottish Planning Policy

- 7.1 SPP (Feb 2010) contains a number of subject specific policy statements relevant to this application:
 - Rural Development
 - Landscape and Natural Heritage
 - Transport
 - Renewable Energy
- 7.2 In addition to the above, the Scottish Government sets out its further advice on Renewable Energy within a number of documents and web based Planning Advice including: -
 - National Planning Framework for Scotland 2
 - PAN 56 Planning and Noise
 - PAN 58 Environmental Impact Assessment
 - PAN 60 Planning for Natural Heritage
 - 2020 Routemap for Renewable Energy

Onshore Wind Energy Interim Supplementary Guidance

7.3 The development partly falls within an Area of Search. The north and eastern end of the development application site, including turbines 11,12,14,15,16,17,19 and 20 together with the access tracks to these turbines fall outwith the Area of Search on account of the Council's Special Landscape Area designation Drynachan, Lochindorb and Dava Moors and the safeguarding Area around Dalcross Airport.

Highland Renewable Energy Strategy (HRES)

- 7.4 The Council has an approved Renewable Energy Strategy (HRES) which sets out its vision and policies on all renewable energy technologies, not just onshore wind energy. Relevant policies to the current application include: -
 - Policy H1 Education and Training
 - Policy K1 Community Benefit
 - Policy N1 Local Content of Works

8 PLANNING APPRAISAL

- 8.1 The Scottish Government will assess and determine this application under the Electricity Act 1989. Should Ministers approve the development, it would carry with it deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.
- 8.2 The determining issues for the Council as planning authority responding to this consultation are:
 - Does the proposal accord with the development plan?
 - If it does, are there any material considerations for not approving the proposed development?
 - If it does not accord, are there any material considerations for approving the proposed development?
- 8.4 It is recognised that the application proposes an updating of the planning permission for Moy wind farm.

Assessment

- 8.5 To address the determining issues, the Committee must consider the following:
 - a) Development Plan Policy
 - b) Interim Supplementary Guidance: Onshore Wind Energy
 - c) Highland Renewable Energy Strategy
 - d) National Policy
 - e) Planning History
 - f) Roads and Traffic Impacts
 - g) Water, Drainage and Peat
 - h) Natural Heritage
 - i) Design, Landscape and Visual Impact
 - j) Tourism
 - k) Cultural Heritage.
 - I) Noise
 - m) Construction Impacts
 - n) Aviation Interests
 - o) Radio TV and other Networks
 - p) Economic Impact
 - q) Health

Development Plan Policy

- 8.6 The Development Plan now comprises the Adopted Highland wide Local Development Plan (HwLDP) and those parts of the Inverness Local Plan continued in force within the adoption of the HwLDP. The principal HwLDP policy on which the application needs to be determined is Policy 67 Renewable Energy. The other HwLDP policies listed at 6.1 of this report are also relevant and the application must be assessed against them for example Policy 61. These matters all fall within the gambit of Policy 67.
- 8.7 Policy 67 highlights that the Council will consider the contribution of the project towards renewable energy targets, positive and negative effects on the local and national economy and other material considerations including making effective use of existing and proposed infrastructure and facilities. In that context the Council will support proposals where it is satisfied they are located, sited and designed such as they will not be significantly detrimental overall individually or cumulatively with other developments having regard to the 11 specified criteria (as listed in para 6.1 above).
- 8.8 Policy 61 highlights that new development should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area. This includes consideration of the appropriate scale, form pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue.
- 8.9 Where relevant to this application all these matters are addressed within this assessment. If the Council is satisfied on all these matters then the application will accord with the Development Plan.
 - <u>Interim Supplementary Guidance and Highland Renewable Energy Strategy</u> (HRES)
- 8.10 The application site falls partly within a safeguard area associated with the operations of Dalcross Airport and a Special Landscape Area (SLA) and partly within an "area of search" within the Interim Supplementary Guidance. Assessment against these two factors is considered later in this report. The remaining portions of the application fall within an identified "Area of Search" for wind energy requiring the policy to be assessed, as noted above, within Policy 67 of the HwLDP.
- 8.11 The Development Plan references HRES developed by the Council on a range of Renewable Energy technologies. In particular the additional benefits from such investment including for example 'Education and Training,' 'Community Benefit' and 'Local Content' which are important considerations when assessing individual project proposals see also later section on economic impact. For the avoidance of any doubt only those parts of the Council's HRES that remain in force are those which are compliant with Scottish Government SPP.

National Policy

- 8.12 The Scottish Government has a very positive approach towards Renewable Energy technologies. This is set out in Scottish Planning Policy (SPP) with further advice on renewable energy targets available from its "Routemap for Renewable Energy in Scotland 2011". There is a Scottish Government target of 100% of Scotland's electricity demand to be generated from renewable resources by 2020. This target is not a cap. The Scottish Government has advised that operational onshore wind energy capacity at 30 June 2013 was 4,079MW with a further 4,048MW approved. As of 20 July 2013, within Highland large-scale onshore wind energy projects in operation or approved had a capacity to generate 2394.5MW, which equates to 29.5% of the national figure. The emerging draft SPP document does not substantially change the emphasis of Scottish Government's stance on wind energy.
- 8.13 SPP advises that planning authorities should support the development of wind farms in locations where technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. Criteria for the assessment of applications are listed including landscape and visual impact; effects on heritage and historic environment; contribution to renewable energy targets; effect on the local and national economy and tourism and recreation interests; benefits and disbenefits to communities; aviation and telecommunications; noise and shadow flicker; and cumulative impact. These elements, as relevant to this application, are examined within this assessment.
- 8.14 SPP advises that when considering cumulative impact the factors for planning authorities to consider should be set out in the Development Plan or Supplementary Guidance. Development Plans are expected to have a spatial framework for onshore wind farms over 20MW drawn from the identification of areas requiring significant protection, areas with potential constraints against identified criteria and areas of search where appropriate proposals are likely to be supported, again subject to identified criteria. The spatial approach advanced by this Council is as set out in the Interim Supplementary Guidance: Onshore Wind Energy.

Planning History

- 8.15 As noted above the planning application for Moy wind farm was granted planning permission following an appeal. The decision by the Scottish Government forms part of the planning history of the application site and it is important to note that an extant planning permission exists.
- 8.16 It was in the assessment of landscape and visual impacts of the proposed wind farm that the Reporter, in part, differed from the Council. The Reporter's decision, contained in Annex B, is referred to for its full terms.

Roads and Traffic Impacts

8.17 The potential variation in turbine parts (larger rotor blades) presented in this application may create slightly different sized abnormal loads to be delivered to the

site. This has not caused additional concern to consultees. Both the local and trunk roads authorities have requested that standard planning conditions are applied in line with the earlier application. This will require final traffic impact assessment surveys to be submitted and the provision of a wear and tear agreement addressing the use of the local road network. For members' information, the application, if approved by Ministers, is to be serviced from the most southerly junction between the A9 and B1954 to avoid the low rail-bridge over the B9154 north of the site access. The conditions proposed allow for a community liaison group to discuss all roads mitigation measures and turbine deliveries to the site.

Water, Drainage and Peat

8.18 The applicant's assessment on these matters is supported by the relevant consultees including Scottish Water, SEPA and TEC Services (Environmental Health and Flood Team). The application maintains the improvements in respect of the requested access track alignment as set out in the planning application to avoid areas of deeper peat. These views are subject to planning conditions being attached to any consent in respect of Construction and Environmental Management. SEPA is content with the assessed carbon payback figure submitted with this application and for it to be used by Scottish Ministers as a material consideration in the final determination of the application.

Natural Heritage

- 8.19 Scottish Natural Heritage has noted that the main change to the project will be the potential increased rotor diameter for each turbine. This can have an impact on nature conservation issues in respect of collision risk / bird strike. Following the submission of revised data in respect of collision risk on key bird species (e.g. Red Kite) both SNH and RSPB were content not to raise any objection to the current application.
- 8.20 With regard to the Carn nan tri-Tighearnan Special Area of Conservation (SAC) that lies adjacent to the development site; and protected species generally within the surrounding environment; SNH has raised no objection to the application, but expects a continuation of the same mitigation as presented by the applicant and as set within the planning conditions as agreed previously.

Design, Landscape and Visual Impact

8.21 A key issue for the determination of the application is its impact on Council's Special Landscape Area: Drynachan, Lochindorb and Dava Moors within which 9 turbines are proposed to be built. With regard to this landscape interest the Council and SNH had not previously raised any particular concerns of conflict between the application and this landscape designation. The key interest of this designation lies further to the east beyond the natural watershed formed by hill – top Carn nan tri-Tighearnan and Cairn Kincraig. So the impact of the development on the SLA is limited. The Reporter in considering the appeal also drew this conclusion.

- 8.22 Consultees have raised no particular concerns with regard to change or additional impact arising from the current application. There is general acceptance that the maximum tip height of the turbines accords with the approved development and that the potential increased rotor size, achieved with a consequential reduction in turbine hub height, raises no additional significant concerns. However, public representations on the application have highlighted this increased rotor size as a particular concern.
- 8.23 It was the visual impact (particularly as viewed from principal route-ways including the A9 road, B9154 road (a tourist route and national cycle route) and railway line) of the development proposed that provided the key reasons for the Council's refusal of the planning application. Four viewpoints were highlighted in the report (see Annex A, Para 7.37) where significant visual impact was a concern and formed a basis of the Council's decision to refuse the planning application. The Council relied upon its then Draft Supplementary Guidance :- Onshore Wind Energy which sought "to prevent large scale and medium scale windfarm development within this locality to protect the A9 tourist route corridor between Inverness and the Cairngorms National Park and to protect the setting of Inverness as viewed from the north and the approach from the south."
- 8.24 It is noteworthy in respect of design, landscape and visual issues that: -
 - The Council's reasons for refusal were not supported by the Department for Planning and Environmental Appeals (DPEA) see below.
 - The proposed turbine design options within the Section 36 application, would accord with the Moy Wind Farm planning permission.
 - The original concerns in respect of the cumulative impact with other wind farm developments have been reduced given the refusal of the Glenkirk, Daviot and Druim Ba applications.
 - The Tom nan Clach planning application has been approved.
 - There continues to be pressure for further largescale onshore wind farm developments within this landscape (e.g. Glen Kyllachy Wind Farm), but little weight can currently be given to this potential project impact which remains to be considered by the Council.
 - The Interim Supplementary Guidance: Onshore Wind Energy has replaced the earlier draft Supplementary Guidance.
 - The Interim Guidance has not been superseded by any subsequent revised policy statement incorporating landscape capacity assessment.
- 8.25 Given that the design and layout of the proposed development remains the same as the earlier application the assessment by the applicant and the Council's assessment of the project on landscape and visual impacts remains as previously presented. That is to say the proposed development, as is recognised by the applicant, has some significant landscape and visual effects, albeit localised. Some mitigation is offered to residents in Daviot, through the management of local woodland north west of the application site, which seeks to screen the development from local households.
- 8.26 It is the significant visual effects that would be seen from sections of the A9 Trunk Road, B9154 (a valued tourist route and part of the national cycleway) and railway,

west and north of the development, that were of most concern. These concerns remain with the current application. It is however important to give consideration to the assessment presented in the findings by the Scottish Government Reporter – Annex 2. Some of the key issues are highlighted below: -

- Landscape Character the Reporter when considering the appeal recognised that the development would largely sit within a corrie thereby reducing its impact on the landscape character in the locality. In the wider landscape character areas of rolling uplands and open uplands the Reporter, like SNH, did not think the development would have an unacceptable adverse impact.
- Visual Impact where the Council had argued that the wind farm would present
 an irregular layout in prominent views and visually it would not relate well to
 local landscape, the Reporter gave more recognition to the containment of the
 wind farm layout within the corrie and the mitigation offered by the applicant for
 woodland retention towards Daviot East / Meallmore, both factors which would
 limit views of the turbines.
- With regard to Impact on Local Properties the Reporter noted the Scottish Planning Policy's (SPP) reference to a separation distance of up to 2 kilometres between areas of search of wind farms and the edge of cities, towns and villages. The Reporter did not find that the wind farm would have significant on individual properties within 2km given their distance from the turbines, local topography and, at least in the short term, by woodland screening.
- With regard Visual Impact on the A9 the Reporter examined the viewpoints on the A9, in particular from Daviot Brae and from west of Moy. With the nearest turbine from Daviot Brae being over 6.7 kilometres, with the impact being only upon travellers going south, with only half the turbines being visible and with some set against a backcloth of higher ground behind. At west of Moy the distance was 3.3 kilometres, turbines would be seen by travellers in both directions on the A9, all or parts of four turbine towers would be visible and with parts of blades of several others. Whilst recognising the significance of the impact, the Reporter acknowledged that this would be transitory and that the wind farm would be absorbed into the wider vista and thereby did not regard the visual impact to be unacceptable.
- With regard to layout, in particular the irregular layout noted by the Council, the Reporter noted that the development had made good use of the local corrie. In noting the irregular pattern of turbines in some viewpoint locations. He did not think it essential to achieve an ordered appearance from all viewpoints. The layout would be consequence of a combination of site layout considerations and therefore he did not think the wider visual impact to be rendered significantly more adverse because of this.
- With regard to cumulative landscape impact the Reporter recognised that the character of the landscape in the area could alter from the range of projects in the locality, but like the views expressed by SNH, the impact arising from the Moy scheme was seen by him as being relatively minor.

- With regard to cumulative visual impact the Reporter recognised the potential
 for cumulative impacts on views south from the rising ground to the south of
 Inverness, but again, like in the views expressed by SNH, he accepted that
 whilst the Moy scheme would increase the turbines in view this would not lead
 to significant cumulative effects.
- With regard to visual impact on travellers on the principal routes being the A9, the B9154 and the Perth to Inverness Railway - the Reporter accepted there would be impact upon travellers but did not believe the impact was detrimental to the extent that refusal of the application would be justified under the terms of the Council's then Development Plan Policies E2 and G2.
- With regard to the Council's then Draft Supplementary Guidance that sought to provide significant protection from largescale on-shore wind farm development within the A9 tourist route between Inverness and the Cairngorm National Park

 the Reporter recognised, as the Council had done, that weight could not be given to this emerging policy as the Draft Supplementary Guidance couldn't be regarded as representing the final position of the Council. Indeed the Draft Supplementary Guidance has been replaced by the Interim Supplementary Guidance.
- 8.27 Following the decision by the Scottish Government Reporter the Council obtained advice from Counsel on the merits of a legal challenge. This was reported to the South Planning Applications Committee on 27 March 2012 and the decision was taken not to pursue a legal challenge.

Tourism

- 8.28 The applicant has presented an assessment of the potential impact on a range of tourists / tourist activities including for example Culloden Visitor Centre Cawdor Castle and the Cairngorms National Park; Tourist Accommodation; Hill Walking; Path Walking (Great Glen Way); Cycling (National Cycling Routes; Fishing; etc. The overall conclusion is that the impact of the development on the operation of these facilities will be limited (minor / negligible).
- 8.29 From the Council's assessment of the development, the key significant effect on tourists is as outlined earlier in this report namely the visual impact of the development on tourists travelling by road, rail or cycle. These visitors to the area would in one short section of the A9 / B9154 / Rail-line / National Cycle route experience the impact of the development. It is the absence of large and medium scale onshore wind farm development from this heavily used transport corridor, set between the Highland Capital and the Cairngorm National Park which is valued by commuters/ tourists. As noted above the Reporter on the Moy Wind farm planning application appeal the accepted there would be impact upon travellers but did not believe the impact was detrimental.
- 8.30 It is noteworthy, however, that in dismissing the planning appeal on Daviot wind farm the assessment by that Reporter noted the combined effect of Daviot wind farm and Moy wind farm to those that would experience the developments from the road/national Cycle route (B9154) and railway would experience significant

detrimental impact. For the avoidance of doubt that Reporter was commenting on a combined impact, but the reader is left in no doubt that the visual impact upon receptors on these routes were given weight in the final decision on that application.

Cultural Heritage.

8.31 Impacts on known "on-site archaeological remains" and / or "features in the locality" are assessed to be limited / not significant. Consultees on the ES support the findings of the applicant's assessment. The Council's Historic Environment Team has requested that the planning condition requesting a watching brief on any ground breaking activities needs to be replicated in any approval of the current application.

Noise

8.32 A precautionary interest is maintained in the final choice of turbine and its likely noise assessment relative to existing habitable properties in the area. There are no significant concerns over any potential construction and operational noise however the Council would wish to maintain conditions on any approved development to limit construction hours and to enable investigation / enforcement for any noise complaint arsing from an existing noise sensitive property. Given the research by the Council and other parties on this subject area (noise assessment from wind turbines) the Council would prefer its more recent standard noise conditions to be used in any approval of this application.

Construction Impacts

8.33 Consultees have raised no further issues that need to be taken into account but have requested a continuation of the previous planning conditions in any approval of this application.

Aviation Interests

8.34 HIAL in response to the current application is content as in its previous comments on the Moy Wind Farm application to adopt a position of no objection. This position represents their assessment particularly upon the turbines that fall within its safeguard area outward from Dalcross.

Radio TV and other Networks

8.35 Approval of this application should be subject to a planning condition to address potential interference to the current services available to existing residents.

Economic Impact

8.36 The approval of this application would have no significant consequence to the impact of the Moy Wind farm application. The project will deliver a number of short term jobs during the construction phase, which are expected to involve a number of local businesses. Figures of potentially 60 staff associated with the project, have

been estimated through the construction phase. In the longer term job creation through the operational phase of is valuable but is only small scale in nature. Estimates of 3 FTE jobs are anticipated.

Health

8.37 The public representations have raised a concern over the harmful health effects arising from the operation of turbines. This might include for example impacts arising from including noise, electromagnetic interference, shadow flicker and blade glint produced by wind turbines. Given the separation of this development from the nearest occupied properties and the topography there are no grounds that highlight that the expected impacts arising from the construction and or operation of this development that would give rise to specific health concerns of local residents.

9. CONCLUSION

- 9.1 The application seeks to maximise the potential generation capacity of the project that has been granted planning permission at Moy. Planning authorities are encouraged to support the development of wind farms where they can operate without significant adverse impacts. This position is sustained within the emerging draft Scottish Planning Policy.
- 9.2 Development of a wind farm at this location has already been assessed by the Planning Authority and the Scottish Government Reporter, each with different outcomes. The application does not present any new information that would impact on the landscape and visual assessment undertaken by the Planning and Development Service. However, there are a number of changes to planning policy and the planning history of the site (a material consideration) has been added to with the decision to grant planning permission that have a bearing on the assessment of the Section 36 application.
- 9.3 Concerns highlighted by the Council as being significant on this development were acknowledged by the Reporter considering the planning application appeal. However in the assessment on the "degree of impact" or the judgement on "weight" in the final planning balance the Reporter was not supportive of the Council's decision of the earlier application. The Reporter also acknowledged the very positive stance of the Scottish Government's Scottish Planning Policy on renewables and also the more neutral position taken by Scottish Natural Heritage's assessment on the application in respect of key elements such as impact on the landscape, cumulative landscape impact and cumulative visual impact from the range of projects within the locality.
- 9.4 It is also pertinent that the turbine envelope substantially now falls within an Area of Search within the Council's Interim Supplementary Guidance. This does not necessarily presume in favour of any application, as the tests of the Council's HwLDP Policy 67 remain to be applied. However the Council is no longer advocating a policy statement within its guidance that specifically highlights that the A9 corridor between Inverness and the Cairngorms National Park be protected from largescale onshore wind turbines. This removes the second of two reasons given by the Council for the refusal of the initial application.

- 9.5 Assessment of this Section 36 application must recognise the planning history of this site as a material consideration. The application seeks to make a more efficient use of the site, using turbines that maintain the same maximum tip height but with greater power output. Concerns over the potential increased rotor size, and reduced hub height are not considered to be of a magnitude that, in themselves, suggest a refusal of the application is justified. There was already a degree of flexibility on the final turbine selection within the conditions (Condition 5) of the planning permission, subject to the maximum tip height not being exceeded.
- 9.6 Decisions have since been made in a number of potential onshore wind farm projects south of Inverness including the refusal of Glenkirk and Daviot wind farms. Both these applications have helped reduce the cumulative impact of wind farm developments in the area, although it is acknowledged other projects are emerging in the locality. The current application can be assessed under the Council's HwLDP and its Interim Supplementary Guidance, rather than the mixture of old and emerging policy documents which were used to assess the planning application.
- 9.7 The key policy considerations are Policies 61 and 67 of the HwLDP. Within the framework of this latter policy, and taking into account the Council's previous decision, there remains the same concern over the visual impact of this development upon those travelling on the principal routes (A9 road, B9154 and the main Inverness Perth Railway line). However account has to be taken of the decision reached by the Reporter and the extant planning permission exists for Moy Wind Farm. Given the planning history, it is felt that in the final planning balance it would be unreasonable to maintain a position of objection against this application.

10. RECOMMENDATION

Action required before decision issued	
Notification to Scottish Ministers	
Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

Action required before decision issued N

10.1 It is recommended that the Council raise no objection to the application with conditions being attached to any approval by Scottish Ministers the application be **Granted** subject to the following conditions and reasons.

CONDITIONS

The development shall be undertaken in accordance with the submitted plans and the environmental statement, except as amended by the terms of this permission or as subsequently agreed in writing by the planning authority.

Reason: to ensure the development is carried out in accordance with the application documentation.

This permission shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ("first export date"). Written confirmation of the first export date shall be provided to the planning authority within 1 month of that date.

Reason: to accord with the anticipated operational lifespan of the wind turbines.

Not later than 12 months before the end of the permission period, a decommissioning and site restoration scheme shall be submitted for the written approval of the planning authority, such scheme to include the removal of above-ground elements of the development including a removal of all sections of new access tracks, management and timing of any works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The scheme shall be completed as approved no more than 6 months after the end of the permission period.

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

If, after energisation and project completion, any wind turbine fails to supply electricity to the grid for a continuous period of 6 months then, unless otherwise agreed in writing by the planning authority, a scheme for the removal of that wind turbine and any surface ancillary works solely relating to that wind turbine shall be submitted in writing for the approval of the planning authority. The scheme shall then be implemented within 6 months of approval by the planning authority.

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

No wind turbine or meteorological mast shall be erected or installed on site until details of the structures have been submitted to and approved in writing by the planning authority. The detail design should relate closely to those shown indicatively in drawings PA 4 and PA7 and in particular, should be no taller than the heights shown. The turbines shall operate with internal transformers. No name, sign or other logo shall be displayed on any external surfaces of the wind turbines save as required by law. The development shall be implemented in accordance with the approved details.

Reason: for the avoidance of doubt and in the interests of visual amenity.

The external colour of each turbine shall be a non-reflective semi-matt light grey (RAL colour 7035) unless otherwise agreed in writing by the planning authority.

Reason: in the interests of preserving visual amenity.

Turbines and tracks may be micro-sited (re-positioned) within 50 metres of the positions shown on the revised Indicative Site Layout under reference revised Figure 1.3. Such micro-siting of the turbines and new access tracks must ensure a minimum 50 metre separation distance between any site infrastructure and any watercourse.

Reason: to allow a degree of flexibility in providing an efficient site layout in the light of localised ground conditions whilst protecting the integrity of the water environment.

- Notwithstanding the provisions of condition 7, the following specific site layout requirements apply:
 - turbines 16, 18 and 20 together with intervening sections of track shall be no nearer to the boundary of the Cam nan Tri-Tighearnan Special Area of Conservation and Site of Special Scientific Interest than shown on Site Layout Plan, reference PA 3. Any micro-siting of these turbines must be down-slope;
 - taking into account the above requirement in respect of turbine 20, the position of turbines 15, 19 and 20 shall be adjusted to avoid areas where there is a high risk of peat slide;
 - turbines 6, 8, 10 and 13 shall be assessed against their impact on the wet heath habitat and, subject to the written approval of the planning authority, shall be repositioned to mitigate any adverse impact;
 - the track from turbine 20 to turbine 19 shall be deleted and replaced by a new track linking turbine 17 with turbine 19 as shown on revised Figure 1.3.
 - should a "floating road" be required between turbines 3 and 6, details shall be submitted for the written approval of the planning authority.

Reason: to take account of the proximity of Cam nan Tri-Tighearnan Special Area of Conservation and Site of Special Scientific Interest and to protect habitats within the site.

9 No consent is given for borrow pit A as shown on Site Layout Plan PA 3.

Reason: this borrow pit is no longer necessary to provide the material required for the development of the site.

Prior to the commencement of development, a construction traffic management plan shall be submitted to and agreed in writing by the planning authority in consultation with Transport Scotland and local roads authority. The construction traffic management plan shall include proposals for construction vehicle routing, the location and design of accesses from the public highway onto the site, management of traffic, including cyclists, at junctions with and crossings of the public highway and other public rights of way, the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal or replacement of highway infrastructure and street furniture, off-site road works and "banksman" details. The construction traffic management plan shall be implemented as approved in writing by the planning authority. For the avoidance of any doubt the plan shall include a procedure for advising the public, including road users on the B9154 and those living along the access route, of the

expected abnormal loads associated with the delivery of turbine parts. The community liaison group established in terms of condition 11 shall be included in this procedure. Construction traffic shall not be permitted to use the section of B91 54 north of the site entrance and the method whereby this requirement shall be achieved shall be clearly specified.

Reason: to protect road safety and the amenity of other road users of the public road and rights of way.

Prior to the commencement of development, a community liaison group will be established by the developer, in collaboration with the planning authority and local community councils, to allow continuing dialogue on the provision of all road mitigation measures and to keep under review the timing of the delivery of turbine components.

Reason: to assist with the provision of mitigation measures, including possible local road improvements, and to minimise the potential hazard to road users, including pedestrians and school pupils travelling to and from school.

Prior to the commencement of development, an agreement, including provision of a suitable financial bond, dealing with liability for remedial work required as a result of any damage to the local road network directly attributable to the wind farm construction and providing for pre- and post-construction surveys of the local road network shall be submitted to and agreed in writing by the planning authority.

Reason: to ensure that the liability for any required remedial measures is agreed in advance and that funding is available.

- Prior to the commencement of development, a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. Construction methods on site shall be in accordance with the approved CEMP, unless otherwise agreed in writing by the planning authority. The CEMP should include information on the following matters:-
 - environmental policy statement of responsibility for all environmental features, safeguards and mitigation. For the avoidance of doubt this should include Meallmore Wood, proof of purchase of which shall be provided, and a management plan prepared to ensure the provision of a long term visual screen:
 - appointment and scope of work of an ecological clerk of works including responsibility for monitoring compliance with the provisions of the approved CEMP,
 - and bringing breaches of the approved CEMP to notice of the planning authority; (also see condition22);
 - details of construction works, the construction methods and surface treatment of all hard surfaces and tracks;
 - details of temporary site compounds for storage of materials and machinery(including areas designated for car parking);
 - · details of the timing of works and methods of working for cable trenches and

foundation works:

- details of the timing of works and construction of the substation and control building and anemometry mast;
- details of all watercrossings (which shall require bridges in all cases);
- pollution control arrangements, including protection of watercourses and ground water and soils, bunding of fuel storage areas, and sewage disposal;
- details of any measures proposed, including compensatory flood storage provisions, as a consequence of flood risk assessment;
- details of borrow pit working methodology including any requirement for blasting operations noise controls and intermediate or permanent restoration; confirmation shall be provided of the maximum volume of material required which, in any event, shall not exceed 267,000 cubic metres;
- peat stability mitigation requirements, including provisions for securing the prevention of machinery crossing peatland areas (see also condition 21), as set out in the required final design peat risk re-assessment;
- dust management;
- cleaning arrangements for site entrances, site tracks and the adjacent public highway; the sheeting of all heavy goods vehicles taking spoil or construction materials to or from the site to prevent spilage or deposit of any materials on the highway;
- waste management including disposal arrangements of surplus materials, including peat;
- post-construction restoration or reinstatement of the temporary working areas and borrow-pits;
- construction noise management plan which shall include identification of access routes, locations of materials delivery and storage areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise in the event of complaints.

Reason: to ensure that the development is undertaken in a manner which protects other road users, the water environment and the natural environment.

Prior to the commencement of development, evidence of a bond or other financial provision to cover all decommissioning and site restoration costs has been submitted to and agreed by the planning authority. Such agreed bond, or other provision, shall be maintained throughout the duration of the development but will be subject to five yearly reviews.

Reason: to safeguard provisions for the proper restoration of the site.

- The permitted hours for construction work and any traffic movements to or from the site associated with the construction of the development shall be:
 - April— September weekdays: 07.00— 19.00 hrs; Saturdays: 07.00— 14.00 hrs.
 - October— March weekdays: 07.30—17.00 hrs; Saturdays: 07.30—14.00 hrs
 - there shall be no Sunday working without the prior written approval of the planning authority;

 there shall be no working on 25th or 26th December, 1st or 2nd January or during the Saturday and Sunday of the Easter weekend.

Reason: to protect residential amenity.

Notwithstanding the provisions of condition 15, delivery of turbine and crane components may exceptionally take place outside the permitted working hours subject less than 72 hours prior notice of such traffic movements being given to the planning authority and such deliveries first being approved in writing by the planning authority.

Reason: to allow a degree of flexibility in the delivery of components whilst protecting road safety, the amenity of users of the public road, and the amenity of local residents.

17 Prior to the commencement of development, the final design details of the substation building and any associated compound or parking area shall be submitted to and approved in writing by the planning authority.

Reason: in the interests of visual amenity.

Prior to the commencement of development, a scheme detailing the proposals for the sustainable drainage of surface water in relation to access tracks and the site compound shall be submitted for the written approval of the planning authority, in consultation with the Scottish Environment Protection Agency. All work shall then be carried out in accordance with the approved scheme. The scheme shall be prepared in accordance with the technical guidance contained in The Sustainable Drainage Schemes Manual (C697).

Reason: to ensure the provision of a drainage system which protects the local environment.

19 Prior to the commencement of development, a programme of archaeological work for the recording and possible preservation of any archaeological features affected by the proposed development, including a timetable for investigation, shall be submitted for the approval in writing of the planning authority. Procedure for the recording and possible preservation of undiscovered archaeology revealed during construction must also be submitted for approval in writing of the planning authority. All arrangements thereby approved shall be implemented by the developer at his expense in accordance with the approved timetable for investigation.

Reason: to record and preserve the archaeological and historical interest of the site.

Prior to the commencement of development, an access management plan, including a map of paths and tracks showing any permanent or temporary diversions, shall be submitted to and agreed in writing with the planning authority. The plan shall detail proposals for maintaining and managing public access across Moy Estate during construction and the operation of the development.

Reason: to manage and maintain public access rights.

- Prior to the commencement of development, a nature conservation management addressing a range of measures that are relevant to the development within Moy Estate and the surrounding area shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage, in support of:-
 - red kite, including provision for long term funding for surveillance and monitoring;
 - otter, including procedure should the presence of an animal be suspected;
 - wildcat, including pre-construction survey and procedure should a den be confirmed;
 - water vole; including provision of 10 metre separation distance between working areas and the nearest burrow;
 - lampreys and eels; including measures to protect watercourse channels and beds;
 - valued habitats and peat enhancement; including an assessment of the treatment of deep peat areas, the re-use or disposal of excavated peat and the control of machinery on peatland surfaces.

This scheme shall be implemented as approved throughout the operational life of the wind farm and shall include a procedure for monitoring and reporting activity and responding to on the need to adjust the agreed measures in order to improve effectiveness.

Reason: to protect and enhance local nature conservation interests in the longer term.

Prior to the commencement of development, all survey work and necessary mitigation must be undertaken in respect of the interests of protected species within and adjacent to the application site as agreed in writing with the planning authority, in consultation with Scottish Natural Heritage. It is expected that the ecological clerk of works (see condition 13) shall oversee the construction phase of the development and he/she shall be vested with the authority to direct such action as is required to safeguard protected species and their habitats.

Reason: to protect the interests of European and other protected species.

- No development shall commence until a Noise Measurement and Mitigation Scheme has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:
 - a. A framework for the measurement and calculation of noise levels to be undertaken in accordance with "The Assessment & Rating of Noise from Wind Farms", September 1996, ESTU report number ETSU-R-97 having regard to paragraphs 1-3 and 5-11 inclusive, of The Schedule, pages 95 to 97; and Supplementary Guidance Notes to the Planning Obligation, pages 99 to 109. Wind speeds shall be determined using the methods in "Prediction and Assessment of Wind Turbine Noise" (published in IOA)

- Bulletin March/April 2009); and
- b. Mitigation measures to be enacted, along with a timetable(s) for implementation, should noise emissions exceed the limits prescribed under this planning permission.

Reason: - To ensure that the impact of the built turbines does not exceed the predicted noise levels set out within the supporting Environmental Statement.

The Wind Farm Operator shall, beginning with the first day upon which the wind farm becomes operational, log wind speed and wind direction data continually and shall retain the data for a period of at least 12 months from the date that it was logged. The data shall include the average wind speed, measured in metres per second, over 10 minute measuring periods. These measuring periods shall be set to commence on the hour and at 10 minute consecutive increments thereafter. Measurements shall be calculated at 10m above ground level using the methods described in "Prediction and Assessment of Wind Turbine Noise" (published in IOA Bulletin March/April 2009). All wind speed data shall be made available to the Planning Authority on request in Microsoft Excel compatible electronic spreadsheet format.

At the request of the Planning Authority, the Wind Farm Operator shall assess, at its own expense and using a suitably qualified consultant(s) not involved in the original noise assessment, the level of noise emissions from the Wind Turbines. Assessment shall be carried out in accordance with the Noise Measurement and Mitigation Scheme approved under this planning permission and a report of assessment shall be submitted to the Planning Authority within two months of a request under this condition, unless an alternative timescale is otherwise agreed in writing by the Planning Authority.

If noise emissions are found to exceed limits prescribed under this planning permission, then the Wind Farm Operator shall implement mitigation measures in full accordance with the approved Noise Measurement and Mitigation Scheme, or alternative equal or better mitigation measures as may first be approved in writing by the Planning Authority, in order to reduce noise levels to comply with prescribed limits. The time period for implementing mitigation measures shall be as outlined in the approved Noise Measurement and Mitigation Scheme or as otherwise may be specified writing by the Planning Authority.

Reason: - to ensure the Planning authority can investigate and assess noise arising from the development and if necessary seek appropriate measures to ensure compliance with agreed noise limits.

- Prior to the commencement of development, written documentation from competent person (as defined in the guidance contained in Private Water Supplies, 2007, published by Highland Council) must be submitted to the planning authority demonstrating that the proposed private water supply to be used in the construction phase:
 - Is, under foreseeable conditions, capable of providing a viable, perennial water supply of adequate volume;

- meets, or is capable of being treated to meet, the water quality requirements of the Private Water Supplies (Scotland) Regulations 2006; should treatment be required details shall be provided;
- has been subject to a risk assessment; details of measures to be taken to minimise the risk of contamination, for example, source protection, distribution system, holding tanks, shall be submitted;
- does not adversely affect the integrity, adequacy or quality of any other private water supply.

Reason: to ensure the appropriate management of the private water supply for the site and the protection of other private water supplies in the vicinity.

No wind turbine shall be erected until a scheme to secure the investigation and alleviation of any electro-magnetic interference to TV reception at residential properties lawfully existing at the date of this permission caused by the operation of the turbines has submitted to and approved in writing by the planning authority. The scheme shall be implemented as approved.

Reason: to protect the amenity of local residents.

- Two months prior to the commencement of development the applicant will provide both the Ministry of Defence and the Defence Geographic Centre with a statement, copied to the planning authority and Highland and Islands Airport Authority Ltd, containing the following information:
 - the date of commencement of construction;
 - the precise position of each of the turbine towers in latitude and longitude taking
 - into account any micro-siting or other adjustments that may have been agreed;
 - a description of all structures over 91.44 metres (300 feet) high:
 - the maximum extension height of any construction equipment;
 - the height above ground level of the tallest structure.

Thereafter, any scheme for air navigation safety lighting required by the relevant aviation authorities must be implemented in the stipulated manner; details of the scheme shall be provided to the planning authority.

Reason: to ensure the appropriate aviation authorities are aware of the final details of the development and are provided with the opportunity to specify any air navigation safety lighting that may be required.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: http://www.highland.gov.uk/yourenvironment/roadsandtransport

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm

Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature:

Designation: Head of Planning and Building Standards

Author: Ken McCorquodale

Background Papers: Documents referred to in report and in case file 13/01180/S36

LIST OF REPRESENTATIONS

TO INCREASE THE GENERATIONAL CAPACITY OF THE CONSENTED MOY WIND FARM UP TO A MAXIMUM OF 66 MW.

Planning Ref 13/01180/S36

OBJECTORS

- 1. Anne Mawdsley, Meallmore Ltd, Meallmore Lodge, Daviot East, Inverness, IV2 5XQ, ,
- 2. Mrs Frances Matheson, Secretary, Gleneg Farm, Aberarder, Inverness, IV2 6UE,
- 3. Mrs Pat Wells, Altchosach, Tomatin, Inverness-Shire, IV13 7XZ,
- 4. Allan Lee, Larchfield, Faillie, Daviot West,
- 5. Mrs Margaret N Sanderson, Fraoch Gorm , Auchnahillin, Daviot East , Inverness , IV2 5XQ,

THE HIGHLAND COUNCIL

Inverness, Nairn and Badenoch and Strathspey Planning Applications Committee 20 December 2011

Agenda Item	
Report No	

Applications by Carbon Free Moy Limited 11/01205/FUL – ON LAND NORTH EAST OF MOY HALL, TOMATIN 11/01185/FUL – ON LAND TO THE NORTH OF A9 /B851 JUNCTION - DAVIOT

Report by Head of Planning and Building Standards

SUMMARY

Description The principal application is for a 20 turbine (41MW) wind farm

on Moy Estate, Tomatin. A second application is for a landscape bund adjacent to the A9 Trunk Road offering off site mitigation works related to the wind farm application.

Recommendation Refuse both applications given that the principal development

conflicts with the Draft Supplementary Guidance: Onshore

Wind Energy.

Ward 20 Inverness South

Development category Major Development

Pre-determination

hearing

Not Required

Reason referred to

Committee

More than 5 Objectors

1.0 PROPOSAL

- 1.1 The principal application (Ref 11/01205/FUL) is for the development of a wind farm with a design output capacity of 41MW. It comprises the following main elements: -
 - 20 wind turbines each with a maximum hub height of 80m and tip height 126.5m;
 - on-site access tracks providing access to all turbine locations;
 - a single storey with pitched roof site control building and parking compound:
 - a temporary hard-cored construction compound;
 - meteorological mast of maximum 80m height;
 - on-site underground cabling to connect the turbines to the control building:
 - three borrow pits areas to generate 183,000 tonnes of rock; and
 - a new access junction off the B9154.
- 1.2 The second application (Ref 11/01185/FUL) is for a landscape bund adjacent to the A9 Trunk Road at Daviot offering off site mitigation works for the proposed Moy

Wind Farm. The site lies some 6.7km north of the nearest turbine.

- 1.3 The operational lifespan of the wind turbines is 25 years after which time the development will be decommissioned, with above ground facilities being removed and site restoration being undertaken.
- 1.4 A new site access is proposed from the B1954 just south of the main line railway bridge on the Inverness Perth route. Construction traffic is to use the B1954 local road network to the south, which links with the Inverness Perth A9 Trunk Road. Access within the site requires a new access track to be built from the lower ground at Moy, including a bridge over the Moy Burn, before rising into the higher glen / water courses of the Allt Na Beinne and Allt Odhar, south of Beinn Bhreac. The access track uses two further water crossings to link the flatter development areas above the narrow ravines which contain the principal watercourses. The abnormal loads delivering turbine parts to the site are expected to originate from Invergordon Port Authority facilities.
- 1.5 It is anticipated that connection from the substation will be northwards to Inverness via a buried cable along verges within the A9 Trunk Road. This will be the responsibility of Scottish Hydro Electric Transmission Ltd (SHETL) and subject to a separate application.
- 1.6 As the proposal involves Environmental Impact Assessment development, the application is supported by an Environmental Statement (ES). SNH advised it found the Environmental Statement to be generally well laid out and well written. Further that most of the ecological, landscape and visual survey work has been carried out to a level that has enabled it to assess the impacts of the proposed development on the natural heritage. Following improved visual images, in line with Council standards, the Council also recognised the ES to be of a standard which could be relied upon and used in its assessment of the development.

2.0 SITE DESCRIPTION

- 2.1 The proposed wind farm site extends to approximately 345 hectares of land within Moy Estate, with development including turbines sites and other infrastructure utilising 19.5ha. The majority of the site, where the turbines are to be located, comprises upland moorland which is currently used for grazings and grouse shootings. The turbines are sited generally between the 340m 430m contours. The site is bounded forestry to the south and west owned by the Forestry Commission and managed by Forest Enterprise. The remaining land surrounding the site falls within Moy Estate.
- 2.2 The initial section of the wind farm access track is to be built on the lower fields at Moy from the B1954. This will include including a bridge over the Moy Burn. The principal development area involves flatter moorland set above narrow ravines which contain the principal watercourses of the Allt Na Beinne and Allt Odhar and existing estate access tracks which are to be extended. The above noted water courses drain into Moy Loch and then by the Funtack Burn to the River Findhorn a valued river for Atlantic Salmon. The design of the wind farm has focused on avoidance of areas of deep peat, in addition to incorporating mitigation measures to

minimise the risk of peat slides, dewatering etc. There are seven know private water supplies near the proposed development site. The closest is located at Moy Hall, approximately 300m away from the site boundary.

- 2.3 The nearest occupied residential / noise sensitive properties are around Moy Hall located some 1.5km away from the closest turbine. Further to the north west (5/6km) lies the community of Daviot and to the south west (7km) Tomatin. West of the site lies the main A9(T) road and the principal rail line connecting Inverness to the south including Aviemore, Perth and the Central Belt of Scotland generally. Background noise levels within the area are generally low, consistent with many rural locations set apart from human activity.
- 2.4 Wind turbines have been located to avoid direct impacts on any above ground cultural heritage receptors or below ground archaeological features within the proposed wind farm development area. There are no Scheduled Ancient Monuments (SAMs) or Listed Buildings within the site. Within 5 km of the site there are four SAMs, one Category A Listed Building and seven Category B Listed Buildings. Between 5 km and 15 km of the site there are 12 SAMs and 25 Category B Listed Buildings.
- 2.5 The development lies adjacent to Carn nan tri-Tighearnan Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The proposed wind farm does not lie close to and will not affect any sites designated for their nationally important landscapes. However, the site does lie on the west facing fringes of the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA).
- 2.6 When assessing a wind farm development consideration of similar developments within a 60km distance of the site is required. The list contained within Annex A attached to this report presents the projects that are operational, approved or have been submitted but are not yet determined around this development site. This table also provides information on the turbine numbers and the maximum permitted tip height.
- 2.7 The site of the second application for the proposed bund extends along the A9 south bound carriageway for 200m. The site mainly consists of semi-improved grassland, a small number of self generated road side / fence line trees and a disused former access track.

3.0 PLANNING HISTORY

3.1 16 Sept 2010 temporary planning permission granted for meteorological mast on Moy Estate (3 years) Ref 10/02543/FUL.
27 April 2011 EIA Scoping opinion provided by Scottish Government for a potential Section 36 application wind farm development.

4.0 PUBLIC PARTICIPATION

4.1 The application was registered and advertised on 15 April 2011 as a development under the Town and Country Planning (Scotland) Act 1997 and The Environmental

Impact Assessment (Scotland) Regulations 1999. An extensive programme of per application consultation was undertaken by the applicant prior to submission. A 28 day period was allowed for comments to be submitted on the application as lodged with responses requested by 27 May 2011. A further 28 day period of public consultation was undertaken following receipt of revised visualisations. The closing date for responses was **3 Oct 2011**.

- 4.2 A total of 20 letters of representation were received 19 of which objected to the application. Appendix B provides the details of those making representations.
- 4.3 Objections have focused on the following matters: -
 - Significant adverse effect on the landscape character and visual amenity.
 - Council policy is to protect the area's landscape from visual intrusion;
 - Visual impact on an area of outstanding natural beauty/ SLA/AGLV;
 - The area is valued for wildlife, particularly birds, will habitat conserved;
 - The development will do serious damage to the peatland / blanket bog;
 - The impact on wild cats and other wildlife is uncertain;
 - Felling of woodland increase the visual impact of the wind farm;
 - Retention of wild unspoilt countryside is our prime asset for Scottish tourism;
 - The development is the last thing visitors want to see travelling south;
 - Tourism, recreation and sporting interests will be adversely affected;
 - The project will dominate and visually overwhelm the broader community;
 - Cumulative impact this is the 7th project within a 18 miles of Daviot / Tomatin;
 - This adds to the ring of steel around the National Park
 - The development will bring increased traffic on the B9154;
 - Locals will be subject to flicker, noise and increased flood risk;
 - Wind turbines can have adverse effects on individual health;
 - The area is well provisioned with hydropower;
 - Shore based wind power is far from efficient;
 - Development will adversely impact on the River Findhorn;
 - Impact on the archaeology / history associated with the Moy Basin.
 - House prices / sales in the area have dropped;
 - Many of the assertions made in the ES are disputed;
 - Photomontages / visualisations within the ES are incorrect:
 - The planted earth bund (visual mitigation) at Daviot is not credible;
- 4.4 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet (www.highland.gov.uk). Access to computers can be made available via Planning and Development Service offices.

5.0 CONSULTATIONS

- 5.1 <u>Strathdearn Community Council</u> has submitted an objection to the application but would consider reviewing or qualifying its objection if the concerns outlined in the rationale for objection were adequately addressed. Issues raised are: -
 - Concerns highlighted by statutory consultees, including SEPA, TECS and SNH
 - Technical failings in the application with regard to the visualisations /

photomontages;

- Noise impacts.
- Loss of visual amenity.
- Lack of any woodland management plan.
- Negative impact on tourism.
- Traffic impacts during construction.
- Impact on wildlife.
- 5.2 <u>Strathnairn Community Council</u>, an adjacent Community Council to the north of the development site, object to the proposed wind farm highlighting the following concerns: -
 - Cumulative effects with other wind farm proposals;
 - Tourism;
 - Inaccurate photomontages;
 - Limited Grid capacity
 - Aviation Interests;
 - Communications, transmissions, broadcasting etc;
 - Council Policy namely draft policy 68 expected impacts;
 - Community Amenity;
 - Value of wind farms projects (not reliable, intermittent supply);
- 5.3 <u>Archaeology Unit</u> has no objection but requests a condition for a pre commencement walkover survey. This survey will establish the historic environment content and potential of the development area. Dependent on the results of this work, further study may be required in advance of, and during, construction works.
- 5.4 <u>Access Officer</u> has no objections but requests a condition to uphold the public access rights across the site (existing, during construction and upon completion), particularly to the nearby "Graham" Carn Nan Tri-tighearnan.
- 5.5 <u>TEC Services (Environmental Health)</u> has no objections to the development but would request conditions to assist with the management of noise during construction and operation. Conditional also required to test the adequacy (quality and quantity) of the proposed private water supply to meet the requirements of the development needs to be confirmed.
- 5.6 <u>TEC Services (Roads)</u> has no objections to the development subject to conditions and the security of a legal agreement to affect appropriate control over the use of the local road network. The required conditions would require development of a suitable traffic management plan, pre and post construction surveys as well as constraints on the use of the B9154 north of the site entrance.
- 5.7 Trunk Roads Network Management Division has no objections to the development.
- 5.8 <u>Scottish Water</u> has no objections.
- 5.9 <u>Scottish Environment Protection Agency (SEPA)</u> initially objected to the development but amended its position in the light of further discussions with the

applicant. Subject to conditions in respect of a compensatory flood storage scheme, a site waste management plan, Construction Environmental Management Document (CEMD), micro- siting in respect of avoidance of deep peat and retention of 50m buffers from watercourses, surface water drainage treatment (SUDS), and a Decommissioning and Restoration Plan.

- 5.10 Scottish Natural Heritage (SNH) initially objected to the development on a small number of layout matters which could impact on the nearby SAC and local peat resource. The objection was withdrawn following minor revisions to the site layout. Other recommendations were made for conditions to be attached to any consent to ensure best practice approaches in construction, for example how best to dispose of surplus peat; the promotion of Construction Environmental Management Document (CEMD) supported with the appointment of an Ecological Clerk of Works (ECOW) and promotion of a Habitat Management Plan. SNH recommend that the effectiveness of proposed woodland screening mitigation will depend on appropriate future management and that, if consented, a woodland management plan should be agreed.
- 5.11 SNH advise that that landscape and visual impacts of this proposal on the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA) are limited in extent and that visibility is confined to the edges of the designation. The proposal, it advised, will not result in any cumulative landscape or visual impacts in addition to existing wind farms. However there may be significant cumulative visual impacts on the character of transitional upland landscapes between Inverness / the Great Glen and the Cairngorms National Park (as experienced from the A9) if a number of other schemes in the planning system were also consented.
- 5.12 <u>Civil Aviation Authority (CAA)</u> have no objection but request the standards notification conditions be attached to any consent.
- 5.13 National Air Traffic Systems (NATS) has no objections.
- 5.14 <u>Ministry of Defence</u> (MOD) has no objections but request conditions in respect of notification of commencement and aviation lighting.
- 5.15 <u>Highlands and Islands Airports</u> has no objection to the application.
- 5.16 OFCOM has not responded.
- 5,17 <u>Scottish Government Historic Scotland (HS)</u> has no objection to the application.
- 5.18 <u>Scottish Government Rural and Environmental Division</u> has no objection to the application.

6.0 POLICY

6.1 The following development plan policies are relevant to the assessment of the proposals: -

Highland Council Structure Plan (March 2001)

6.2	Policy G2 Policy G3 Policy G4 Policy G6 Policy G8	Designed for Sustainability Impact Assessments Community Benefit Conservation and Promotion of Highland Heritage Precautionary Principle
	Policy E1 Policy E2 Policy T6	Distributed Renewable Energy Developments Wind Energy Development Scenic Views
	Policy F1 Policy N1 Policy L3 Policy L4 Policy BC 1	Forestry Development Nature Conservation Areas of Great Landscape Value Landscape Character Preservation of Archaeology Sites

Inverness Local Plan (Feb 2007)

6.3 Background Policy 3 - Factors include: -

Remote Land

Semi Natural & Ancient Woodland

AGLV / SLA

SSSI

Policy GP 1 Design Principles.

Policy GP 5 Developer Contributions.

Policy GP 7 Farm Diversification.

Policy GP 11 Traffic Management

Policy GP 22 Bio Diversity Initiative

Policy GP 23 Habitats and Species.

Highland Wide Local Development Plan (Proposed Plan 2010)

6.4 Policy 29 Sustainable Design,

Policy 30 Design Quality and Place Making,

Policy 53 Principle of Development in Woodland,

Policy 55 Mineral Wastes,

Policy 56 Peat and Soils,

Policy 58 Natural, Built and Cultural Heritage,

Policy 59 Protected Species,

Policy 60 Other Important Species,

Policy 61 Other Important Habitats,

Policy 62 Landscape,

Policy 63 Geo-diversity,

Policy 64 Water Environment,

Policy 68 Renewable Energy Development,

Policy 73 Pollution.

- 6.5 Policy 68 lists "significant" effects as follows: -
 - natural, built and cultural heritage features;
 - species and habitats;
 - public health and safety;
 - visual impact, and impact on the *landscape character* of the Highlands (the design and location of the proposal should reflect the scale and character of the
 - landscape and seek to minimise landscape and visual impact, subject to any other considerations);
 - community amenity at sensitive locations including residential properties, work places and recognised visitor sites (in or outwith a settlement boundary);
 - the safety and amenity of any regularly occupied buildings and the grounds that they occupy- having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy *proposals*, ice throw in winter conditions, shadow flicker or shadow throw;
 - ground water, surface water (including water supply), aquatic ecosystems and fisheries;
 - the safe use of airport, defence or emergency service operations, including flight activity, navigation and surveillance systems and associated infrastructure, or on aircraft flight paths or MoD low-flying areas;
 - other communications installations or the quality of radio or TV reception;
 - the amenity of users of any Core Path or other established public access for walking, cycling or horse riding;
 - · tourism, recreation and film industry interests;
 - land and water based traffic and transport interests.

Highland Renewable Energy Strategy (HRES) (adopted May 2006)

6.6 HRES is currently being reviewed to take account of Scottish Planning Policy (Feb 2010). It remains the approved Highland Council strategy on which wind energy proposals are assessed. However its status on planning terms is limited. Relevant policies include: -

Policy E7 presumes against a major onshore wind farm in this location.

Policy N1 local content (jobs) of the works required to be secured as mitigation.

<u>Supplementary Guidance – Onshore Wind Energy</u> (Draft Published April 2011)

- 6.7 Scottish Planning Policy requires Planning Authorities to set out a spatial strategy to assist with the development of largescale (over 20MW) onshore wind farm. This is also expected to help larger projects (over 50MW) which are determined by Scottish Government. The strategy should help identify areas of significant protection from development, identify other constraints and policy criteria and ultimate identify broad areas of search. This work is particularly informed by landscape matters and issues of visual impact. The draft guidance currently prepared by the Council highlights the site of this application as falling within: -
 - Type 1 area significant protection from large and medium scale development.

National Planning Policy

- 6.8 Scottish Planning Policy (SPP) February 2010 contains policies relevant to this proposed development including: -
 - Sustainable Economic Growth
 - Sustainable Development
 - Rural Development
 - Historic Environment
 - Landscape and Natural Heritage
 - Transport
 - Renewable Energy
- 6.9 Circulars also provide statements of the Scottish Government's policy. Statements of Scottish Government policy in the SPP, National Planning Framework (NPF) and Circulars and Planning Advice Notes (PAN's) may be material considerations which should be taken into account in development management decisions.

7.0 PLANNING APPRAISAL

Determining Issues

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The determining issues are:
 - do the proposals accord with the development plan?;
 - > if they do accord, are there any compelling reasons for not approving them?
 - if they do not accord, are there any compelling reasons for approving them?

<u>Assessment</u>

- 7.3 To address the determining issues, the Committee must consider the following:
 - a) Development Plan Policy
 - b) Draft Highland Wide Local Development Plan
 - c) National Policy
 - d) Highland Renewable Energy Strategy
 - e) Draft Supplementary Guidance: Onshore Wind Energy
 - f) Roads and Traffic Impacts
 - g) Water, Drainage and Peat
 - h) Natural Heritage
 - i) Design, Landscape and Visual Impact
 - j) Tourism
 - k) Cultural Heritage.
 - I) Noise
 - m) Construction Impacts
 - n) Aviation Interests

- o) Radio TV and other Networks
- p) Economic Impact
- q) Other Considerations

Development Plan Policy

- 7.4 The Development Plan comprises the policies of both the approved Structure Plan and adopted Inverness Local Plan.
- 7.5 The Structure Plan is supportive of on shore wind developments provided that their impacts are not shown to be significantly detrimental (Policy E1 and E2). Assessment of proposals must have regard for Visual Impact; Noise; Electro Magnetic Interference; Roads, Bridges and Traffic; Aircraft flight-paths / MOD operations and Cumulative Effects. In addition, other policies as listed in para 6.2 above, and considered within later paragraphs, are also relevant to the determination of this application and require to be given due weight.
- 7.6 The Local Plan advances a development strategy found on 5 key themes, one of which is entitled "Creating Prosperity" highlighting the benefit of utilising the area's natural resources such as wind energy production. However there are no policies specific to on shore wind energy developments contained in the Local Plan. Background Policy 3 applies to this application site. The Council presumes against development where there would be significant damage to heritage, amenity or public health. This Background Policy also relies upon the other general policies as highlighted at para 6.3 and require to be given due weight.
- 7.7 The development plan supports renewable energy development. Providing that the impacts of the development are not considered to be seriously adverse or significantly detrimental, particularly in relation to issues in the locality of the site, the proposals would comply with the Development Plan.

Draft Highland Wide Local Development Plan

7.8 The policies of the Structure Plan are expected to be superceded by the Highland Wide Local Development Plan, the Proposed Plan version which was out for public consultation during October / November 2010. The policies within this proposed plan are material, but remain to evolve to a level where they can be given full weight in the consideration of development proposals. Policy 68 of the draft plan as noted within para 6.5 above is supportive of renewable energy projects which will not be significantly detrimental when assessed against a number of significant natural, cultural and other material considerations. These elements are examined within this report.

National Policy

7.9 The Scottish Government in responding to climate change and advancing sustainable development has emphasised in Scottish Planning Policy (SPP) its commitment to a target of 100% of Scotland's demand for electricity to be generated from renewable resources by 2020. The target is not a cap. There is a clear expectation that the energy targets will be met from a mix of technologies.

Representations that argue against investment in renewable energy can only be given limited weight given the very positive stance set by the Scottish Government.

- 7.10 SPP highlights that a key role of the planning system is to ensure that society's requirements are met in ways which do not erode environmental resources, landscape and natural heritage. SPP advises that planning authorities should support the development of wind farms in locations where technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. The protection of landscapes and natural heritage may sometimes impose constraints on development, particularly within designated sites including for example Sites of Special Scientific Interest (SSSI) or a National Scenic Area. However with careful planning the potential for conflict can be minimised. Authorities should always consider whether environmental concerns could be adequately addressed by modifying the development proposal or attaching appropriate planning conditions.
- 7.11 With regard to the above noted government targets Highland has been successful in assisting the delivery of targets for renewable energy, including onshore wind farm projects, a factor which will increasingly requires assessment of cumulative impact. When considering cumulative impact the factors for planning authorities to consider should be set out in the development plan or supplementary guidance. Arising from SPP Development Plans are expected to have a spatial framework for onshore wind farms over 20MW drawn from the identification of areas requiring significant protection, areas with potential constraints against identified criteria and areas of search where appropriate proposals are likely to be supported, again subject to identified criteria. These elements are considered within the paragraphs below.
- 7.12 Assuming that the impacts of the proposed development do not have a significant impact upon the landscape resource, amenity and heritage of the area then the development could be seen to be compatible with Scottish Government policy, guidance and make a useful contribution to the Government, UK and European energy targets.

Highland Renewable Energy Strategy (HRES) (May 2006)

- 7.13 HRES does not identify this site for a major onshore wind farm development. Indeed the proposal farm lies within an area Policy E7 where there is a "presumption against" major scale onshore wind development where a precautionary approach to development should be taken. Should however the project be considered for approval Policy N1 seeks information on the form of 'local content' of the works. The term 'local content' refers to the amount of work and the value of supply contracts undertaken by local businesses. Weight can be given to projects that will measurably deliver local content.
- 7.14 The Highland Renewable Energy Strategy (HRES) is under partial review following the more recent publication of the Scottish Government's Scottish Planning Policy (SPP), including supportive statements on Renewable Energy that require Councils to identify within Development Plans the potential for wind farm developments of all scales. Until formally replaced it remains the adopted policy position of the Council. The current policy review limits the weight that can be given to the policies within the

approved HRES strategy, particularly given that the HRES methodology does not wholly reflect the requirements of SPP.

<u>Draft Supplementary Guidance: Onshore Wind Energy (April 2011)</u>

- 7.15 This draft guidance sets out a spatial framework for large (20MW) on shore wind farms, consistent with the expectations of national policy and is the vehicle for the partial review of HRES. The guidance takes into account visual and landscape issues of wind farms, particularly cumulative impact. It is the latter factor that results in the site of this application falling within an area to be afforded Significant Protection from Large scale on-shore Wind Farm Development Sub Area A9 Corridor / Setting of Inverness (3).
- 7.16 The purpose for identifying the sub-area is: -
 - To protect the A9 tourist route corridor.
 - To protect the setting of Cairngorms National Park.
 - To protect the setting of Inverness as viewed from the north and the approach from the south.
- 7.17 The most relevant considerations in respect of the current application are as listed within the first and third bullet point listed above.
- 7.18 The reasons given for this sub area development constraint are: -
 - Close visibility from A9 and railway.
 - Peaks and north-facing slopes towards Inverness and A96 Corridor.
 - More settled farmland area in proximity to travel routes which is distinct from the upland moorland which contains large wind farm developments and distinct from area with views to more heavily settled Inverness and Black Isle to north.
 - High visual sensitivity from routeways (The Macaulay Report).
 - NB. Note presence of Drynachan, Lochindorb and Dava Moors SLA.
- 7.19 The relevant reasons in respect of the current application are as listed within the first, second, fourth and fifth bullet points noted above.
- 7.20 The Supplementary Guidance States that: -

"The areas identified as Areas to be Afforded Significant Protection are considered to be of high sensitivity to wind energy development and its associated infrastructure, and consequently are to be afforded significant protection. It is thought unlikely that large scale wind energy development will be able to be accommodated in those areas due to the nature of the constraints, and such development is, in principle, directed elsewhere. Therefore wind energy development and any associated infrastructure will only be permitted in these areas if it can be demonstrated that the scheme meets the requirements of Scottish Planning Policy and: -

 Complies with Highland Wide Local Development Plan policies 58 and 68 and would not give rise to overwhelming adverse cumulative impact; and

- The requirements of the other parts of this Supplementary Guidance are able to be satisfied."
- 7.21 The draft nature of this guidance limits the weight that can be given to the policies. That said the emerging policy is evolving as a requirement of recent Scottish Government policy as noted earlier and is very much a product of current thinking. It should not be set aside lightly. The proposed development is contrary to the draft guidance.

Roads and Traffic Impacts

- 7.22 The site has good access with all construction traffic accessing the development site from the A9 Trunk Road via the Moy Junction on the B9154. The short section of the local road network (B9154) was formerly the trunk road and is considered suitable to carry the proposed construction traffic. Abnormal Loads, principally comprising turbine parts will also use the local road network between the Port at Invergordon and the A9 Trunk Road. The Council would require the developer to enter into a Section 96 legal agreement under the Roads (Scotland) Act 1984 to secure some minor mitigation works to the local road network, pre and post construction survey's and provision of a bond to cover the potential costs of wear and tear expected from the traffic impact arising from this project.
- 7.23 In addition to the above it will be important to secure an appropriate Traffic Management Plan for the project. The plan should include, but not be limited to the following maters including approved access routes and any necessary restrictions; temporary signage; arrangements for escort of abnormal vehicles; arrangements for road inspections maintenance and cleaning; wheel cleaning arrangements and the timing of deliveries including any restrictions. The latter would be enabled with a degree of local community liaison prior to the delivery of abnormal loads. It will also be necessary to consider the phasing of road works for example ensuring the early completion of the initial access and new Moy Burn Crossing to allow early opening of on site borrow pits to win material for access road development. The new junction design, including the visibility requirements, must be are agreed with TEC Services. All works within the existing highway boundary will require the approval of TEC Services. These matters can be addressed in detail after the grant of planning permission.

Water, Drainage and Peat

- 7.24 The site sits high within the watershed of the Moy Burn which is fed from the surrounding moorland. This has necessitated the applicant to outline the likely impact of the development upon local hydrology, the peat resource, which is a valued habitat, as well as how the developer will manage waste water and adopt pollution control measures to safeguard the local water resource and down stream ecological interests.
- 7.25 The area also has a number of private water supplies, which require protection from pollution. There may also be capacity issues on water abstraction for development given the demands already made of this resource, particularly during periods of dry weather. Local water courses are recognised as having the potential to flood. This is

more pronounced on the Moy Burn, including at the crossing point of the proposed wind farm access road.

- 7.26 The applicant has had the site extensively surveyed for peat. This has helped inform the design layout ensuring that areas of deep peat have been avoided not just for access tracks but the siting of turbines. On the advice of SNH, the layout was amended post submission to avoid areas of peat noted for its conservation value, particularly adjacent to Turbines 18, 19 and 20 also with amendments to the access tracks serving these turbines. SEPA have also recognised the potential to micro-site turbines and access tracks in the final construction design stage to further avoid areas of deeper of peat, local springs, wet flushes and maintain 50m minimum buffers from watercourses. Generally however the development, including two borrow pits succeeds in avoiding areas of deep peat as well as areas of steep gradient.
- 7.27 The applicant is committed to a number of mitigation measures relating to pollution prevention as highlighted with within the ES. The expectation is that these measures will be incorporated into a Construction Environmental Management Report covering such topics as a peat management plan, surface water management plan as well as the adoption of best practice procedures for example the storage of chemicals and fuel, vehicle washers etc associated with the construction phase of the development. Monitoring proposals will be outlined and it will also include an Incident Response Plan during operation. The principals for Waste Management including the reuse of peat have been outlined for agreement with SEPA. Prior to any construction on site details on these matters will need to be finalised and agreed. These can be required through the use of planning conditions.
- 7.28 The applicant has submitted a Flood Risk Assessment to SEPA. This has helped provide information on a compensatory flood storage scheme in line with Scottish Government Policy. Final details on these matters remain to be submitted and these should need to be agreed prior to the commencement of any construction. In view of the above SEPA is generally content with the development subject to conditions to secure the proposed mitigation and additional information as requested. This can be achieved through a Construction Environmental Management Document (CEMD) and Construction Environmental Management Plans (CEMPs) to be submitted as a condition of permission.

Natural Heritage

7.29 Immediately adjacent to the north east edge of the development site lies Carn nan tri- Tighearnan Special Area of Conservation (SAC). The qualifying feature of the site is blanket bog and the ES acknowledges that this habitat is present on both sides of the development site / designated site boundary. In amending the plans to take on the concerns from SNH the significant effect of the development on the SAC is avoided. Carn nan tri-Tighearnan Site of Special Scientific Interest (SSSI) is also designated for its dwarf shrub heath habitats but these are not present on the part of the designated site which is adjacent to the proposed development site. Therefore SNH advises that it is unlikely there will be any adverse impact on this habitat as a result of the wind farm development.

- 7.30 The applicant has submitted survey information on a number of protected species that exist within the area, including in particular otters, wildcat, bats, badgers, water vole and fish. With the implementation of appropriate mitigation measures during construction to protect individual animals or their resting places from disturbance during the development the impact of the development on local wild life should be minimal. Mitigation will require pre-construction surveys within 500m around all proposed works. If potential breeding sites are discovered pre commencement or within zones specified for each species during operations, works should be suspended immediately and advice sought from SNH.
- 7.31 The submitted ES has provided information to SNH on protected birds including red kite, golden plover and curlew. In response SNH have advised that "The North of Scotland red kite population has an unfavourable conservation status which is generally considered to be the result of illegal persecution. It therefore welcomes the commitment by the applicant to the long term funding of a "surveillance and monitoring" programme for red kites and the production of a Conservation Management Plan". RSPB welcome the applicant's commitment in the ES to implement a Conservation Management Plan with the objective of increasing the survival rate of kites in North Scotland and it recommends that this be made subject to a Section 75 Legal Agreement.

Design, Landscape and Visual Impact

- 7.32 The current proposal for a 20 turbine development has emerged following a site assessment and public consultation on a much larger proposal for 55 turbines. The initial scheme was identified from a survey identifying high quality wind farm development sites, then refined based on a number of site specific (for example hydrology/ peat and ecological surveys) and locational constraints (for example landscape and visual concerns as seen from Dava Moor, Culloden Battlefield and other renewable development projects). The reduction to the current 20 turbine scheme was undertaken to ensure reduced visibility to road users travelling north on the A9 around the iconic Findhorn Viaduct and bridge, Dalmagarry and the distillery in Tomatin.
- 7.33 The overall Zone of Theoretical Visibility (ZTV) indicates that the site is relatively contained within the surrounding landscape, particularly within the initial 15 kilometre radius of the outermost turbines, and then only largely visible to the north beyond this distance especially on higher ground for example on the Black Isle and again on Easter Ross. The site does not have significant impact on the Cairngorms National Park. It sits partly within the Drynachan, Lochindorb and Dava Moors SLA however its impact on this designated area is limited on account of containment by hill tops to the east, including Carn Nan Tri-tighearnan and Cairn Kincraig.
- 7.34 The setting of the development within the valley south of Beinn Bhreac and north of Meall a Bhreacraibh helps ensure many of the wind farm components (access tracks, borrow pits and substation) are not visible to road users and local residents. Two significant off site mitigation measures are proposed including: -
 - The purchase of 90 hectares of forestry (Meallmore Forest) around Meallmore Lodge to act as a barrier between residents in Daviot and the development. (The

applicant has confirmed the "option" to purchase the forest following approval of the planning permission.)

- A landscape bund at Daviot Brae as presented in the second application before the committee to eliminate views of the site from a section of the A9.
- 7.35 In landscape character terms the site is at the eastern end of a relatively large area defined as Rolling Uplands. The vertical elements of the development would make a significant effect on the landscape in the immediate area 2-3 km. However this effect quickly diminishes with distance given the largescale nature of the surrounding landscape. Given that the development is relatively contained, the effect on the surrounding landscape character areas is assessed as not being significant. It is also accepted that the effects from both the Moy development and the existing Farr wind farm on the wider Rolling Upland is relatively local with each development and given their separation (7.5km) the effect would be discreet. Similarly proposals for Tom nan Clach and Glenkirk, which remain to be determined following Public Local Inquiry, are seen in landscape character terms to be set apart from the Moy Wind Farm. However approval of all these renewable energy schemes would have a significant impact on the upland landscape between Inverness / Great Glen and the Cairngorms National Park.
- 7.36 Twenty five viewpoints have been assessed from locations around the development to help determine the likely visual impact of the proposed wind farm on a variety of receptors including local households, communities, valued routeways, tourist facilities and hilltops. These have been selected to allow the key impacts to be assessed both from locations close to the development and from locations 10, 20 and 30km distance. It also allows consideration of cumulative impact of this proposal with other wind farm developments.
- 7.37 The applicant's assessment of the expected visual impact highlights that for most of these viewpoints the visual impact of the development on receptors is negligible or slight and therefore there is no significant impact from the development in these locations. This includes a number of locations from nearby communities. However in a small number of locations the impact was assessed as being "moderate / major" and therefore significant, thereby meriting particular consideration. These include:-

Viewpoint	Location	Receptor
VP 1	Rail-bridge Moy	Residents
VP 2	North of Moy	Local Travellers / Tourists / Rail Users/ Cyclists
VP 3	A9 West of Moy	Roads Users / Tourists
VP 9	A9 North of Daviot	Road Users / Tourists

7.38 Members will be taken on a site visit to gain an appreciation of the impact particularly as seen from Viewpoints 9, 2, 4 (Dalmagarry) and 3. The applicant acknowledges that there will be significant visual effects at a local level mainly to road users on the A9 trunk road arising from the development but that these can in part be mitigated (for example the proposed bund at Daviot). From the assessment of the wider visual impact the effects of the development are regarded by the applicant as being slight or negligible.

- 7.39 As evidenced by the ZTV the extent of visible impact of the development is relatively contained, although it does extend to the A9 corridor and northern edges of Inverness. This principal route-way and principal community (destination) is the subject of an ever growing number of wind farm proposals on which there is an increasing need to consider the potential cumulative visual impact of projects on the area. The A9 corridor between city of Inverness and the Cairngorms National Park is being recognised within emerging Supplementary Guidance(see earlier) as a valued route-way for many travellers whose current experience is one where the countryside is relatively free of largescale wind farm projects.
- 7.40 Road travellers northwards on the A9 from the Slocht can currently see a few (6) turbines / turbine blades from the Farr wind farm and then only very distant turbines on Easter Ross (Novar and Beinn Tharsuinn) as they descend into Inverness from Southbound travellers on the A9 between Inverness and the Slocht currently see turbine blades of Farr wind farm at both Daviot and Tomatin. The Council has already determined that proposals for both Glenkirk and Tom Nan Clach should not be supported in part because of the visual impact to travellers on this A9 route-way. (For the avoidance of doubt the principal reasons for the Council refusing these two other application was their impact of the Drynachan, Lochindorb and Dava Moors SLA). This position has been recognised to a degree by the applicant who amended the initial project from a 55 turbine scheme to one of 20 turbines, significantly reducing the potential impact on road users on the A9. In a similar way the travelling experience / visual impact is repeated for rail users and cyclists using this important travel corridor. Should applications within the corridor be approved including Glenkirk, Tom nan Clach and Moy, there is real concern that travellers would begin to see a series of large scale onshore windfarms on their route between the City of Inverness and the Cairngorms National Park. retention of a northern wedge between the National Park and Inverness has the benefit of ensuring that the Park is not surrounded by the often talked about "ring of steel" surrounding the CNPA, but that a gap, and journey, largely free of visible turbines is retained.
- 7.41 The final layout presents (west to east) as five short rows of turbines roughly aligned north to south. From the west from Viewpoint 2 and Viewpoint 3 the development is seen largely set back in a cluster within a hidden valley / corrie. From both these locations the design of the wind farm is not easy to read. The wind farm is partial seen, as a clustered group, with a number of overlapping turbines. From viewpoint locations on the A9 trunk road to the south the development is generally screened by Meall a Bhreacraibh, with only a few turbine blades being visible to motorists. From the north, the development is more exposed for a short duration to drivers travelling south as illustrated at Viewpoint 9 as a cluster of turbines including some that skyline and others that have a backdrop.
- 7.42 Guidance such as SNH's publication "Siting and Designing windfarms in the landscape" helps to inform applicants with their design iterations but also help in the assessment of projects. This advice notes that: -

"wind farms are most appropriate in a landscape where their presence and design appears rational."

"It advises that it is difficult to site and design a wind farm upon a variable landform, such as on undulating moorland or hills without presenting a confusing image..... To avoid this effect, it is generally preferable for wind turbines to be grouped upon the most level part of a site so that the development appears more cohesive, rather than a collection of disparate individuals."

"design of a wind farm from key viewpoints and sequential routes should ensure a wind farm does not detract from the character of a distinctive landscape. Care should be taken to ensure that the wind farm does not overwhelm a skyline. If the skyline is simple in nature for example over moorland and hills, it is important that wind turbines possess a simple visual relationship to this feature, avoiding variable height, spacing and overlapping of turbines and, also, visibility of blade tips intermittently breaking the skyline."

7.43 In assessing the current application from the selected viewpoints it is not easy to get an understanding of the wind farm design. In part this is as a consequence of the applicant seeking to set the development into the folds of the landscape rather than as in the initial 55 turbine layout, where a significant number of turbines were sited on top of the Moy landscape. It means however that where the development is visible in a significant way as noted above, it does not present in itself as a simple layout. From the west, Viewpoints 2 and 3, it appears as a cluster of turbines with a confusing array. From the north, Viewpoint 9, it presents as a mixture of contrasting elements with no obvious cohesion. From locations to the south, Viewpoint 4, the development presents as a small number of blade tips which intermittently break the skyline. It is therefore not seen as a particularly well designed scheme and does not effectively draw upon the published SNH guidance.

Tourism

- 7.44 In addition to the visual impact of the proposed development upon travellers is the need to consider the potential impact of the development on tourism, a valued dynamic of the Highland economy. Research for the Scottish Government has suggested that the impact of onshore wind farms on tourism is minimal. Well located developments can be seen as positive features by tourists. Younger tourists are more accepting of the need for such renewable energy projects. Other research has clearly recognised that wind farms are unpopular to some people and communities and that developments detract from their experience of the countryside.
- 7.45 The applicant has presented an assessment of the potential impact on a range of tourists / tourist activities including Tourist Facilities including for example Culloden Visitor Centre Cawdor Castle and the Cairngorms National Park; Tourist Accommodation; Hill Walking; Path Walking (Great Glen Way); Cycling (National Cycling Routes; Fishing; etc. The overall conclusion is that the impact of the development on the operation of these facilities will be limited (minor / negligible). The key significant effect is that as outlined in the visual impact in the local vicinity of the development where tourists travelling by road, rail and cycles would in one short section of the A9 / B9154 / Rail-line / National Cycle route will experience the impact of the development. It is the absence of large and medium scale wind farm development from this heavily used transport corridor which is valued within the

emerging Supplementary Guidance, leading to the Council promoting a policy for development restraint.

<u>Cultural Heritage</u>

- 7.46 There are no recorded or known archaeological remains within the application area nor Scheduled Ancient Monuments or other valued cultural features. There is however some potential for finds, which suggest care when the site is opened for development.
- 7.47 The are however a number of archaeological features, Scheduled Ancient Monuments, Listed Buildings (e.g. Moy House, Rail Bridges, Churches, etc), Battlefield (Culloden) and Designed Landscapes / Gardens in the wider area surrounding the application site. The assessment undertaken by the applicant and assessed by consultees advises that there would be no significant adverse impact on these features or the setting of these heritage features arising from the development.

Noise

7.48 The ES has provided an assessment of the expected operational noise from the turbines at the nearest noise sensitive properties. Given the distance of these properties (between 1.5km – 5.5km) from the turbines, prevailing wind directions and other factors such as traffic on the A9 trunk road, the existing background noise levels are low, below 30 dB La90. Predicted noise levels arising from the operation of turbines are expected to fall within required limits either 35 db La90 or 5dB above background noise, which ever is the greater. The construction of the wind farm is not expected to give rise to excessive noise, with most development taking place some distance from habitable properties. There are no other consented schemes in the vicinity that require assessment for cumulative noise impact. Notwithstanding the results of the ES assessment the Council would apply conditions on any approved development to limit construction hours and to enable investigation / enforcement for any noise complaint arsing from an existing noise sensitive property.

Construction Impact

7.49 The supporting ES has investigated the likely impacts of construction arising from the development on or adjacent to the development site. This has considered the implication of developing the access road, turbine bases, handling concrete, on site borrow pits, etc. including the production of waste, storage of fuels and chemicals. In discussion with the Planning Authority and other Statutory Agencies the applicant is committed to approaching this development with an appropriate Construction and Environmental Management Document, supporting Construction and Environmental Management Plans and recruitment of an Ecological Clerk of Works to effectively advise and monitor all construction activities to ensure compliance with the ES and all statutory approvals. The Council welcomes the use of onsite borrow pits to help minimise traffic impact on the local road network. Borrow pits will require conditions to secure temporary reinstatement and then final reinstatement when the wind farm is decommission. The revised drawings suggest only two borrow pits rather than three, as noted in the initial application, will be used.

Aviation Interests

7.50 During consideration of the proposal there requests from aviation interests for aviation lighting. This is expected to include lighting at the outermost corners of the development and on a centrally located turbine. An appropriate lighting scheme perhaps using infrared lighting to reduce the introduction of light within a largely undeveloped / light free area is a matter that could be addressed by condition.

Radio / TV and other Networks

7.51 Within the ES that the assessment of local telecom services including TV, radio etc has raised no significant issues. The Council has a standard practice of securing through legal agreement a small short-term bond to address adverse impacts that may emerge during construction and the initial year of operation.

Economic Impact

7.52 In terms of the economic impact of the development, the project will deliver a number of short term jobs during the construction phase, which are valued by a number of local businesses. Figures of potentially 60 staff associated with the project, have been estimated through the construction phase. In the longer term job creation through the operational phase of is valuable but is only small scale in nature. Estimates of 3 FTE jobs are anticipated.

Other Material Considerations

7.53 There are no other relevant material factors highlighted within representations for consideration of this application by the committee. It should be noted that following the advertisement of the initial ES concerns were raised about the adequacy of the visual images, which formed part of the ES. One concern focused on the estimated height of the proposed turbines and therefore the likely impact of the development as seen from housing within the Moy area. Revised visual images were produced and re-advertised. These images were regarded as being accurate for assessment purposes.

8.0 CONCLUSION

- 8.1 The Scottish Government has given commitment to renewable energy and encourages planning authorities to support the development of wind farms where they can operate successfully and where concerns can be satisfactorily addressed. The application presents that case. There are no objections to the development from statutory consultees, subject to appropriate planning conditions. However there are local concerns with objections raised by two community councils and a small number of public representations (19) against the development.
- 8.2 By and large many of the concerns raised by the Community Council's and the public representations are addressed within the considerations of the statutory consultees. Through the use of planning conditions safeguards can be put in place to addressing the geological, hydrological, ecological and archaeological interests associated with this particular site and the surrounding area. It is particularly

noteworthy that in respect of ornithological interests the offered mitigation as recognised by both SNH and RSPB including the long term funding of a "surveillance and monitoring" programme for red kites and the production of a Conservation Management Plan is most welcome. This is especially so given recent concerns associated with bird persecution in this locality.

- 8.3 In terms of the expected impact of the development on surrounding properties and land uses it is generally accepted that the development could be constructed and operate without significant adverse effect on local interests when looking at such issues such as traffic impact, temporary construction impact, site restoration, noise, telecom interests and even aviation interests. Although in respect of some of these factors appropriate planning conditions would be required to secure key provisions such as aviation lighting, site restoration, etc. The key concern with the development is the assessment of its expected visual impact on the surrounding area which includes some housing / communities but particularly well used transport roads between Inverness. In this regard the specific design of the wind farm and some landscape impacts are also of concern. These are considered in turn.
- 8.4 With regard to landscape interests, whilst the development will sit within an identified Special Landscape Area, the scale and impact of the proposed scheme in not regarded as having significant adverse effect on the integrity of the wider SLA, particular by Lochindorb / Dava. In terms of the landscape character of this Rolling Upland in itself the development is seen as acceptable, however there are concerns over the potential cumulative impact of a number of developments that are in the planning process but not yet determined. The Council has not supported similar proposals at Glenkirk and Tom nan Clach which neighbour this site, albeit they have greater effect on the designated Drynachan, Lochindorb and Dava Moors SLA.
- 8.5 With regard to design, the proposed wind farm has no great merit. It presents to prominent viewpoints as an irregular layout, largely contained within a hidden valley / corrie set in the rolling uplands at Moy. There is no strong design to identify with, nor does the development read well with local landscape as viewed from viewpoints assessed within the ES. Its containment reduces the potential impact upon at housing at Moy and Tomatin and the retention of woodland at East Daviot, offered as mitigation, will ensure that houses around Achnahillin (VP 5) will have no sight or limited views (blade tips) of the development.
- With regard to the offered mitigation at North of Daviot by VP 9 the proposed bund would deliver the expected mitigation after the landscaping had become established. However the benefit would be extremely localised and short lived for some travellers on the A9. The development of the A9 evolved through its design processing balancing cut and fill as necessary, but generally provides a route with many open views of the surrounding countryside, warts and all. It is considered that should the wind farm development be considered acceptable the requirement to screen the view of the wind farm from a short section of the A9 north of Daviot is unnecessary.
- 8.7 A principal test for this wind farm application is in relation to the draft Supplementary Guidance: Onshore Wind Energy (April 2011). The draft policy has identified an area to be afforded protection from large-scale and medium-scale onshore wind farm development to safeguard the defined area of visibility from the A9 tourist route

corridor. Whilst relatively contained east of Moy, the development has been seen to be visible in a significantly adverse way from route to the west and north. Although the experience for travellers is relatively short lived and intermittent, the Council has placed value on the absence of this form of development to either side of the A9 route between Inverness and the Cairngorms National Park. This policy is expected to be maintained with the Supplementary Guidance and also form part of the Highland Wide Local Development Plan when adopted.

With regard the very positive stance of the Scottish Government towards renewable 8.8 energy it is considered that there are potential areas for largescale on-shore wind energy projects within the Monadhliath Area and Highland as a whole where such development could take place without significant impact on individual properties, local communities and key tourist routes. Within the existing policies of the Development Plan applications are supported provided that key criteria / impacts can be satisfactorily addressed. The test is that the impacts are not significantly detrimental. The proposed development is recognised by the applicant to have some significant landscape and visual effects, albeit localised. It is the significant effects that would be seen from sections of the A9, B9154 and railway, west and north of the development, that are of most concern. Given the emerging Supplementary Guidance heightens the weight that should be given to this matter in the final planning balance when determining this application against the policies of the Development Plan. The proposal is not considered to comply with the Council's Development Plan, the draft Highland Wide Local Development Plan and the emerging Supplementary Guidance.

9.0 PROCEDURES

- 9.1 The applicant has appealed to the Department For Planning and Environmental Appeals (DPEA) on the grounds of "non determination" by the Council within a four month period. Therefore the Council is not permitted to determine the application.
- 9.2 The Council and the applicant had agreed to determine the second application at the same time as the principal development. However this second application has not been appealed and thereby remains the responsibility of the Council for determination. Should the application be refused an appeal could then be made to the DPEA.

RECOMMENDATION

That the Council: -

Consider that its decision would be to refuse planning application 11/01205/FUL for a 20 turbine wind farm development on land north east of Moy Hall, Tomatin for the following reasons: -

- 1. The development conflicts with policies E2 and G2 of the approved Highland Structure Plan and Policy 68 of the draft Highland Wide Local Development Plan on account of its significant visual impact to travelers on the principal routeways (A9 road, B9154 and main (Inverness Perth) Railway line) to the north and west of the site.
- 2. The development conflicts with the A9 Corridor / Setting of Inverness (3) sub area identified within the Draft Supplementary Guidance: Onshore Wind Energy, April 2011. This policy seeks to prevent large scale and medium scale windfarm development within this locality to protect the A9 tourist route corridor between Inverness and the Cairngorms National Park and to protect the setting of Inverness as viewed from the north and the approach from the south.

Refuse planning application 11/01185/FUL for a bund on land to the north of A9 / B851 junction at Daviot for the following reason: -

1. The development conflicts with Policy G2 of the approved Highland Structure Plan which seeks high quality design in keeping with local character and historic and natural environment. The provision of this bund, to provide a visual screen to a distant development over a short section of road, is not an effective solution to address the key concerns surrounding the principal wind farm development.

Signature:

Name / Designation: Malcolm MacLeod/ Head of Planning and Building Standards

Author: Ken McCorquodale / Principal Planner - (01463 702256)

Background Papers: e case File 11/01205/FUL

e case File 11/01185/FUL

Annex A

Wind Farms within 60km of Moy Wind Farm

<u>Operational</u>	<u>Turbines</u>	Blade Tip Height (m)	Distance (km)
Farr Wind Farm Millennium Paul's Hill (Moray) Rothes (Moray) Hill of Towie (Moray) Fairburn Beinn nan Oighrean Beinn Tharsuinn Novar Findhorn (Moray)	40 26 24 22 21 20 2 17 34 4	100 115-125 101 101 100 100 99.5 80 55.5 44	10 59 35 41 58 41 48 48 42 60
Approved or Under Construction	<u>Turbines</u>	Blade Tip Height (m)	Distance (km)
Dunmaglass Novar extension Corriemoillie Berry Burn (Moray) Rothes II (Moray) Glenurquhart & Strathglass	33 16 19 29 - 5	120 106 125 104 - 100	18 42 54 30 41 46
Not yet Determined	<u>Turbines</u>	Blade Tip Height (m)	Distance (km)
Druim Ba Beinneun Dorenell (Moray) Allt Duine Lochluichart ext. Nigg Corriegarth Glenmorie Glenkirk Tom nan Clach Auchmore Turbine	23 25 59 31 6 5 20 43 26 17	149.5 132 126 125 125 125 120 110-125 110 110	27 64 53 25 55 36 32 52 8 7 34

LIST OF REPRESENTATIONS FOR Erection of 20 wind turbines, ancillary development including permanent meteorological mast, control building, construction of access roads, temporary construction compound and 3 temporary borrow pits at Moy Estate Land 3km NE of Moy, Moy, Tomatin,

Planning application 11/01205/FUL

OBJECTORS

- 1. Mr John Clarke, A Moy Resident,
- 2. Mr John Dye, Allt Na Slanaichd, Moy, Inverness, IV13 7YE,
- 3. Mr Neil Ross, Moybeg, Moy, Inverness, IV13 7YE,
- 4. Mr And Ms Barry And Anne Gunson, Residents Of Moy, (Rowanbank),
- 5. Hazel Beal, Burnside Cottage, Moy, IV13 7YE,
- 6. Mr & Mrs Sheldon, Fearnach, Moy, Tomatin, IV13 7YE,
- 7. Mr D C Wells, Altchosach, Tomatin, IV13 7XZ and
- 8. Strathdearn Against Windfarm Developments (SAWD), Per Mrs Pat Wells, Altchosach, Tomatin, Inverness-shire, IV13 7XZ,
- 9. Graeme Manson, Birkenshaw, Tomatin, Invernss-shire, IV13 7XY,
- 10. Mr. Luke Moore, Craggiemore, Daviot, Inverness, IV2 5XQ,
- 11. Miss Barbara Ross, Allt-Na-Slanaichd, Moy, Inverness, IV13 7YE,
- 12. Mark & Alison Gardner, Weid 18, 6313 Menzingen, Switzerland,
- 13. Sally Moore, Craggiemore Farmhouse, Daviot, Inverness, IV2 5XQ,
- 14. Mr & Mrs Loutit, Dalriach Lodge, Auchnahillin, Daviot, Inverness, IV2 5XQ
- 15. N E Purnell, 1 Tullochdury, Moy, ,
- 16. Molly Noble, 3 Old Mill Road, Tomatin, Inverness, IV13 7YW,
- 17. Jon And Diane Purnell, 2 Tullochdury, Moy, Tomatin, Inverness-shire, IV13 7YE,
- 18. Mrs L, Mr KDK, Mr KC And Mr D Armit, Station House, Moy, Inverness, IV13 7YF,
- 19. Mrs Hilda Hesling, Schoolhouse, Abriachan, Inverness, IV3 8LB

OTHER REPRESENTATIONS

1. Mr Stuart Benn RSPB Scotland,

Directorate for Planning and Environmental Appeals Appeal Decision Notice

T: 01324 696 400 F: 01324 696 444 E: dpea@scotland.gsi.gov.uk



Decision by Richard Dent, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2063
- Site address: land 3km north-east of Moy, Tomatin
- Appeal by Carbon Free Moy Limited against the failure of The Highland Council to give a decision in respect of planning permission reference 11/01205/FUL dated 4 April 2011
- The development proposed: 20 wind turbines and ancillary development
- Drawing numbers: see appendix 1
- Date of site visit by Reporter: 11 January 2012

Date of appeal decision: 29 February 2012

Decision

I allow the appeal and grant planning permission subject to the conditions set out in appendix 2.

Reasoning

- 1. The determining issues are whether or not the proposal would be acceptable in terms of:
 - technical considerations, including access, site design and layout;
 - impact on natural heritage;
 - impact on cultural heritage; and
 - landscape character and visual impact, including the potential impact on tourism, in its own right and cumulatively.

These issues must be considered in the context of development plan policy and other material considerations must be taken into account.



Technical considerations

Access

2. Access to the wind farm would be taken from the B9154, which was formerly the A9 and is part of National Cycle Route 7, at a point to the north-west of Loch Mov. The route would cross open land before joining an existing track that follows the Moy Burn into the main part of the site. The junction with the B9154 has been designed to ensure that heavy goods vehicles would be required to approach from and depart towards the south passing through the small community of Moy. The B9154 joins the A9 some three kilometres to the south.

2

- 3. Some 50 abnormal loads per quarter would be required to deliver turbine components over a period of about a year. The route from the port facility at Invergordon has been the subject of consultation with the appropriate authorities.
- 4. Transport Scotland recognises that traffic on the A9 trunk road would increase as a result of the development but believes there would be minimal environmental impact on the network. The council, as the local roads authority, accepts the B9154 is suitable to carry the proposed construction traffic provided no vehicles approach from or leave to the north through the communities of Craggie and Daviot East. An agreement under section 96 of the Roads (Scotland) Act 1984 would be required to cover the repair of any abnormal wear and tear with a bond to provide security. The appellant has indicated a willingness to enter into such an agreement. A traffic management plan would also be necessary for the agreement of the council in respect of all aspects of construction traffic arrangements. The appellant anticipates that the management plan would be likely to require site vehicles to give way to cyclists.
- 5. Despite the designation of this section of the B9154 as a cycle route, and the increased traffic through Moy during the construction period, I note the lack of objections by the roads department (TEC Services) of the council. I conclude that the access arrangements for the site are satisfactory in principle. I am also confident that detailed arrangements would be capable of agreement between the developer and the council by means of a traffic management plan. A restriction on hours permitted for construction would assist in reducing any impact on Moy. It would also be helpful to allow a right of way for cyclists.

Site infrastructure

6. Over 10 kilometres of new track would be required to provide access to the site itself and to infrastructure within the site. Some existing track would also be upgraded. I have noted the intention to minimise the number of watercourse crossings. All crossings would involve bridges to protect the integrity and quality of the watercourses. I also note that track alignment has been designed to avoid the areas with the greatest peat depth, ensuring that the peat structure is not damaged by compression. I conclude that, for the most part, the internal tracks are commensurate in design, layout and construction techniques in terms of the wind farm development that they are intended to serve. An adjustment would be







required close to the eastern boundary of the site. This is considered further in paragraph 28.

- 7. Other elements within the site include a temporary construction compound with a concrete batching plant, a control building with a 33kV substation and borrow pit areas to provide rock for track construction.
- 8. I note that following an iterative process, the Scottish Environment Protection Agency withdrew initial objections to the proposal subject to the imposition of a number of conditions on various aspects of the development. The Agency specifies conditions in respect of flood risk, the borrow pits, track drainage, a scheme of site specific separation distances (which should be a minimum of 50 metres) between elements of the development and watercourses, submission of a site waste management plan, the preparation of a full site specific construction environmental management plan, and submission of a sustainable drainage scheme for the temporary construction compound.
- 9. The appellant responded to the Agency's requirements as follows:
 - borrow pits: pit A has been confirmed as surplus to requirements and the maximum yield from the two remaining pits would be 267,000 cubic metres;
 - a "moorland management plan" is proposed to address peat disposal issues;
 - wet heath habitat would be protected through the possible "micro-siting" (adjusting the position) of turbines 3, 6, 8, 10 and 13;
 - consideration will be given to "floating" the road between turbines 3 and 6;
 - a minimum separation distance of 50 metres would be applied to all watercourses:
 - a bridged crossing would be provided between turbines 17 and 19 (this would involve a revised track layout as indicated in paragraph 6 and described in paragraph 28);
 - a flood risk assessment has been prepared and, as a consequence, a compensatory flood storage area would be provided.
- 10. The final choice of turbine manufacturer has not been made but the environmental statement indicates a likely maximum hub height of 80 metres and an overall maximum blade tip height of 126.5 metres. However, I accept that the tapered tubular tower type proposed (as indicated on drawing PA 4) is unexceptional, notwithstanding the manufacturer eventually selected. A crane pad of approximately 45 metres by 25 metres would be required adjacent to each turbine. The pads would be constructed of crushed rock over geotextile membranes and allowed to naturally re-vegetate.
- 11. A meteorological mast 80 metres in height, located within the site, would provide essential weather information, particularly wind speed.
- 12. The various components of the proposed development, permanent and temporary, are necessary to construct and maintain a wind farm. I conclude that the access, site design and layout are acceptable subject to the track adjustment described in paragraph 28.

Noise and shadow flicker



PPA-270-2063

13. Concern has been expressed about the detrimental impact of both noise and shadow flicker. A number of third parties state that the nearby Farr wind farm generates noise, particularly at low frequency. This is said to be audible some 6 kilometres from the site.

14. The appellant has undertaken a noise impact assessment, carried out according to the Energy Technology Support Unit report ETSU-R-97, The Assessment and Rating of Noise from Wind Farms. Some third parties have questioned the use of ETSU-R-97 but Scottish Government guidance updated on 27 January 2012 states the report should be followed by applicants and consultees, and used by planning authorities to assess and rate noise from wind energy developments, until such time as an update is available. I am therefore satisfied that the basis on which the assessment was undertaken is acceptable. The impact assessment indicates that, in addition to operational noise, both construction and decommissioning noise was studied. Predicted noise limits were said to be "well within the proposed noise limits at all locations".

4

- 15. I am aware that turbines generate both mechanical noise and aerodynamic noise although the recently updated Scottish Government guidance recognises that improved design has brought about a significant reduction in the former. The environmental statement claims that modern turbines have been designed to reduce tones to a level below perception thresholds, although the tones sometimes remain measurable. The environmental statement also recognises that low frequency noise can sometimes occur although a study of 126 wind farms found that complaints of such noise occurred in only 5 instances. The appellant believes it unlikely that low frequency noise would occur at the Moy wind farm.
- 16. The Environmental Health Department of the council does not object to the proposal on the basis of either construction noise or operational noise subject to a number of conditions. One of these suggested conditions refers to action required in the event of a "valid complaint" in respect of noise. I do not consider it appropriate for a planning condition, in effect, to require a judgement to be made on the validity of a complaint. As an alternative, a condition has been included which sets out procedural requirements should noise complaints be received. In any event, the council has various regulatory powers available in the event of a breach of planning control or the creation of a noise nuisance.
- 17. Subject to observing the stipulated noise levels, I conclude that the wind farm would not generate unacceptable levels of noise either during construction, decommissioning or operationally. The conditions imposed make provision for continuing planning control over the noise element of the development.
- 18. The updated Scottish Government guidance also explains that shadow flicker may occur when the sun passes behind a rotor and casts a shadow over neighbouring properties. When the blades rotate, the shadow flicks on and off. This effect occurs only within buildings where the flicker appears through a narrow window opening. Where separation is provided between wind turbines and nearby dwellings (as a general rule, 10 rotor diameters which, in this case would be some 930 metres), shadow flicker should not be a problem. The effect is also limited to areas within 130 degrees either side of north of a wind turbine. In this instance there would be no properties within an area where shadow



flicker could be experienced and I therefore conclude that this is not a matter relevant to the proposal.

5

Water supply

19. It is intended to provide water for the site by means of a private supply. Seven private water supplies have been identified near the development site and the impact on these is estimated to be of negligible to minor significance. Scottish Water has no objections to the proposal.

Aviation

20. The various authorities with an interest in aviation – the Civil Aviation Authority, National Air Traffic Systems, the Ministry of Defence, and Highlands and Islands Airports – have been consulted. None has any objections to the proposal although the Ministry of Defence may require aviation lighting along with full and precise details of the proposal. The Civil Aviation Authority also requires these details to be sent to the Defence Geographic Centre.

Telecommunications and television

- 21. A consultation exercise and assessment revealed that no microwave fixed link paths cross the site and so there would be no impact on telecommunications using fixed links.
- 22. Two residential properties have been identified where TV reception could be affected and where there is no alternative off-air service. Various means of mitigation exist and the environmental statement indicates that discussions will continue with broadcasters and Ofcom to establish the best approach in these cases. Should potential interference be identified either during construction or whilst the wind farm is operational, the most appropriate technical solution would be determined on a case-by-case basis. I am satisfied that in the event of TV reception being affected, measures could be put in hand to rectify the problem.

Public access

- 23. The environmental statement explains that there are no rights of way or proposed "core paths" within the site. However, several "wider access network" paths pass through the site, mainly following the watercourses. A further path crosses open country westwards to the forest south of Beinn an Uain. This path is likely to be disrupted during the construction work for turbine 13 and also passes close to turbine 8. The appellant acknowledges that there may be some short term closure or diversion of paths.
- 24. The council has proposed a condition which would involve the preparation of a map of agreed paths and tracks showing any permanent or temporary diversions.



25. Whilst some disruption and, therefore, inconvenience would be inevitable, during construction, I believe that the potential for public access would not be significantly limited either during the construction phase or thereafter during the operation of the wind farm.

6

*

26. Overall, I conclude that the site would allow for the efficient operation of a wind farm and there are no technical considerations to preclude the granting of planning permission for the proposal.

Natural heritage

Ecology

- 27. Third parties have expressed concern that wild life habitats, including watercourses, would be damaged or lost during the construction of the wind farm. It is claimed that mitigation would not resolve these problems. More particularly, it is believed that the proposed buffer of 50 metres between the development and the adjacent site of special scientific interest would be inadequate.
- 28. Scottish Natural Heritage (SNH) initially objected to the proposal as it was considered likely that the development would have a significant effect on the qualifying interest of the adjacent Carn nan Tri-Tighearnan Special Area of Conservation and Site of Special Scientific Interest. Subsequently, following amendments proposed by the appellant, SNH withdrew the objections. The amendments included a new route between turbine 19 and turbine 17 thereby avoiding the previously intended route which partly followed the boundary of the special area of conservation. The adjustments are shown on revised environmental statement Figure 1.3 (equivalent to application drawing PA 3). It was also agreed not to micro-site turbines 16, 18 and 20, along with the adjoining tracks, any closer to the boundary of the special area of conservation and site of special scientific interest. To some extent at least, these adjustments and undertaking meet concerns expressed by third parties in respect of the potential impact on the designated site of special scientific interest.
- 29. Small areas around turbines 15, 19 and 20 may be susceptible to peat slides as a result of construction work. If possible, SNH, recommends these turbines be relocated to less sensitive areas.
- 30. SNH would expect an analysis of risks where tracks require cutting through peat over three metres in depth. Additional volumes of peat would be displaced in these circumstances and the implications should be assessed prior to construction. I recognise that there is the potential for significant peat extraction and believe that proposals for the treatment of this material should be included in the waste management plan required by the Scottish Environment Protection Agency.
- 31. SNH considers that designated locations for peat disposal should have been identified for assessment and does not support the intention to spread a thin layer of peat over a larger area or to re-instate peat excavated during track construction by side-casting. Both



operations could damage the habitat and watercourses through run-off. An alternative method for the disposal of surplus peat should be agreed.

- 32. Although the appellant states the intention to ensure no plant would operate on the peatland surface, SNH requires an indication of how this protective measure would be achieved. This is an issue which should be addressed in the construction method statement.
- 33. No reference is made to habitat restoration although the environmental statement recognises that many habitats within the site have previously been downgraded. SNH suggests the preparation of a habitat management plan to address this issue but, in terms of past damage, I believe that this is a requirement that could not be reasonably imposed on the wind farm development. Indeed, the appellant has pointed out that it would not be possible to become involved in any wider habitat management. Nevertheless, as indicated in paragraph 9, the appellant has indicated that a moorland management plan is proposed to address peat issues and, to some extent, I believe this could meet the requirements of SNH.
- 34. Insofar as European protected species are concerned, SNH endorses the safeguards set out in the environmental statement with regard to otters. These safeguards should be subject to a condition requiring a pre-construction survey for the area within 500 metres of the wind farm infrastructure. Contractors should be made aware of the possibility of otters and an appropriate procedure agreed. SNH accepts that a survey has revealed no signs of wildcats on the site but nevertheless recommends a precautionary pre-construction survey and pre-determined procedure should a den be discovered. SNH believes that the proposal would have no significant effect on bats.
- 35. In terms of nationally protected species, badgers would not be affected. There is considerable evidence of water vole activity with two sites very close to, or even on the line of an access track. Again SNH requires pre-construction surveys to be undertaken and all burrows identified, clearly marked and thereafter left untouched. There should be a minimum stand-off distance of 10 metres between the edge of a working area and the nearest burrow. Subject to these conditions there should be no requirement for a licence.
- 36. Fresh water pearl mussel is unlikely to be present.
- 37. The fish survey is considered to be adequate by SNH and any development should take account of and apply the findings and recommendations. It appears no specific survey was undertaken for lampreys or eels and therefore any work that might affect the channel or bed of a watercourse should take account of the possible presence of these species.
- 38. SNH supports the employment of an ecological clerk of works with the authority to halt work during the construction phase of the development. This requirement should be included as a condition.

Ornithology



39. Red kite is the only raptor species that has significant flight activity over the development site. SNH believes the environmental statement provides a thorough assessment of this activity and represents a true picture with an accurate prediction of the annual rate of collision. The commitment to long term funding of a surveillance and monitoring programme for red kite and the production of a conservation management plan is welcomed by SNH.

8

- 40. SNH is of the opinion that the proposal, either in itself or in combination with other proposals, would not adversely effect the possibility of the red kite population in the north of Scotland recovering a favourable conservation status.
- 41. The Royal Society for the Protection of Birds (RSPB) was involved in the ornithological survey methodology and provided red kite satellite tracking information available. Most concerns have been met and it is believed by the RSPB that any residual effects on red kite are of an insufficient scale to merit an objection. The conservation management plan is also supported.
- 42. SNH agrees with the assessment that the proposal would not have a significant conservation impact on golden plover and that curlew would not be adversely affected.

*

- 43. I place much weight on the views of SNH in terms of both ecology and ornithology and also recognise that RSPB plays a significant role in ornithological matters. Despite the concern of many of the third parties, I conclude that, subject to conditions, the development would not have an unacceptable impact on natural heritage.
- 44. The suggested conditions provide scope for a suitable level of control and I have taken account of these in the framing of conditions to be attached to the planning permission. I have noted the agreement of the appellant in respect of protected species appraisals, a commitment to the long term funding of a surveillance and monitoring programme for red kite, and appraisals of impacts on habitats and peat including the preparation of a management plan.

Cultural heritage

- 45. The environmental statement has identified two scheduled monuments and six listed buildings as cultural heritage receptors which would experience a significant effect as a consequence of the proposal. Each has been assessed as being subject to a moderate adverse impact. There are no recorded or known archaeological remains within the application area.
- 46. A third party representation has challenged any suggestion that the area lacks historical or archaeological interest. To the contrary, it is argued, there are a number of local features and events of archaeological or historic interest including the "Rout of Moy", which took place in 1746 prior to the Battle of Culloden.



PPA-270-2063

47. Historic Scotland has no comment on the proposal and the council's Historic Environment Team is generally content with the quality of information provided in the environmental statement. However, says the council, the information is based on a desk assessment and it would be appropriate to apply a condition in respect of the preservation and recording of any archaeological features affected by the proposal.

9

- 48. I note the environmental statement has assessed the impact of the proposal on scheduled monuments, listed buildings, conservation areas and gardens and designed landscapes within a core area up to 5 kilometres from the site boundary and also in a wider area of between 5 and 15 kilometres.
- 49. I recognise that there are additional features of local archaeological and historic interest but, taking into account the responses of Historic Scotland and the Historic Environment Team, I conclude that the level of impact on known cultural heritage resources is not such as to warrant refusal of the proposal. Nevertheless, I believe that the precautionary condition required by the council is justified, along with provision for dealing with any undiscovered archaeology that may be revealed.

Landscape and visual impact

Landscape designation

- 50. SNH confirms that the proposed wind farm does not lie close to and would not affect any sites designated as nationally important in landscape terms. The site lies astride the western edge of the Drynachan, Lochindorb and Dava Moors Special Landscape Area, formerly designated as an area of great landscape value. This is a local landscape designation. SNH explains that the site shares some of the characteristics of the special landscape area with a distinctive pattern of moorland hills and incised valleys. However, most of the special qualities of the designation are focused on the more extensive area of moorland beyond the site.
- 51. SNH agrees with the opinion expressed in the environmental statement that the landscape and visual impacts of the proposal on the special landscape area would be limited as visibility is restricted to the edge of the area. In particular, the wind farm would not be seen from the core areas of Dava Moors and Lochindorb.
- 52. I acknowledge that local landscape designations are important and must be taken into account in development management decisions. However, Scottish Planning Policy points out that the level of protection given to such designations through the development plan should not be as high as that given to international or national designations. I note the analysis in the environmental statement of the impact of the proposed development on the key characteristics of the special landscape area and the agreement of SNH that impact would be limited. The council also accepts that the scheme would not have a significant adverse effect on the integrity of the wider special landscape area. Whilst I agree that there would be significant effects on the western edge of the designated area, I conclude that, overall, the integrity of the area would be retained and that various key elements of the special landscape would remain unaffected.



Landscape character impact

- 53. The proposed wind farm lies towards the eastern end of an extensive area classified in the Inverness Landscape Character Assessment prepared by SNH in 1999 as "rolling uplands". To the east, the rolling uplands become "open uplands" as defined in the Moray and Nairn Landscape Character Assessment. The environmental statement indicates that within the site itself and within an approximate radius of 700 metres, the turbines would effectively create a new landscape character sub-type where the tall, vertical structures would be the key characteristic.
- 54. Beyond the new sub-type, at distances up to approximately 2-3 kilometres from the site, the environmental statement believes the turbines and the rolling uplands would combine to provide a further transitional landscape character sub-type. The vertical structures would nevertheless remain a key characteristic and contrast with the more horizontal emphasis of the wider landscape. Beyond this, elsewhere in the A9 corridor, the vertical emphasis of the turbines would be less prominent and generally contained within the surrounding hills. Impact would be reduced due to the wind farm being within a corrie rather than on the adjacent higher ground. The environmental statement considers the turbines would be seen as large scale objects within a landscape of similar scale and the wind farm would be viewed as a compact and cohesive feature.
- 55. The environmental statement is of the opinion that there would be no significant effects in relation to any other landscape character area. In due course, any impact on landscape character would be fully reversible.
- 56. I attach significant weight to the opinion of SNH and share the view that the landscape character impact assessment is set out in a fair manner in the environmental statement. I also note that the council considers that in terms of the landscape character of the rolling uplands, in itself, the development would be acceptable.
- 57. I agree that the location of the wind farm in what the environmental statement describes as a "corrie" is helpful in reducing the impact on the landscape character. The siting of the turbine bases below the summit levels offers an important degree of protection in this respect. Indeed, I note that the Inverness District Landscape Character Assessment considers that multiple features should generally be ordered or concentrated and will appear most appropriate where they consistently relate to existing landscape features, for example, a sheltering landform. Whilst it is clear that, locally, the wind farm would dominate landscape character, I conclude that in the context of the wider area of rolling uplands and, to the east, open uplands, the development would not have an unacceptable adverse impact. I also conclude there would be no impact on any other landscape character area.

Visual impact



- 58. The council believes that visual impact on the surrounding area is the key concern in consideration of the proposal. This concern relates to residential properties and, particularly, transport routes including the A9 and the main railway line. The council argues that the wind farm would present an irregular layout in prominent views and, visually, it would not relate well to the local landscape. Nevertheless, the council recognises that the containment of the development would reduce the impact on housing in Moy and Tomatin. The retention of woodland at East Daviot, which has been offered as mitigation, would also limit views of the turbines.
- 59. Many of the third parties have objected to the visual impact of the turbines which they consider would be a dominant and unacceptable feature. As a consequence, it is claimed, numerous residential properties would suffer an adverse impact. Some argue that existing forestry should not be regarded as a permanent screen as, when mature, trees will be felled as a part of ongoing commercial enterprises. The appellant has explained that an option has been obtained to purchase woodland in the vicinity of Meallmore, East Daviot, in the event of planning permission being granted. It is stated that this would secure the retention and management of the woodland and ensure the screening properties are maintained and maximised.
- 60. The environmental statement indicates that the theoretical visibility (which does not take account of features such as forestry) would be substantially limited by the topography of the area. Within the A9 corridor, predicted visibility would generally be contained over a radius of 10 kilometres. Receptors are identified in the environmental statement as residential settlements, motorists and other road users, the Perth to Inverness railway and recreational and visitor destinations. There would be impacts during the construction period although these would be temporary whereas the effects during the operational stage would be prolonged.
- 61. The environmental statement has assessed the visual impact on residential properties within a 5 kilometre radius of the proposed development. These properties are for the most part in three groups northwards in the vicinity of Daviot East and Craggie, and to the west at Moy and at the Moy Estate. Eight properties would experience significant adverse effects.
- 62. Scottish Planning Policy refers to a separation distance of up to 2 kilometres between areas of search for wind farms and the edge of cities, towns and villages. Individual developments should take account of specific local circumstances and geography.
- 63. SNH considers that the visual impact assessment in the environmental statement provides a fair assessment. The selection of 25 viewpoints, which were agreed with the council, and the assessment of impacts are said to be appropriate and reasonably representative. Again I attach significant weight to the opinion of SNH and agree with this view.
- 64. I have noted criticism by third parties of the photomontages contained in the environmental statement. As a consequence, the appellant commissioned the preparation of additional photographic material. I have regarded the photomontages as an aid to the



interpretation of the impact of the proposal. However, I also recognise that photographic evidence may be limited in value. In this respect, my site inspection, including the comprehensive viewing of the development site and the surrounding area, was an essential exercise in gauging the visual impact of the proposal.

- 65. Insofar as residential properties are concerned, I note that only those on Moy Estate would be within 2 kilometres of the nearest turbine. A group of nine houses would be between 1.41 and 1.82 kilometres. Four of these properties have been assessed as suffering significant adverse impacts although topography and trees would reduce the effects. Very few turbine hubs would be visible along with blade tips of other turbines.
- 66. Two properties would be affected at Moy although one of these would have no views from within the house. There would be views over trees from the curtilage with up to 20 turbines visible. This property would be some 3 kilometres from the nearest turbine. The second house would be some 2.5 kilometres from the nearest turbine. Turbine blades would be visible but the view would be filtered in both the foreground and by more distant forestry.
- 67. The two properties at Daviot East which would experience significant adverse effects are 4.2 and 4.7 kilometres from the nearest turbine. In addition to distance, the environmental statement indicates that trees would further mitigate the impact.
- 68. I accept the contention that trees cannot be relied on to provide a permanent screen and acknowledge that commercial forests will be felled in due course. Nevertheless, even if clear felling were to be undertaken, I do not believe that the visual impact on residential property would be significantly greater than at present. In any event, I have noted that the option secured by the appellant to purchase woodland at Meallmore would enable screening to be provided on a long term basis. This would be to the benefit of the community at Daviot East and Craggie, especially in the Auchnahillin vicinity, to the northwest of these woods.
- 69. In terms of dwelling houses, although residents are receptors of high sensitivity, I conclude that the significant adverse impact on the identified properties would be reduced by distance, local topography and, at least in the short term, by screening. These mitigating considerations lead me to conclude that the impact would not be at such a level as to point to the refusal of proposed wind farm.
- 70. Although the council expresses concern about the visual impact on the A9, the appellants point out that the wind farm would be visible to any extent only from Daviot Brae, to the north of the proposed site, and west of Moy. The distance to the nearest turbine from Daviot Brae would be 6.75 kilometres and the view would be most apparent to those travelling south. The visualisation in the environmental statement (viewpoint 9) shows that about half the turbines would be visible although some would be set against a backcloth of higher ground beyond. The nearest turbine would be about 3.3 kilometres from the A9 to the west of Moy. At this point the visualisation (viewpoint 3) shows that all or part of the towers of four turbines would be visible with parts of the blades of several others. The view would be open to those travelling in either direction.



71. Those travelling in motor vehicles are said in the environmental statement to be receptors of medium sensitivity, a classification I accept because of the transitory nature of the views from a vehicle. It cannot be denied that the wind farm would be visible from the A9. Indeed, the environmental statement explains that distant views from up to 24 kilometres would be possible from the road north of the Kessock Bridge. However, I agree that the only significant impacts on the road would be from Daviot Brae and west of Moy. In these locations, the turbines would impinge on the views of rolling countryside and hills, characteristic of this section of road. Nevertheless, although the development would be seen from the A9, I conclude that, to some extent, the wind farm would be absorbed into the wider vista and its construction would not lead to an unacceptable level of visual impact.

13

- 72. I have noted the suggestion by the appellant that a bund (an artificial mound of earth) could be placed adjacent to the A9 at Daviot Brae which, especially when planted, would obscure views to the wind farm. The bund was the subject of a separate planning application to the council. This application was refused planning permission and is the subject of a separate appeal (reference PPA-270-2069). The council believes that should the wind farm be considered acceptable, the provision of the bund should not be required. Although the bund is not part of the proposal under appeal, I share the opinion of the council and believe a bund would appear as a contrived feature detracting from the open aspect of this section of road. Accordingly, I do not consider that the approval of the wind farm should be dependent on the provision of a planted mound at Daviot Brae.
- 73. Those travelling in motor vehicles along the B9154 would be able to view the wind farm from a distance of about 2.5 kilometres (viewpoint 2) with a significant proportion of the total number of structures being clearly visible. Should trees be felled on the ridge which intervenes in part of this view, the visual impact would be increased. There would be a similar but closer view for passengers on trains passing the site on the Inverness to Perth railway line. Train passengers are also regarded as receptors of medium sensitivity. There are open views over a distance of about 1.5 kilometres from both the road, which from observation carries very light levels of traffic, and the railway. I conclude that the impact on either the road or the railway is not such as to require the refusal of the proposed wind farm.
- 74. Although the council believes the wind farm would be seen from prominent viewpoints as an irregular layout, the containment of the development within what is described as a "hidden valley" is acknowledged as reducing visual impact. However, the council is of the opinion that the proposal would not relate well to the local landscape when seen from the viewpoints assessed in the environmental statement.
- 75. The appellant explains that the design of the wind farm takes account of a variety of considerations including the reduction of potentially detrimental environmental effects, technical viability, maximisation of energy production and public responses to consultation. It is suggested by the appellant that it would be impossible to construct a large commercial wind farm avoiding views of overlapping blades.
- 76. In plan form I consider the layout of the wind farm demonstrates a clear relationship with the local topography and makes good use of the feature described variously as a corrie or hidden valley. I agree with the appellant that this landform would lead to a significant



reduction in visual impact. Indeed, the council has recognised the level of containment that would be achieved. It is also clear that from certain viewpoints the appearance of the wind farm would not be ordered. Viewpoints 2 and 3 (which are from the west and south-west of the site) and viewpoint 9 (from the north) present views with an irregular pattern of turbines. I share the opinion of the appellant that such views are inevitable. Equally, I do not consider it essential to achieve an ordered appearance from all viewpoints. The irregular appearance of the turbines from various viewpoints is a consequence of a combination of site layout considerations but do not think that the wider visual impact is rendered significantly more adverse because of this.

- 77. Users of outdoor recreational facilities, including cyclists and walkers, are receptors of high sensitivity. I appreciate that National Cycle Route 7 passes along the B9154 at this point and accept that the proximity of the turbines would have a significant effect along about 1.5 kilometres of the road. However, I conclude that the impact would not be of such a scale as to be unacceptable. I agree with the appellant that the turbines would be but one of many varied features experienced over the length of the cycle route. Whilst some may find the structures intrusive, others may consider them to be a point of interest.
- 78. I also accept that those walking in the vicinity would experience the turbines as dominant visual features. As indicated in the environmental statement and previously discussed, the wind farm itself would create its own landscape character sub-type. The turbines would be apparent in many views of those walking locally although, on the other hand, it would remain possible to experience vistas in which the wind farm would not be seen. I am therefore not persuaded that the visual impact of the wind farm in recreational terms is unacceptable.
- 79. Some of those making representations have expressed concerns about the impact of the development on tourism. For the most part, this concern derives from the feared adverse visual impact of the wind farm. The council regards this section of the A9 as a tourist corridor between Inverness and the Cairngorms National Park.
- 80. The environmental statement recognises the scale and value of tourism in Scotland in general and in the Highlands in particular. There is recognition that the construction period could have potential impacts in respect of a range of matters including temporary diversions of footpaths and abnormal loads required for the delivery of turbine components. Overall, the impact of the proposal on tourism is assessed as being of minor significance. A number of mitigation measures are proposed, mainly during the construction period.
- 81. I note the proposed mitigation measures for tourism. I consider these to be worthwhile but unlikely to have any wider or lasting benefit in terms of reducing visual impact. However, as a consequence of my conclusions on the visual impact of the development on the A9 and the railway line, I further conclude that the wind farm, when operational, would be unlikely to have any significant detrimental impact on tourism.

Cumulative landscape character impact



- 82. The appendix to the environmental statement undertakes a cumulative assessment of landscape effects. The existing Farr wind farm, some 8 kilometres to the west, is regarded as the most relevant to the Moy site. Both Farr and Moy would be located within the rolling uplands landscape character type. Although both wind farms, if operational, would create local wind farm landscape character sub-types in the immediate vicinity of each site, there would be no coalescence of these sub-types and, as a consequence, it is claimed, there would be no significant cumulative landscape effects.
- 83. Other proposed schemes would similarly create localised wind farm landscape character sub-types. For the most part, the assessment believes, these would remain separate, although the Farr and Daviot sub-types may coalesce and the sub-types for Glen Kirk and Tom nan Clach would also merge. Should Daviot and Moy both proceed they would be only 2.3 kilometres apart and this would lead to coalescence of sub-types in the vicinity of the B9154 which would pass between the two developments.
- 84. The environmental statement believes there would be no cumulative landscape character impact on any landscape designations within the wider study area.
- 85. SNH considers cumulative impact assessment is important because of the level of development activity within the area. However, SNH accepts that the environmental statement is reasonable in its assessment of the cumulative local landscape impacts. In particular, as (at that time) no application had been made for the Daviot proposal, SNH believes there would not be significant cumulative landscape impacts in the immediate locality as a result of the Moy proposal. However, SNH considers that the Moy proposal would make a contribution, albeit relatively minor, to the cumulative impacts on the rolling uplands and open uplands landscape character types.
- 86. The number of schemes in the planning system leads SNH to think that the overall character of upland landscapes in the Inverness and Great Glen vicinity could alter. The significance of such a cumulative impact could well be greatest where the intrinsic character of the landscape is strongest, for example, in the Monadhliath range or where many people experience the landscape, for example, along the A9 and Perth to Inverness railway. The Moy proposal could be of significance as part of such a cumulative impact.
- 87. I accept the conclusions of the environmental statement and the opinion of SNH in respect of the assessment of landscape character impacts within both the local area and in terms of the rolling uplands and open uplands. I note that the proposed development at Tom nan Clach would be some 8 kilometres to the south-east of Moy and, whilst the landscape character sub-types created by the two wind farms would closely approach one another, a degree of separation would remain. I recognise that the Daviot proposal would lead to a clear potential for cumulative impact. However, this will be an important consideration at the time that scheme is formally considered. I do not think that the current proposal should be precluded because of this possibility. Indeed, as explained in Scottish Planning Policy, decisions should not be unreasonably delayed because other schemes in the area are at a less advanced stage in the application process.



- 88. I recognise the concern about the overall character of the upland landscape between Inverness and the Great Glen and, indeed, the Cairngorms National Park should the various schemes in the system be brought forward. However, again I do not consider that the Moy project should be assessed in this possible future context. As things stand, I do not think the Moy proposal would take the wider cumulative impact across the threshold of unacceptability. In any event, although SNH considers that Moy proposal would contribute to this effect, there is no suggestion by the organisation that the development should be refused planning permission.
- 89. All in all, I conclude that the Moy wind farm, if constructed, would not have a significantly adverse cumulative impact on landscape character.

Cumulative visual impact

- 90. The environmental statement indicates that the proposal would have no significant cumulative effect on residents when assessed against the baseline of existing visual amenity. I note that currently the only other wind farm in the proximity is Farr. Although the Farr development is large, its visual impact is limited from both the A9 and the communities in the vicinity of the proposed Moy development. For the most part, visibility is restricted to partial views of turbines beyond a crest of higher ground. I therefore agree with the assessment in terms of the current baseline.
- 91. It is accepted in the environmental statement that a wind farm development at Daviot would create the potential for significant cumulative visual effects although, in terms of residential property, it is suggested that this would be limited to relatively few dwellings. Insofar as road users are concerned, the environmental statement recognises that the construction of a wind farm at Daviot could lead to significant cumulative impacts from the A9.
- 92. There would be distant views of several potential wind farms but the environmental statement concludes that significant visual effects would be localised in extent and relatively limited.
- 93. SNH agrees that there is the potential for a number of significant, although localised, cumulative visual impacts, for instance along the B9154 or within Moy. These impacts, says SNH, would result from the intervisibility of the proposed Moy, Daviot and Glenkirk wind farms. Views in the vicinities of viewpoint 3 and viewpoint 9 would be especially liable to experience cumulative visual impacts. Although local, these impacts would affect the A9 corridor, the effect would therefore be significant.
- 94. SNH also comments on the potential for cumulative impacts on views to the south from rising ground to the south of Inverness. This is demonstrated by the wireframes prepared for viewpoints 14, 15 and 16 showing that wind farms might be visible over much of that skyline. However, SNH accepts that whilst the Moy scheme would increase the combined magnitude of turbine presence within the view, this would not lead to significant cumulative visual effects.



- 95. As previously, I attach significant weight to the comments of SNH. In particular, I accept that the development of wind farms at Daviot, especially, and Glenkirk (and also Tom nan Clach) could lead to significant, albeit localised cumulative visual impacts. I also agree that these impacts would be particularly significant within the A9 corridor. Nevertheless, the proposed wind farm at Daviot remains to be formally considered by the council and no doubt the potential for cumulative impact will be an important aspect of any future deliberations in respect of that proposal. In the meantime, I do not believe that this potential cumulative impact justifies the refusal of the Moy proposal.
- 96. I have also noted the comments of SNH in respect of longer views to the south from the vicinity of Inverness. It is clear that there is the potential for several wind farms to be visible on the horizon although these would be seen at a considerable distance. I therefore concur with SNH that the cumulative visual effects would not be significantly increased by the proposal for a wind farm at Moy.

Development plan context

- 97. The council explains that the development plan supports renewable energy development. Providing the impacts of the proposal would not be seriously adverse or significantly detrimental, particularly in relation to issues in the locality of the site, the council states that the wind farm would comply with the development plan.
- 98. I have assessed the proposal in the context of a range of development plan policies. Insofar as Highland Structure Plan 2001 is concerned, I note the council considers that the development conflicts with policies E2 and G2 on account of the significant visual impact on travellers on the principal routes, identified as being the A9, the B9154 and the Perth to Inverness railway line. Although I have accepted that the proposed wind farm would have a visual impact on both the A9 and the railway line, I do not believe that the impact is detrimental to the extent that refusal is justified under the terms of these policies. I do not think the B9154 should be regarded as a principal route although, in any event, the potential visual impact, whilst significant, is again not such as to merit refusal.
- 99. The council has listed those policies in the Inverness Local Plan considered to be relevant but none has been identified as a reason for refusing planning permission. Having considered the local plan policies I have concluded that none warrants withholding approval for the proposed wind farm.
- 100. I therefore conclude that in respect of the provisions of the development plan, planning permission for the development should be granted.

Other material considerations

101. Scottish Planning Policy explains that the commitment to increase the amount of energy from renewable sources is a vital part of the response to climate change. Planning authorities should support the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed.







- 102. In my opinion, the Scottish Government commitment to increasing renewable energy generation offers considerable support in principle to the proposal. On this basis I am obliged to discount those objections by third parties who challenge the concept of wind farm power generation. The support of the principle of wind power contained in Scottish Planning Policy is strengthened in this case insofar as I have concluded that the technology could operate efficiently and that environmental and cumulative impacts can be satisfactorily addressed.
- 103. The council draws attention to the Highland-wide Local Development Plan, which is progressing towards replacing the current development plan, and, in particular, Policy 68, Renewable Energy Development. Policy 68 supports renewable energy projects which would not be significantly detrimental when assessed against a range of considerations. In this case, Policy 68 is said to support structure plan policies E2 and G2 as reasons for refusing planning permission by virtue visual impact on principal routes. As previously indicated, I have concluded that the impact is not of a scale to justify withholding permission.
- 104. Highland Renewable Energy Strategy was adopted by the council in 2006 but is currently being reviewed. The council indicates that the status of the document is limited and therefore I have not attached significant weight to its terms.
- 105. The council explains that supplementary guidance has been prepared, fulfilling the requirement of Scottish Planning Policy to set out a spatial strategy to assist with the development of large scale onshore wind farms. The draft document was published in April 2011 and, states the council, was particularly informed by landscape matters and issues of visual impact, particularly cumulative. On this basis, the application site lies within a "Type 1" area designated for "significant protection from large scale on-shore wind farm development". The purpose of defining the area in which the site is located is to protect the setting of the Cairngorms National Park and, of particular relevance in this case, to protect the A9 tourist route corridor and the setting of Inverness as viewed from the north and the approach from the south.
- 106. The Supplementary Guidance states that wind energy development will be permitted in protected areas only if it meets the requirements of Scottish Planning Policy, complies with policies 58, Natural, Built and Cultural Heritage, and 68, Renewable Energy, of the Highland-wide Local Development Plan, and would not give rise to overwhelming adverse cumulative impact. The council considers that as the guidance remains in draft, the weight to be attached to the document is limited. Nevertheless, says the council, the guidance reflects current thinking and should not be set aside lightly.
- 107. The appellant emphasises the draft nature of the supplementary guidance. It appears the council has recently considered the outcome of a consultation exercise and this has led to a decision to re-draft the document and undergo further consultation. Accordingly, the appellant argues, very limited weight should be attached to the guidance.



- 108. Under the circumstances, it does appear to me that the supplementary guidance cannot be regarded as representing the final position of the council. At this time, the ultimate form of the guidance cannot be anticipated. The weight attached to the document must therefore be limited but, nevertheless, I recognise the council's underlying desire to protect those areas where wind farm development would have a harmful impact, particularly cumulatively.
- 109. In terms of my assessment of the proposal, I do not consider that the development at Moy would seriously threaten the underlying thrust of the Supplementary Guidance as currently drafted. I have previously concluded that the impact on the A9 would not be of a scale to warrant refusal of the proposal. Equally, I do not think that the construction of the wind farm would significantly impact on the approach to Inverness from the south. Although several wind farms would be visible in views across Inverness from the north, I conclude that the cumulative impact would not be significant and would not detract from the setting of the city.

*

110. My assessment of material considerations does not lead me to conclude other than that planning permission for the development should be granted.

Overall conclusion

- 111. Overall, my assessment of the proposal has led me to conclude that the appeal should be allowed.
- 112. In reaching this conclusion I have noted third party representations on other matters including property values and health. These are not matters normally falling within the regulatory control of the planning system.
- 113. In granting planning permission, I consider it would be appropriate to impose a number of conditions. These conditions are listed in appendix 2 and are derived from those suggested by the council and by a number of parties who were consulted on the proposal.

Richard Dent Reporter



APPENDIX 1 – DRAWINGS

PA 1	Site Location Plan			
PA 2	Location Plan			
PA 3	Site Layout Plan			
PA 4	Indicative Turbine Elevations & Detail			
PA 5	Indicative Foundation Design			
PA 6	Indicative Crane Hardstanding Area			
PA 7	Indicative Design of Permanent Meteorological Mast			
PA 8	Indicative Control Building/Substation - Elevations & Layou			
PA 9	Indicative Layout of Construction Compound			
PA 10	Indicative Access Track Details			
PA 11	Indicative Cable Trench Details			
PA 12	Proposed Site Access – Location 9			
PA 13	Abnormal Load Access Route and Identified Pinch Points			
PA 14a	Concept Design – Moy Burn Access Road Bridge			
PA 14b	Watercourse Crossings: Selection Location Plan			
PA 14c	Watercourse Crossings Sections WX1 – WX5			
PA 15a	Borrow Area – Section Locations			
PA 15b	Borrow Area A – Sections			
PA 15c	Borrow Area B – Sections			
PA 15b	Borrow Area C – Sections			
Revised Figure 1.3 (Environmental Statement) - Indicative Site Layout				

APPENDIX 2 - CONDITIONS

1. The development shall be undertaken in accordance with the submitted plans and the environmental statement, except as amended by the terms of this permission or as subsequently agreed in writing by the planning authority.

Reason: to ensure the development is carried out in accordance with the application documentation.

2. This permission shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ("first export date"). Written confirmation of the first export date shall be provided to the planning authority within 1 month of that date.

Reason: to accord with the anticipated operational lifespan of the wind turbines.

3. Not later than 12 months before the end of the permission period, a decommissioning and site restoration scheme shall be submitted for the written approval of the planning authority, such scheme to include the removal of above-ground elements of the development, management and timing of any works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The scheme shall be completed as approved no more than 6 months after the end of the permission period.

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

4. If, after energisation and project completion, any wind turbine fails to supply electricity to the grid for a continuous period of 6 months then, unless otherwise agreed in writing by the planning authority, a scheme for the removal of that wind turbine and any surface ancillary works solely relating to that wind turbine shall be submitted in writing for the approval of the planning authority. The scheme shall then be implemented within 6 months of approval by the planning authority.

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

5. No wind turbine or meteorological mast shall be erected or installed on site until details of the structures have been submitted to and approved in writing by the planning authority.



The design details should relate closely to those shown indicatively in drawings PA 4 and PA 7 and, in particular, should be no taller than the heights shown. The turbines should operate with internal transformers. No name, sign or other logo shall be displayed on any external surfaces of the wind turbines save as required by law. The development shall be implemented in accordance with the approved details.

Reason: for the avoidance of doubt and in the interests of visual amenity.

6. The external colour of each turbine shall be a non-reflective semi-matt light grey (RAL colour 7035) unless otherwise agreed in writing by the planning authority.

Reason: in the interests of visual amenity.

7. Turbines and tracks may be micro-sited (re-positioned) within 50 metres of the positions shown on the revised Indicative Site Layout under reference revised Figure 1.3. Such micro-siting of the turbines and new access tracks must ensure a minimum 50 metre separation distance between any site infrastructure and any watercourse.

Reason: to allow a degree of flexibility in providing an efficient site layout in the light of localised ground conditions whilst protecting the integrity of the water environment.

- 8. Notwithstanding the provisions of condition 7, the following specific site layout requirements apply:
 - turbines 16, 18 and 20 together with intervening sections of track shall be no nearer to the boundary of the Carn nan Tri-Tighearnan Special Area of Conservation and Site of Special Scientific Interest than shown on Site Layout Plan, reference PA 3. Any micro-siting of these turbines must be down-slope;
 - taking into account the above requirement in respect of turbine 20, the position of turbines 15, 19 and 20 shall be adjusted to avoid areas where there is a high risk of peat slide;
 - turbines 6, 8, 10 and 13 shall be assessed against their impact on the wet heath habitat and, subject to the written approval of the planning authority, shall be repositioned to mitigate any adverse impact;
 - the track from turbine 20 to turbine 19 shall be deleted and replaced by a new track linking turbine 17 with turbine 19 as shown on revised Figure 1.3.
 - should a "floating road" be required between turbines 3 and 6, details shall be submitted for the written approval of the planning authority.

Reason: to take account of the proximity of Carn nan Tri-Tighearnan Special Area of Conservation and Site of Special Scientific Interest and to protect habitats within the site.

9. No consent is given for borrow pit A as shown on Site Layout Plan PA 3.

Reason: this borrow pit is no longer necessary to provide the material required for the development of the site.

10. Prior to the commencement of development, a construction traffic management plan shall be submitted to and agreed in writing by the planning authority in consultation with Transport Scotland and The Highland Council TEC Services. The construction traffic management plan shall include proposals for construction vehicle routing, the location and design of accesses from the public highway onto the site, management of traffic, including cyclists, at junctions with and crossings of the public highway and other public rights of way, the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal or replacement of highway infrastructure and street furniture, off-site road works and "banksman" details. The construction traffic management plan shall be implemented as approved in writing by the planning authority. For the avoidance of any doubt the plan shall include a procedure for advising the public, including road users on the B9154 and those living along the access route, of the expected abnormal loads associated with the delivery of turbine parts. The community liaison group established in terms of condition 11 shall be included in this procedure. Construction traffic shall not be permitted to use the section of B9154 north of the site entrance and the method whereby this requirement shall be achieved shall be clearly specified.

Reason: to protect road safety and the amenity of other users of the public highway and rights of way.

11. Prior to the commencement of development, a community liaison group will be established by the developer, in collaboration with The Highland Council and local community councils, to allow continuing dialogue on the provision of all road mitigation measures and to keep under review the timing of the delivery of turbine components.

Reason: to assist with the provision of mitigation measures, including possible local road improvements, and to minimise the potential hazard to road users, including pedestrians and school pupils travelling to and from school.

12. Prior to the commencement of development, a proposal, including provision of a suitable financial bond, dealing with liability for remedial work required as a result of any damage to the local road network directly attributable to the wind farm construction and providing for pre- and post-construction surveys of the local road network shall be submitted to and agreed in writing by the planning authority.

Reason: to ensure that the liability for any required remedial measures is agreed in advance and that funding is available.

- 13. Prior to the commencement of development, a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. Construction methods on site shall be in accordance with the approved CEMP, unless otherwise agreed in writing by the planning authority. The CEMP should include information on the following matters: -
 - environmental policy statement of responsibility for all environmental features, safeguards and mitigation. For the avoidance of doubt this should include MealImore



Wood, proof of purchase of which shall be provided, and a management plan prepared to ensure the provision of a long term visual screen;

- appointment and scope of work of an ecological clerk of works including responsibility for monitoring compliance with the provisions of the approved CEMP, and bringing breaches of the approved CEMP to notice of the planning authority; (also see condition 22)
- details of construction works, the construction methods and surface treatment of all hard surfaces and tracks;
- details of temporary site compounds for storage of materials and machinery (including areas designated for car parking);
- details of the timing of works and methods of working for cable trenches and foundation works;
- details of the timing of works and construction of the substation and control building and anemometry mast;
- details of all water crossings (which shall require bridges in all cases);
- pollution control arrangements, including protection of water courses and ground water and soils, bunding of fuel storage areas, and sewage disposal;
- details of any measures proposed, including compensatory flood storage provisions, as a consequence of flood risk assessment;
- details of borrow pit working methodology including any requirement for blasting operations, noise controls and intermediate or permanent restoration; confirmation shall be provided of the maximum volume of material required which, in any event, shall not exceed 267,000 cubic metres;
- peat stability mitigation requirements, including provisions for securing the prevention of machinery crossing peatland areas (see also condition 21), as set out in the required final design peat risk re-assessment;
- dust management;
- cleaning arrangements for site entrances, site tracks and the adjacent public highway; the sheeting of all heavy goods vehicles taking spoil or construction materials to or from the site to prevent spillage or deposit of any materials on the highway;
- waste management including disposal arrangements of surplus materials, including peat:
- post-construction restoration or reinstatement of the temporary working areas and borrow pits;
- construction noise management plan which shall include identification of access routes, locations of materials delivery and storage areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise in the event of complaints.

Reason: to ensure that the development is undertaken in a manner which respects and protects road safety, the water environment, amenity and the natural environment.

14. Prior to the commencement of development, evidence of a bond or other financial provision to cover all decommissioning and site restoration costs has been submitted to and agreed by the planning authority. Such agreed bond, or other such provision, shall be

maintained throughout the duration of the development but will be subject to five yearly reviews.

Reason: to safeguard provisions for the proper restoration of the site.

- 15. The permitted hours for construction work and any traffic movements to or from the site associated with the construction of the development shall be:
 - April September weekdays: 07.00 19.00 hrs; Saturdays: 07.00 14.00 hrs.
 - October March weekdays: 07.30 17.00 hrs; Saturdays: 07.30 14.00 hrs.
 - there shall be no Sunday working without the prior written approval of the planning authority;
 - there shall be no working on 25th or 26th December, 1st or 2nd January or during the Saturday and Sunday of the Easter weekend.

Reason: to protect residential amenity.

16. Notwithstanding the provisions of condition 15, delivery of turbine and crane components may exceptionally take place outside the permitted working hours subject to not less than 72 hours prior notice of such traffic movements being given to the planning authority and such deliveries first being approved in writing by the planning authority.

Reason: to allow a degree of flexibility in the delivery of components whilst protecting road safety, the amenity of users of the public highway, and the amenity of local residents.

17. Prior to the commencement of development, the final design details of the substation building and any associated compound or parking area shall be submitted to and approved in writing by the planning authority.

Reason: in the interests of visual amenity.

18. Prior to the commencement of development, a scheme detailing the proposals for the sustainable drainage of surface water in relation to access tracks and the site compound shall be submitted for the written approval of the planning authority, in consultation with the Scottish Environment Protection Agency. All work shall then be carried out in accordance with the approved scheme. The scheme shall be prepared in accordance with the technical guidance contained in The Sustainable Drainage Schemes Manual (C697).

Reason: to ensure the provision of a drainage system which protects the local environment.

19. Prior to the commencement of development, a programme of archaeological work for the recording and possible preservation of any archaeological features affected by the proposed development, including a timetable for investigation, shall be submitted for the approval in writing of the planning authority. Procedure for the recording and possible preservation of undiscovered archaeology revealed during construction must also be submitted for the approval in writing of the planning authority. All arrangements thereby

approved shall be implemented by the developer at his expense in accordance with the approved timetable for investigation.

Reason: to record and possibly preserve the archaeological and historical interest of the site.

20. Prior to the commencement of development, an access management plan, including a map of paths and tracks showing any permanent or temporary diversions, shall be submitted to and agreed in writing with the planning authority. The plan shall detail proposals for maintaining and managing public access across Moy Estate during construction and the operation of the development.

Reason: to manage and maintain public access rights.

- 21. Prior to the commencement of development, a nature conservation management plan addressing a range of measures that are relevant to the development within Moy Estate and the surrounding area shall be submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage, in support of: -
 - red kite, including provision for long term funding for surveillance and monitoring;
 - otter, including procedure should the presence of an animal be suspected;
 - wildcat, including pre-construction survey and procedure should a den be confirmed;
 - water vole; including provision of 10 metre separation distance between working areas and the nearest burrow;
 - lampreys and eels; including measures to protect watercourse channels and beds;
 - valued habitats and peat enhancement; including an assessment of the treatment of deep peat areas, the re-use or disposal of excavated peat and the control of machinery on peatland surfaces.

This scheme shall be implemented as approved throughout the operational life of the wind farm, and shall include an procedure for monitoring and reporting activity and responding to advice on the need to adjust the agreed measures in order to improve effectiveness.

Reason: to protect and enhance local nature conservation interests in the longer term.

22. Prior to the commencement of development, all survey work and necessary mitigation must be undertaken in respect of the interests of protected species within and adjacent to the application site as agreed in writing with the planning authority, in consultation with Scottish Natural Heritage. It is expected that the ecological clerk of works (see condition 13) shall oversee the construction phase of the development and he/she shall be vested with the authority to direct such action as is required to safeguard protected species and their habitats.

Reason: to protect the interests of European and other protected species.

23. The wind farm operator shall record wind speed and wind direction data on a continuous basis and retain the data for a period of no less than the previous 12 months. This data shall include the average wind speed in metres per second for each 10 minute period. If practicable, wind speed should be recorded at a level of 10 metres above ground level. Should the wind speed be measured at a different height, the data shall be adjusted to 10 metre height, allowing for wind shear. In any event, the recording location shall be agreed in writing by the planning authority.

At wind speeds not exceeding 12 metres per second the wind turbine noise level at any dwelling or other noise sensitive premises shall not exceed:

- (a) during Night Hours, 38dB LA90,10min, or the Night Hours LA90,10min Background Noise Level plus 5 dB(A), which ever is greater.
- (b) during Quiet Waking Hours, 35 dB LA90,10min or the Quiet Waking Hours LA90,10min Background Noise Level plus 5 dB(A), which ever is greater.

Should these noise levels be exceeded, the operator shall take steps forthwith, to ensure that noise emissions from the wind farm are reduced to a maximum of the aforementioned noise levels. This condition shall only apply to dwellings and other noise sensitive premises existing at the date of this permission.

- "Wind turbine noise level" means the rated noise level due to the combined effect of all the turbines, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R -97, pages 99 – 109.
- "Background Noise Level" means the ambient noise level already present within the environment (in the absence of noise generated by the development) as measured and correlated with wind speeds.
- "Wind speeds" means wind speeds measured or calculated at a height of 10 metres above ground level on the site at a specified Ordnance grid reference agreed with the planning authority.
- "Night Hours" means 23:00 07:00 hours on all days.
- "Quiet Waking Hours" means 18:00 23:00 hours on all days and, additionally, 07:00 – 18:00 hours on Sundays and 13:00 – 18:00 hours on Saturdays.
- "noise sensitive premises" means premises, the occupants of which could be exposed to noise from the wind farm and include hospitals, residential homes and nursing homes.

Reason: in the interests of the amenity and to ensure the planning authority has access to information to assist with assessment of noise emissions.

24. Prior to the commencement of development, written documentation from competent person (as defined in the guidance contained in Private Water Supplies, 2007, published by The Highland Council) must be submitted to the planning authority demonstrating that the proposed private water supply to be used in the construction phase:

- is, under foreseeable conditions, capable of providing a viable, perennial water supply of adequate volume;
- meets, or is capable of being treated to meet, the water quality requirements of the Private Water Supplies (Scotland) Regulations 2006; should treatment be required details shall be provided;
- has been subject to a risk assessment; details of measures to be taken to minimise the risk of contamination, for example, source protection, distribution system, holding tanks, shall be submitted;
- does not adversely affect the integrity, adequacy or quality of any other private water supply.

Reason: to ensure the appropriate management of the private water supply for the site and the protection of other private water supplies in the vicinity.

25. No wind turbine shall be erected until a scheme to secure the investigation and alleviation of any electro-magnetic interference to TV reception at residential properties lawfully existing at the date of this permission caused by the operation of the turbines has been submitted to and approved in writing by the planning authority. The scheme shall be implemented as approved.

Reason: to protect the amenity of local residents.

26. Two months prior to the commencement of development the applicant will provide both the Ministry of Defence and the Defence Geographic Centre with a statement, copied to the planning authority and Highland and Islands Airport Authority Ltd, containing the following information:

- the date of commencement of construction;
- the precise position of each of the turbine towers in latitude and longitude taking into account any micro-siting or other adjustments that may have been agreed;
- a description of all structures over 91.44 metres (300 feet) high;
- the maximum extension height of any construction equipment;
- the height above ground level of the tallest structure.

Thereafter, any scheme for air navigation safety lighting required by the relevant aviation authorities must be implemented in the stipulated manner; details of the scheme shall be provided to the planning authority.

Reason: to ensure the appropriate aviation authorities are aware of the final details of the development and are provided with the opportunity to specify any air navigation safety lighting that may be required.

Advisory notes

1. **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that

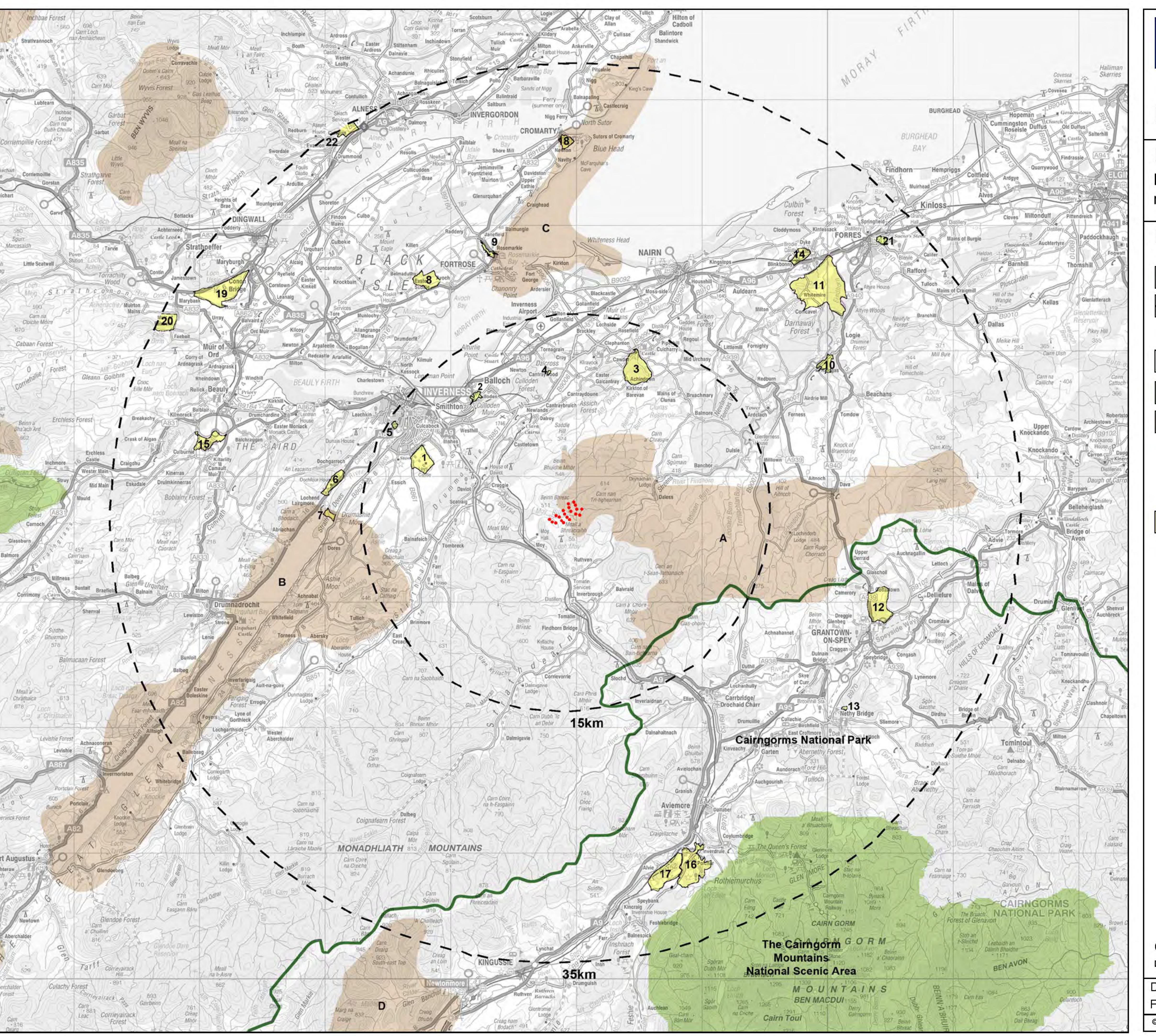


period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

- 2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.)
- 5. A road openings permit and road construction consent will be required from the roads department of the council (TEC Services) prior to the commencement of this development. Early contact is advised.
- 6. Contact should be made with Trunk Road Network Management Division Bridges Branch (Tel No 0131 244 4363) in respect of the feasibility of abnormal load movements regarding the delivery of turbine components.
- 7. Maintenance issues, requiring heavy goods vehicles or abnormal traffic movements to the site, may be necessary throughout the lifetime of the development and during decommissioning. Such issues require prior discussion with the TEC Services department of The Highland Council.
- 8. The Scottish Environment Protection Agency has advised that authorisation under the Water Environment (Controlled Activities)(Scotland) Regulations (CAR) will be required for some activities proposed. Early contact is advised.
- 9. Where it is proposed to carry out works which affect European protected species including shelter and breeding locations, whether or not birds are present at the time, a prior licence must be obtained from the Scottish Government Environment and Rural Affairs Department.
- 10. The Planning and Development service, Historic Environment Team, of The Highland Council is able to provide details of the work required to fulfil the requirements of condition 19.



11. The Planning and Development service of The Highland Council is able to provide a leaflet providing details of procedure in respect of private water supplies under condition 24.





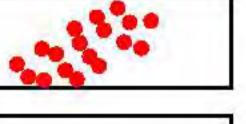


MOY WIND FARM

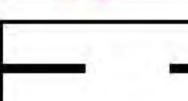
FIGURE 5.1a

Landscape Planning Designations: 35km radius

KEY

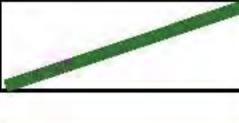


Moy turbine locations



Radius from the outermost turbines

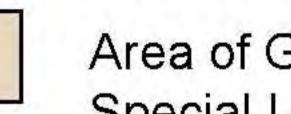




Cairngorms National Park



The Cairngorm Mountains National Scenic Area



Area of Great Landscape Value/Proposed Special Landscape Area:

Drynachan, Lochindorb and Dava Moors Loch Ness and Duntelchaig Cromarty Sutors, Rosemarkie and Fort

Enercon George Ben Wyvis

Registered Parks and Gardens:

Within 15km

Leys Castle Culloden House

Cadwor Castle **Dalcross Castle** Tomnahurich

Cemetery

Within 35km

Dochfour Aldourie Castle

Rosehaugh

The Fairy Glen Relugas

Darnaway Castle Castle Grant

Aultmore **Brodie Castle**

Beaufort Castle Doune of

Rothemurchus Kinrara and

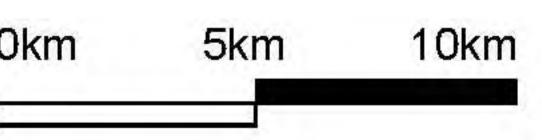
Inshriach Nursery

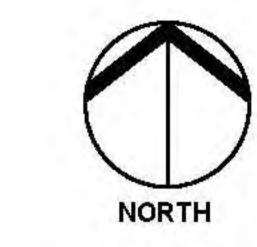
18 Cromarty House Brahan

Fairburn


Grant Park and Cluny Hill

Novar





Rev Scale Paper February 2011 RH 1:300 000 © Crown copyright, All rights reserved. 2011 Licence number 10001998





VIEWPOINT 3 PHOTOMONTAGE VIEW EAST FROM A9 LAYBY WEST OF MOY

Distance to nearest turbine: 3392m Camera: Canon EOS 5D

Focal length: 75mm Camera height: 1.5m Date:17/02/2011 Time:13:39

Excellent visibility, clear skies with occasional cloud