T: 01324 696400 F: 01324 696444
E: dpea@scotland.gsi.gov.uk

The Scottish Government

Ms Karen Hamilton
Brodies LLP
2 Blythswood Square
Glasgow
G2 4AD

Your ref: KLH/AIR 20.2
Our ref: PPA/270/452
13 December 2007

Dear Madam

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4
PLANNING APPEAL BY AIRTRICITY DEVELOPMENTS (UK) LTD: WIND FARM AT BEINN ROSAIL, INVERCASSLEY, STRATH OYKEL

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of planning permission by the Highland Council (THC) for a wind farm comprising 23 wind turbines, associated infrastructure, including access tracks, an alteration to an existing access to the A837, a sub-station, connecting cabling, a permanent wind monitoring mast, two temporary power performance masts, a temporary construction compound, and borrow pits at the above location. I conducted a conjoined public local inquiry regarding the appeal, and an appeal by SSE Generation Ltd (SSE) against the refusal of planning permission by the Council for a wind farm at Achany Estate, about 5 km east of your client's site, within Lairg Community Hall between 23 July and 14 August 2007. I made unaccompanied inspections of the appeal sites and their surroundings prior to, and in the course of, the inquiry and accompanied and further unaccompanied inspections on 13 and 15 August. For the reasons explained at paragraphs 116-168 of this letter, I have decided to dismiss your client's appeal.

2. A copy of a letter stating that I intend to allow the Achany appeal, also issued today, is enclosed.

The appeal site

3. The appeal site comprises 1,600 ha of moorland extending south-eastwards along a broad ridge south-east of Beinn an Eoin (544 m Above Ordnance Datum, AOD) across Beinn Rosail (420 m AOD) and Beinn an Rosail Beag (260 m AOD) about 15 km west of Lairg. Strath Oykel lies to the south-west of the site, beyond the smaller valley of the Tutim Burn. To the north-east is Glen Cassley where the River Cassley flows south-east to join the River Oykel. Watercourses in the north-eastern part of the site drain to the River Cassley. Those in the south-western part drain to the Tutim Burn, which is also a tributary of the Oykel. Houses in Glen Cassley, including Glen Rossal House, Glencassley Castle, Glencassley Lodge and March Cottage, are over 2 km from the nearest turbine. The nearest village is Rosehall, about 3 km south of the nearest turbine, where houses, local facilities and buildings on Invercassley Estate extend around the junction of Strath Oykel and Glen Cassley. The site is not covered by a statutory nature conservation designation,

but the Caithness and Sutherland Peatlands Special Protection Area (CSPSPA), Special Area of Conservation (CSPSAC) and Ramsar Site and the Grudie Peatlands Site of Special Scientific Interest (SSSI), north-east of Glen Cassley, are about 3.5 km of the site boundary. The River Oykel SAC, at its nearest point, is about 500 m to the south while the Kyle of Sutherland Marshes SSSI is about 2.5 km to the south-east. North-east of Lairg are the Lairg and Strath Brora Lochs SPA and SSSI. The Assynt-Coigach National Scenic Area (NSA) is about 7 km north-west of the site, 10 km from the nearest turbine. The Kyle of Sutherland NSA is about 20 km south-east of the nearest turbine.

The appeal proposal

4. Your client's application, which was submitted on 28 October 2005, was originally for 25 turbines. It was amended in August 2006 when turbines 13 and 14, at the north-western end of the site, were deleted. The remaining 23 turbines would be erected on concrete foundations, each with a 20 m by 40 m crane hardstanding adjacent, and arranged in two lines about 50 m apart. They would have a maximum tower height of 65 m, a maximum height of 100 m to rotor tip, and an individual generating capacity of up to 2 megawatts (MW), giving the wind farm a total capacity of up to 46 (MW). The Environmental Statement (ES) submitted with the application states that a 2 m by 2 m by 2 m transformer would be located near the base of each turbine. A 65 m high lattice design anemometer mast and the sub-station, comprising a control building, car parking and electrical equipment set in a 50 m by 50 m fenced compound, would be located west and south respectively of Beinn an Rosail Beag. The construction compound would be sited at the north-western end of an existing 1.5 km long hardcore track that leads uphill from the A837 past agricultural buildings at Invercassley. The track, and its junction with the A837, would be upgraded for use by large vehicles. Thereafter, about 10 km of new hardcore tracks would be constructed between the turbine sites. Seven borrow pits, 4 in the south-eastern part of the site and 3 in the north-western part, are proposed to provide stone for the project. Connection to an existing SSE sub-station at Invershin 13 km to the south-east would be via underground cabling within the site and thereafter by means of an overhead line on wooden poles along the A837.

5. The ES predicts that the construction of the wind farm would generate 5,922 vehicle movements, 3,600 of which would be light vehicles carrying employees, over a 9 month construction period. Over 1,500 of the 2,322 Heavy Goods Vehicle (HGV) movements would comprise ready-mix concrete trucks transporting concrete from Alness and Ullapool. It is proposed that turbine components would be delivered by sea to Invergordon Harbour. In common with other abnormal and normal load construction vehicles, except those carrying the 50% of concrete that is proposed to be sourced from Ullapool, these would use the A9 to The Mound, the A839 and A836 through Lairg, rejoin the A839 at the Black Bridge and then join the A837 east of Invercassley. The Ullapool concrete trucks would approach from the west via the A835 and then the A837 through Strath Oykel.

The Council's decision on the application

6. The Council's Planning, Development, Europe and Tourism (PDET) Committee, which considered the application on 29 September 2006, resolved to grant planning permission, contrary to the recommendation by the Director of Planning and Development that permission should be refused. The Achany application, and an application by E.ON UK for 19 wind turbines at Rosehall Hill, were considered at the same meeting. The Committee accepted the recommendations that Achany should be refused and that Rosehall Hill should be granted permission, subject to conditions and to a legal agreement. However, following a

Notice of Amendment by some members of the Committee, this decision was reversed at a meeting of the full Council in December 2006. The refusal reasons listed in the decision notice issued on 13 December were that the proposal was contrary to:

- the Council's Renewable Energy Strategy and Planning Guidelines (HRES) in that the proposal is within an area classed as having a "presumption against development" for national and major scale onshore wind farm projects and where Policy E.7 would apply. The applicant has failed to satisfy the precautionary approach to development in National Planning Policy Guideline (NPPG) 14 and Policy E.7.
- Policy G6 of the Highland Structure Plan (HSP) and NPPG 14 in that the proposal represents development in or adjacent to an NSA which detracts from the quality, character, integrity and setting of the landscape, and the scale, siting and design of the proposal are inappropriate to the NSA.
- Policy E2 of the Highland Structure Plan (HSP) in that its visual and landscape impacts would be significantly detrimental and adverse and the cumulative landscape impacts when considered with the proposal for Invercassley and/or Rosehall would be likely to be significant and adverse.
- Policy L4 of the HSP in that the proposal does not maintain and enhance present landscape character.

7. The Council subsequently advised that a further reason, which had also been included in the recommendation, had inadvertently been omitted from the notice. This was that the proposal would be contrary to Policy T6 of the HSP in that it would have an adverse effect on important scenic views enjoyed from tourist routes and viewpoints.

8. At the inquiry, the Council stated that the legal agreement for Rosehall Hill had been progressed and that it expected to grant permission for that scheme soon.

Development plan policies

9. The HSP was approved by Scottish Ministers in May 2001. The remaining component of the statutory development plan covering the appeal site is the **South & East Sutherland Local Plan (SESLP),** which was adopted by the Council in May 2000.

10**.** The appeal site is in an area where **General Policy ENV 3 of the SESLP** presumes against development, particularly where there is significant damage to heritage, amenity, or public health. **Strategic Policy 3** includes Rosehall among locations where opportunities to upgrade and improve the tourist business are to be encouraged. **Strategic Policy 4** states that the Council will support action, including in the Rosehall area, that will attempt to reduce social and economic fragility. Special initiatives include extra resources for tourist promotion and development and the upgrading of infrastructure, notably road access and water supply. **Strategic Policy 10,** which states that the Council will seek to ensure that key roads are brought up to an acceptable standard for all users, includes the A837 between Rosehall and Invershin as a priority for improvement. **Strategic Policy 11** commits the Council to seeking to reduce the environmental impact of through traffic in villages. **Policy 22** requires proposals for wind farms in indicative Primary Search Areas, north of Gordonbush and north-east of Bonar Bridge, and elsewhere in the local plan area, to be assessed against the provisions of Strategic Policies 16 and 17. **Strategic Policy 16** expresses the Council's support for renewable energy developments in accordance with the (then) approved structure plan and national planning guidance. **Strategic Policy 17** states that the Council will promote biodiversity and safeguard and enhance the natural and cultural environment by safeguarding statutorily designated natural heritage sites, species and habitats, protecting the integrity of national and local landscape designations, including NSAs and Historic

Gardens and Designed Landscapes (HGDLs), and protecting significant archaeological sites and landscapes, listed buildings …. and their settings.

11. **HSP** policies discussed at the inquiry included:

Policy G1: Conformity with strategy, which states that the Council will support developments, having regard to the plan's sustainable objectives, which promote and enhance the social, economic and environmental wellbeing of the people of Highland.

Policy G2: Design for sustainability. This policy states that development requires to be assessed to the extent to which they:

- are compatible with service provision, including roads;
- are accessible by public transport, cycling and walking as well as by car;
- maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy;
- are affected by significant risk from natural hazards, including flooding and land instability, unless protective measures are incorporated, or the development is temporary;
- are affected by safeguard zones whether there is a significant risk of disturbance and hazard from industrial installations;
- make use of brownfield sites, existing buildings and recycled materials;
- impact on individual and community residential amenity;
- impact on non-renewable resources, such as mineral deposits and prime or locally important agricultural land;
- impact on habitats, species, landscape, scenery, freshwater and marine systems, and cultural heritage;
- demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials;
- promote varied, lively and well-used environments that will enhance community safety and security;
- accommodate the needs of all sectors of the community, including those with special needs and disadvantaged groups;
- contribute to the economic and social development of the community;

concluding that developments judged to be significantly detrimental in terms of the criteria will not accord with the plan.

Policy G3: Impact assessments (in summary) requires impact assessments for developments likely to have significant environmental and/or socio-economic impacts; and states that schemes that will have significant adverse effects will only be approved if no reasonable alternatives exist, if there is a demonstrable over-riding strategic benefit, or if satisfactory mitigating measures are incorporated.

Policy G4: Community benefit and commitment states that the Council will expect developments to benefit the local community and contribute to the wellbeing of the Highlands, whilst recognising wider national interests and sets out the circumstances in which the Council will seek to enter into agreements with developers on behalf of local communities for social and economic purposes.

Policy G6: Conservation and promotion of the Highland heritage states that the Council will seek to conserve and promote all sites and areas of Highland identified as of high quality in terms of nature conservation, landscape, archaeological or built environment.

Policy G8: Precautionary principle states that, in assessing development proposals where the potential impacts are uncertain, but where there are scientific grounds for believing that severe damage could occur either to the environment or the wellbeing of communities, the Council will apply the precautionary principle.

Policy E1: Distributed renewable energy developments expresses support for the use of the region's distributed renewable energy resource, including wind. It also states that proposals will be assessed against the provisions of the plan's General Strategic policies; that approvals will normally be for a temporary period only (tied to the lifetime of the project) with provision where appropriate for the removal and reinstatement of affected areas, and that earlier action for removal and reinstatement will be required in the event of premature permanent cessation of energy production.

Policy E2: Wind energy developments states that proposals will be supported provided that impacts are not shown to be significantly detrimental and that, in addition to the General Strategic Policies, these will be assessed in relation to visual impact, noise, electro-magnetic interference, roads, bridges and traffic, aircraft flight paths/Ministry of Defence (MOD) operations and cumulative effects.

Policy L4: Landscape character states that the Council will have regard to the desirability of maintaining and enhancing present landscape character in considering development proposals.

Policy N1: Nature conservation states that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible and sets out the principles that will be applied in relation to sites and species of international importance, sites of national importance and sites of local importance.

Policy T6: Tourism and scenic views states that the Council will protect important scenic views enjoyed from tourist routes and viewpoints, particularly those specifically identified in local plans.

The Highland Renewable Energy Strategy and Planning Guidelines

12. **The HRES**, which the Council approved as supplementary planning policy in May 2006, subdivides Highland into 3 zones for national and major onshore wind farms - "preferred" (green) areas, "possible" (yellow) areas, and red areas where a presumption against such development applies. The zones are made up of 1 km grid squares and are identified on the basis of a scoring system derived from factors such as nature conservation considerations, visibility from dwellings, remoteness and MOD interests contained in the Strategic Renewable Energy Resource Assessment for the Highland Area (HRERA) model devised for the Council by Aquatera Ltd. **Policy E.5** applies in the 3 preferred areas (Helmsdale & Strath Brora, Beinn Tharsuinn, and the Monadliath Mountains), which are stated to contain optimal conditions in terms of planning constraints, energy production, technical feasibility and proximity to the grid and where a strong presumption in favour of onshore wind farms, subject to appropriate community and environmental safeguards, applies. **Policy E.6** states that developments in possible development areas, where constraints are relatively light, will be judged on their merits and will need to show that there is no scope for alternative development within preferred development areas. **Policy E.7**, which imposes a presumption against export wind development, applies elsewhere in Highland. This policy also requires any proposals for national and major projects to overcome a precautionary approach to planning approval and to show that there is no scope

for development within other preferred and possible areas. **Policy A.1** sets renewable energy targets for Highland while **Policy U.1** explains that the establishment of patterns of development that tend to concentrate around high density areas reflects the Council's view that cumulative visibility of larger scale developments in a few areas is preferable to scattered developments. **Policy U.2** states that the cumulative zone of visual influence (ZVI) within a 10 km radius for national and major onshore projects should be less than 10% of the area of Highland. Other policies seek to safeguard the natural and cultural heritage, residential amenity (including locating turbines at least 1 km from dwellings) and the landscape.

13. The entire appeal site is in a Policy E.7 area. Most of the Achany site and most of the Rosehall Hill site are also subject to Policy E.7.

BRIEF SUMMARY OF CASES FOR PARTIES WHO GAVE EVIDENCE AT THE INQUIRY

The case for your client

14. It is submitted that the Invercassley proposal accords with the provisions of the development plan and that there are no material considerations that indicate that the appeal should not be allowed, subject to the conditions and legal agreement discussed at the inquiry. It is significant that the PDET Committee agreed to grant planning permission following a site visit and full briefings on the 3 wind farms proposed around Lairg. Apart from the deletion of turbines 13 and 14, for ornithological, landscape and peat stability reasons, the ES for the scheme emerged from close examination at the inquiry remarkably intact. This vindicates your client's careful approach and the objective nature of the assessment. THC's planning and landscape witnesses did not criticise the design of the wind farm, which was drawn up in accordance with published guidance. Their conclusions on landscape and visual impacts, on which the Council relies as reasons for dismissing the appeal, are intellectually unsupportable, and should be rejected. SNH's consultation response of March 2006 does not mention the wind farm design, its criticisms of the proposal are weak and unsubstantiated, and its conclusion that Achany and Rosehall Hill together would be acceptable are based on factually inaccurate assumptions. The HRES is inconsistent with SPP 6: Renewable Energy, adds nothing to the planning process that the development plan does not already provide, its usefulness as a planning tool is very limited and the HRERA database is only helpful if refined by on-site verification.

Site selection and local community and economic development issues

15. Airtricity Developments (UK) Ltd (ADL) develops and operates renewable energy plants in the UK, selling the power these produce to supply companies. It recognises the policy drivers directed against climate change and that much more investment in the development of renewable energy schemes is required if CO_2 reduction targets are to be achieved. Onshore wind is currently the only technology that is sufficiently viable and robust to make significant inroads into these targets, will be required to meet the bulk of the target for 2010 and, together with offshore wind, forms the focus of ADL's activities. These include 12 operational wind farms, including 2 onshore sites – Ardrossan and Braes of Doune - in Scotland, an offshore wind farm in the Irish Sea, and 12 sites under construction. ADL has also obtained consent for a scheme off the Suffolk coast. Others are awaiting determination.

16. Some developers whittle down a larger number of sites through the planning process. However, ADL pre-selects a small number of sites after thorough in-house assessment, firstly on the basis of technical considerations such as access, topography, wind resource, grid connection availability, proximity to population and land availability. Environmental

considerations are then taken into account to determine whether sites that pass the first stage are worth taking further. The appeal site, which ADL secured after a competitive tender process initiated by the landowner Balnagown Estates, stood out because it has a very good wind resource, would not impact on sites designated for their landscape or ecological value, has no known archaeological interest, recommended noise limits could be met, views from public roads and valley locations are likely to be minimal, and it is located well away from airports.

17. The Invercassley scheme is dependent for a grid connection on construction of the Beauly-Denny transmission line and currently has a likely connection date of 2017. However, as prospective developers tend to book more capacity than they need, if the appeal succeeds, there is a good chance that Invercassley would move forward in the queue, although it is impossible to say what any earlier date might be. While the scheme would not be built until a specific connection date was secured, by which time any permission granted now might have expired, circumstances such as impending construction of the Beauly-Denny line, or favourable economic conditions, could well prompt an application for renewal. ADL is not an electricity supplier and it would be up to SSE to decide whether to divert Invercassley's output to supply its own customers via its local distribution system or whether to export it from Highland via the transmission grid.

18. PAN 81: Community Engagement cites ADL's community consultation process as an example of good practice. Exhibitions of the scheme were held at Invercassely and Lairg in June and November 2005. Company representatives also met local community councils and individual objectors, attended a Highlands and Islands Renewable Energy Group (HiREG) business event to try to identify local suppliers, and advised local businesses individually how they might benefit from the proposal. Over 60% of the capital cost of developing Ardrossan and Braes of Doune were attributable to Scottish turbine manufacturing companies. ADL would try to achieve the same proportion at Invercassley, which will employ one full-time company worker throughout its operational stage, as well as additional jobs in the turbine manufacturer's servicing and maintenance team. It is also progressing an initiative with Inverness College to invest up to £100,000 per annum in the development of renewable energy training modules in Highland. This initiative, together with the establishment of a Community Fund, would reinforce the project's contribution to the local community. If Scotland misses out on the economic development opportunities presented by onshore wind, it will be difficult for it to take advantage of the opportunities that will arise from the offshore sector in due course. SPP 6 expects applications to include details of a proposal's environmental, social and economic benefits, including in terms of jobs and other economic activity.

19. Invercassley Estate, on which the wind farm would be built, together with Duchally Estate to the north, is owned by Balnagown Estates and managed from the estate office near Kincraig. The estate factor explained that Mr Al Fayed, the current owner, has invested £25 m in developing recreational, tourist and agricultural enterprises on the 3 estates over the last 25 years. Over 50 people are employed (5 on Invercassley) and the annual payroll is almost £1 m. The Shin Falls Visitor Centre, which he acquired in 2002, now attracts 250,000 visitors per year, providing jobs and other local spin-off benefits. The 5.5 km of walks that the estate has opened up in Rossal Wood to the east of the site, as part of the Rosehall and District Action Group (RADAG) trails network, is to be extended, a cycle track between the Falls of Shin and Rosehall village is being discussed with the Forestry Commission, and wildlife activities are being developed. However, as Invercassley Estate is not sustainable on its own, other sources of income and employment are essential if the owner's long-term vision of self-sufficiency and building a sustainable and viable local community is to be achieved. The local primary school is understood to be struggling to

survive, the two local hotels require investment, and the estate-owned post office and shop only exist because Mr Al Fayed insists that no rent is charged. In an attempt to reverse population decline, the estate plans to replace the unsightly agricultural buildings at Invercassley with a mixed-tenure housing and work unit development. While this will proceed irrespective of the outcome of the appeal, the estate would have to borrow money for the project if the wind farm is not built.

20. Balnagowan Estates would not do anything that would undermine what it has achieved. It chose ADL, which has a track record of delivering what it promises, after a long selection process. It is satisfied that the wind farm has no "downsides" in terms of landscape, ecology, hydrology, tourism or residential amenity and that its potentially adverse effects could be successfully managed. The local community councils do not fully represent local opinion. There were only 16 objections to the application within the statutory period. None of the large neighbouring estates or other owners or managers of the main rivers objected. The December 2006 Council meeting was attended by only 30 of the 80 Council members, was rushed, and those promoting the scheme were not fairly heard.

The construction of the wind farm

21. The construction contract would probably be let in 2 parts. A Balance of Plant (BOP) contractor would undertake all the civil and electrical infrastructure work and would be responsible for implementing the Construction Method Statement (CMS) that would be agreed with the Council prior to the commencement of work. The turbine manufacturer would supply and install the turbines under a separate contract. A site supervisor or resident engineer appointed by the project manager would monitor work throughout. SSE would provide the off-site electrical connection to Invershin.

22. The first task would be to peg out the positions of the access tracks, turbine bases, crane hardstandings and borrow pits and clear superficial vegetation to discourage birds from establishing nests in the vicinity. This would be done under the direction of the Ecological Clerk of Works (ECoW) who would also have a monitoring role and liaise (in consultation with the BOP contractor) with Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and the Kyle of Sutherland District Salmon Fisheries Board (KSDSFB). Construction work should begin before the March nesting season and the contractor would be keen to make the best use of the driest time of the year, between June and September. An "on-call" archaeologist would be involved, particularly in the early stages of work.

23. The site's solid geology comprises metamorphic rocks, principally psammite (sandstone), with limited superficial deposits of weathered rock, glacial till and peat. Borrow pit 1, at the northern end of the existing access track, would be opened up first to provide material for the construction compound hardstanding, upgrading the existing track back to A837, where the existing entrance would be widened and a wheel washing facility installed, and to construct the new track northwards to borrow pit 2, including a bridge across the Allt an Tuir. Borrow pit 2 would provide material for the tracks into the main turbine area and the other borrow pits. The turbine foundations, the crane hardstandings, and the substation would be constructed as the tracks advanced.

24. Assessments indicate that the borrow pits would produce rock suitable for the project, although all 7 might not be needed to provide the 116,000 cu m required. The method of extraction would be decided once each pit was exposed, but any blasting is unlikely to amount to more than one or two blasts per pit. The material extracted would be crushed, with a 10 mm screen fitted to the crusher to reduce the potential for small particles to be

washed out. The pits would be reinstated prior to the completion of works, possibly using bulk blasting to flatten excavated faces.

25. Tracks on soft ground would be of "floating" construction, with a geotextile membrane laid on the ground surface and overlain with compacted rock. Elsewhere the ground would be excavated, typically to a depth of 0.6 m, to a suitable foundation. Allowing for cable and drainage works alongside the tracks, the total working width would be 6-8 m, with subsequent reinstatement of the verges producing a running width of 4.5 m. The cables would be protected by imported sand or by fines screened out from the crusher. The crane hardstandings would be constructed using techniques similar to those used for the tracks. The turbine foundations, 15 m square, with battered side walls and 3 m deep, would be formed alongside on strata of suitable load bearing capacity, nominally rock.

26. The reinstatement of the track verges and the disturbed areas around the turbine bases would be done on an ongoing basis. The temporary power performance masts would be removed and the site compound reinstated at the end of the construction period. Rights of access during construction would have to be exercised responsibly. A liaison group to keep the local community advised of on-site activities is intended. Access to the site thereafter would be the same as at present, in that it would be accessible to pedestrians but not to unauthorised vehicles.

27. Decommissioning is likely to last about 9 months. The turbines would be removed for recycling, the turbine foundations broken up and taken off-site and the voids backfilled. To minimise disruption, the underground cabling would be left in place and the access tracks either retained for use by the estate or covered with topsoil. The substation transformer, other equipment and the fencing, would be removed. The substation building would be gutted and put to agricultural use or demolished and the ground reinstated.

Roads and transport

28. The traffic estimates in the ES are based on 1998 average annual flows, a 9 month construction period, working from Mondays until 1.00 pm on Saturdays, and the assumption that all construction-related traffic other than Ullapool-sourced concrete would use the A839 through Lairg. It concludes that, in the busiest 3 months of the construction period, when concrete would be delivered, the number of vehicles on the A837 and the A839 between the site and Lairg would increase by 16%. The equivalent figures for the A839 between Lairg and the A9 would be 6%, and 4% on the A837. However, while noting that the number of additional vehicles involved would be low - an average of 20 Heavy Goods Vehicles (HGVs) and 21 light vehicle movements per day during the peak construction months - the ES acknowledges that, if unmanaged, slow-moving or large vehicles on the narrow roads leading to the site would have a moderately significant effect. It therefore suggests that a Traffic Management Plan (TMP) is agreed with stakeholders, including community input.

29. It is explained that the route for abnormal loads described in paragraph 5 was agreed with the Council following a study by Collett Transport, a specialist haulier, in 2005 which focussed on road geometry. Your client produced a TMP template, an abnormal load contingency plan, and a provisional schedule of pre-construction works in 2006. Mechanisms for measuring and securing the repair of any physical damage caused by the development, particularly on the A839 just west of Lairg, which is founded on peat, and where large construction vehicles would affect road structure, have been agreed with the Council. A formula for attributing maintenance liability in the event that more than one wind farm was to be constructed in the area at the same time has also been agreed. Conditions would allow the Council to control any overlaps in peak construction periods that were

proposed, which it is accepted could result in significant effects. A range of geotechnical techniques could be employed to provide baseline information on road structure and condition. The TMP should also require construction traffic to be restricted during the morning and evening peaks, and include a mechanism for monitoring and review.

30. With these arrangements in place, given the temporary nature of the construction works, and the limited geographic extent of the increased flows, the residual traffic effects would be of minor significance. Although the Collett Transport report included vehicles with a gross weight 3 times that of a timber lorry, the long-term strength and durability of any road are the result of complex interaction between the road pavement, founding soils, climate, groundwater, drainage and traffic use. Very large loads are generally well-spaced out.

31. As far as other traffic issues raised by local objectors are concerned, the base traffic flows in the ES included timber lorries on the A839, which THC has designated as a preferred timber route. While sample counts in 2005 indicate that the average annual daily flow increased by 13% between 1998 and 2005, it remains of the same order. Contractors could inform their drivers to proceed carefully through Invercassley where there are no pavements. Construction traffic is unlikely to affect tourism significantly. The A839 is not a major tourist route, alternatives are available, and construction would probably be completed in one tourist season. The localised widening that would be required for the scheme would not change the road to a two-way road, or result in significantly greater use following construction. Emergency vehicles would generally have an alternative route if one was blocked temporarily. The TMP could require the emergency services to be notified when abnormal loads were in transit. The Police could delay movements over constrained locations if required and halt large loads in the event or expectation of flooding.

Drainage, hydrological and water quality issues

32. Your client's witness on these issues stated that, while he had not been previously involved in an engineering project in Highland, or in assessing a site with peat as deep as that at Invercassley, he had considerable experience of flow and risk assessment. The construction risks at Invercassley are the "normal" risks associated with any engineering project in this type of location. These would be managed by implementing recognised good practice, including locating turbines, borrow pits, the construction compound and access tracks (other than at crossings) at least 50 m from watercourses shown on 1:2,500 scale maps, and applying SEPA's Pollution Prevention Guidance (PPG) and other published advice. The design of culverts on minor watercourses and ditches would require SEPA's agreement under the Water Environment (Controlled Activities) (Scotland) Regulations 2005. Run-off from borrow pits would be collected and treated prior to discharge. Any groundwater intercepted by track construction would be culverted to the downslope side of the track to maintain drainage lines and natural recharge to watercourses. All fuels, oils and other chemicals stored in the site compound would be kept away from watercourses in surfaced bunds to avoid contamination in the event of spillage. A toilet in the sub-station building would drain to a septic tank. Appropriate pollution and sediment control measures would also be employed at the decommissioning stage.

33. The 1,400 mm annual rainfall to which the ES refers is a reasonable figure averaged over the site as a whole. However, the drainage strategy for the site is intended to cope with the maximum annual figure, which is probably about 2,000 mm, at the north-western end of the site, and with a 1:100 year flow event. All the minor watercourses (i.e. those not shown on 1:25,000 scale maps) and the ephemeral flow channels that occur times of heavy rain would be mapped and taken into account in the drainage design. Visits to the site in wet weather in May 2007 revealed over 20 minor channels in the vicinity of turbines and tracks

and allowed an appreciation of conditions at such times. Even in the very wet conditions photographed by the Rosehall Wind Farms Action Group in October 2006, it is inaccurate to describe "the whole hillside" as "awash". SEPA, which initially objected to the application and considered that the ES did not contain enough information on some design and construction issues, confirmed in May 2006, in the light of further information based on a 1:100 year flow design, that it no longer wished to sustain any objections, subject to appropriate conditions being imposed.

34. SEPA data indicates that the maximum sediment levels in the River Cassley and River Oykel are 5 milligrams/litre (mg/l) in most conditions, increasing to 8-19 mg/l during very high flow. Watercourses on the site also have a very low sediment content, even in wet weather. While psammite's durable nature makes it unlikely to produce large amounts of fine material in run-off when used for surfacing, watercourses would be sampled before work began in order to establish baseline conditions. Arrangements for subsequent monitoring of sediment content would be agreed with SEPA. In addition to the 50 m buffer zone referred to above, all drainage associated with the project would be attenuated and silt removed prior to discharge using rock fill check dams, silt fences, mobile silt-trapping units ("Silt Busters") or straw bales. Drainage from each construction location would be separated from any natural ephemeral drainage system as close to each location as possible. Additional attenuation measures (temporary ponds bounded by straw bales and silt fences as a minimum) would be established at key discharge locations near the headwaters of the River Cassley and Tutim Burn and on the Allt an Tuir. Weather forecasting would be used in planning operations. While these measures cannot be guaranteed never to fail, and water would pond behind culverts and could flow over tracks in the event of a 1:200 year rainfall event, this does not mean that infrastructure would be washed away. All silt control measures would be maintained and regularly inspected following their installation and temporary measures removed only when site staff, in consultation with SEPA, were satisfied that no further significant sediment movement was likely to occur.

35. The risk of pollution occurring at the operational stage of the development, when staff facilities and fuel and oil would have been removed, would be much lower than during construction or decommissioning. While the tracks, hardstandings and borrow pits would result in additional run-off, the site accounts for only 0.1% of the catchment of the River Cassley and a smaller proportion of the catchment of the Oykel. Based on the Flood Estimation Handbook methodology, the development could increase the flood flow in the Cassley at the Rosehall gauging station by about 0.2%, which would be insignificant, and by less in the Oykel. The effect in both cases would reduce as vegetation in reinstated areas became established. Excavation work would have only a very localised effect on groundwater flows are there are no regional aquifers that could be affected. Disruption of surface water flows would be minimised by retaining the existing drainage pattern as far as possible. Of the two private water supplies in the vicinity of the site, one comes from a tributary of the Tutim Burn and serves Tutim Cottage. The other, a well about 200 m south of the existing track, supplies The Bungalow at Rosehall. The appeal site is not within the sub-catchment of the Tutim Cottage supply and elevated ground between the well and the track means that site run-off would not be directed towards the well.

36. The borrow pit and turbine locations were chosen to avoid the most sensitive areas of blanket bog. Any dewatering due to excavations would have only short-term and limited effects. The access track alignments also take account of ecological considerations, and the need to avoid gradients of more than 8^{o} to allow turbine deliveries. Peat stability assessments, including peat probing, indicate that, while there are peat deposits over 1 m deep across much of the turbine area, particularly in the western part, the risk of peatslide

occurring in construction areas is, at worst, low. Adoption of the construction methods and mitigation identified in the assessment would minimise the risk.

Ornithology

37. The appeal proposal is unlikely to have significant adverse effects on birds. Detailed field surveys covering divers, waders, black grouse and raptors in 2004 and 2005 revealed that the only species of high nature conservation importance on or close to the site are greenshank, dunlin and golden plover. This was confirmed by additional fieldwork in 2007, when 2 breeding pairs of dunlin, 11 breeding pairs of golden plover and 4 breeding pairs of greenshank, together with 4 breeding pairs of curlew, were recorded on the site. No breeding raptors, divers or black grouse were observed. The nearest osprey nest is 4 km away and generates very little activity near the site. As dunlin, golden plover and greenshank are widespread and numerous in Caithness and Sutherland, the site was considered to be of low to medium importance for birdlife in a regional context.

38. It is unlikely that disturbance during construction would cause any bird species to abandon the site. Activity would not extend over the entire site at any one time, construction in sensitive areas would not begin during the breeding season, and there would be few residual construction impacts. The ES concluded that the only species of high or medium conservation value likely to be at risk of collision with turbines is golden eagle and that the risk over the lifetime of the wind farm was small. With the removal of turbines 13 and 14, and assuming a 98% avoidance rate, there would one eagle casualty over 25 years. While the absence of robust scientific data makes it difficult to predict displacement effects on waders, the site and the surrounding area contain similar habitat that could accommodate any birds that were displaced up to several hundred metres. Even if the 5 breeding pairs of golden plover recorded within 200 m of a turbine in 2007 were lost, this is unlikely to be detectable in the context of the regional population. This has increased significantly in recent years, to about 2,000 pairs and the species currently has favourable conservation status (FCS) as it is maintaining itself on a long-term basis as a viable component of its habitats.

39. SNH does not object to the application on ornithological grounds and it is reasonable to conclude that it would not affect the CSPSPA or the Inverpolly, Loch Urigil and Nearby Lochs SPA 9 km to the north-west. Given the very large regional population, and the lack of clear evidence that wind farms have adverse impacts on golden plover, RSPB Scotland's objection seems unduly pessimistic and precautionary. Your client intends to commission a research and monitoring programme regarding the effects on breeding waders and to publish the results.

Other ecological issues and proposals for mitigation

40. The appeal site supports a mosaic of blanket bog, wet heath and marshy and acid grassland habitats, with an associated terrestrial and aquatic faunal assemblage. The assessment of the development's ecological impacts in the ES was updated in June 2007 to take account of the deletion of turbines 13 and 14. This concluded that the 1.3 ha (6%) reduction in habitat loss that would result from these changes did not alter the previous assessment of habitat or species impacts, prior to mitigation. On that basis, major negative impacts on blanket bog and wet dwarf shrub heath, moderate negative impacts on the River Oykel SAC, unimproved acid grassland, valley mires, wet heaths/acid grassland mosaics, otter, water vole, reptiles and fisheries, minor impacts for non-designated streams and rivers, deer and invertebrates, and negligible impacts on marshy grassland and semi-improved acid grassland are likely. However, due to the comparatively small proportion of

the site taken up by built development, and the extent to which the design takes account of ecological constraints, impact mitigation, good construction management and implementation of a Habitat Management Plan (HMP) would reduce residual negative impacts on all ecological receptors to minor or negligible significance.

41. SNH considers that, provided that robust mitigation measures are implemented and maintained as required, the integrity of the River Oykel SAC would not be significantly affected. Your client is fully committed to implementing these measures. As the freshwater pearl mussel depends on salmonid populations for completion of its lifecycle, it would be protected by measures to protect salmon. Your client's consultant ecologist is satisfied that the statutory provisions that apply in considering effects on protected species could also be met. Reducing grazing levels and blocking bog drains as envisaged in the HMP would enhance opportunities for breeding birds, particularly waders in the long term. There would also be potential positive impacts on blanket bog, which shows widespread signs of sub-optimal condition due to drying out, peat loss and damage by grazing animals, and on valley mires, wet heaths, water vole and fisheries. The biodiversity benefits of the plan, which would focus on habitats and species that are priorities for the UK Biodiversity Action Plan (BAP), the LIFE Peatlands Project and the Sutherland Local BAP (LBAP), would extend well beyond the appeal site. The opportunity to extend the Rosehall trails onto the site would further the LBAP's aim of raising awareness of biodiversity issues.

42. The planning authority and SNH generally approve the appointment of an ECoW, who would act as an independent link between them and the developer, ensure that ecologically sound construction methods and planning conditions were followed, and provide on-site advice on any ecological issues that arose. Other tasks are likely to include monitoring protected species and water quality, consideration of micrositing issues, and recommendations on water quality protection.

Landscape and visual impacts

43. Land Use Consultants (LUC), which prepared the ES, is one of only 39 assessors accredited by the Institute of Environmental Management and Assessment. The Landscape and Visual Impact Assessment (LVIA) in the ES was undertaken by experienced qualified staff in accordance with current Government regulations and guidance. The 17 viewpoints used were selected in consultation with the Council and SNH and the standard format for visualisations contained in the then draft SNH Guidance for Visual Analysis of Wind Farms was agreed. In line with recognised practice, the LVIA considers the sensitivity of the landscape and visual amenity and the magnitude of change to provide accurate and predictions of the likely impacts and their significance. It classifies impacts as major, moderate, minor or negligible, treating the first two categories as significant in terms of the Environmental Impact Assessment (EIA) Regulations. Although the site was chosen before LUC became involved, your client's landscape witness satisfied himself that it was potentially suitable for a wind farm before agreeing to undertake an EIA.

44. The scheme design emerged from an iterative process that took account of SPP 1: The Planning System, which states that the architectural design, siting and setting of development in its surroundings are valid concerns of the planning system, and in accordance with the SE Policy Statement: Designing Places. PAN 45 acknowledges that turbines cannot generally be hidden and that wind farms need to be well designed. The aim in this case was to achieve a cohesive layout that would be legible, easy to understand, and which reflected the local landform, and in which the scale of the development matched the scale of the landscape. The design process did not take account of potential cumulative issues as there were no wind farms proposed in the immediate vicinity of the site at that time

that would appear as conjoined developments. Rosehall Hill and Achany are both far enough away to be perceived as discrete schemes. In any event, the most important consideration is to secure the best possible fit for the site. The appeal proposal would achieve this and, while some might not like its elegant simplicity, most would appreciate its predictability and legibility and recognise that it related and responded to the broad "whale back" ridge that is the site's dominant landscape feature. The SNH Caithness and Sutherland Landscape Character Assessment (LCA) recommends that wind farms in the Moorland Slopes and Hills Landscape Character Type (LCT) in which the site is located should "aim to portray a simple and sculptural image within moorland surroundings".

45. While the deletion of turbines 13 and 14 would reduce the proposal's landscape and visual impacts slightly, the significance of the impacts predicted in the ES would not change and the scheme would retain a balanced composition. A micrositing tolerance of up to 30 m could be exercised without producing a random appearance. While unaware of a wind farm in the UK with turbines arranged in two parallel lines, your client's witness maintained that each site has to be considered on its merits. SNH's comment that the scheme's linear design would sit awkwardly when viewed from Strath Oykel and Strath Fleet as it would conflict with "the smoother rounded hills" conflicts with the advice in the LCA. The clarity of the design in some views outweighs the disadvantage that turbines would appear aligned and overlapping in others. Regularity in turbine spacing is still apparent from Viewpoints 5 (Altass) and 6 (Doune) despite a degree of overlapping. Although the photomontages do not show the new tracks, the close spacing of the turbines means that these would scarcely be visible from Doune in what is a very foreshortened view at a distance of 9 km.

46. Landscape and visual impacts during construction, while potentially significant, would be temporary, generally limited in extent, and acceptable. The completed scheme would have a major landscape impact on the site, and a moderate impact on the part of the Moorland Slopes and Hills LCT in which it is located. However, the impact on the LCT as a whole would be minor as the majority would not be affected. In the case of the Strath LCT, while there would be moderate impacts on Glen Cassley and on the Strath Kyle part of the LCT, these would be well-contained. The key characteristics of the LCT would not be affected and the effect on the LCT as a whole would be negligible. THC's landscape witness appears to have confused effects on LTCs with visual effects and SNH's view that there would be significant adverse effects on the Moorland Slopes and Hills LCT appears to be based on views of the wind farm from other LCTs. Its conclusion that the effect on the Strath LCT as a whole would be significant overestimates the position as this appears to be based on its opinion that the effect on Glen Cassley would be significant. Its lack of objection to Rosehall Hill or Achany, although both are wholly or partly located within the Moorland Slopes and Hills LCT and would have similar impacts, is inconsistent with its stance on Invercassley.

47. The appeal site is not covered by any landscape designation. The proposal would also have no indirect impacts on a designated landscape. SNH agrees that the Assynt-Coigach and Dornoch Firth NSAs, the 4 AGLVs (Ben Klibreck, Glen Loth-Loch Fleet, Beinn Dearg-Fannichs and Ben Wyvis) in the 35 km radius study area, and the Skibo Castle Historic Garden and Designed Landscape (HGDL) would not be indirectly affected. As regards the Council's view that the proposal would have a "considerable" impact on the Assynt-Coigach NSA, visibility of the wind farm from the NSA would be limited to easterly views from high ground in the eastern part of the NSA. The designated area lies largely to the west of the A835 and most of its main outward views are to the west. Given the limited extent of intervisibility involved, the impacts would be minor, the objectives of the designation would not be compromised, and its overall integrity would be maintained.

48. The ES predicts major visual impacts from Viewpoints 1 (Badintagairt, Glen Cassley), 2 (Glencassley Castle) and 4 (Doune) and moderate impacts from Viewpoints 3 (Invercassley Bridge), 5 (Altass), 6 (Achnahanat, referred to the ES as Badarach) and 12 (Mullach a chadha Bhuidhe). SNH regarded the impacts from Viewpoints 6 and 12 as major rather than moderate and impacts from Viewpoints 15 (Conival) 16 km from the site, and 16 (Ben Klibreck), 28 km away, as significant. However, in practice, turbines are rarely regarded as significant elements in the landscape at distances of more than 10 km. The ES predicts that visual impacts from the settlements of Invercassley, Altass and Auchintoul would be minor, and negligible from Invershin and Bonar Bridge. While some tourists would use minor routes, the A838, A835 and A9 are outwith the scheme's Zone of Theoretical Visibility (ZTV). The PDET Committee report did not explain why it considered that impacts on wild land, the Assynt-Coigach NSA, and views from tourist, routes would be seriously adversely affected "such as to also support refusal". Its landscape witness took no issue in her precognition with the conclusion in the ES that there would be no significant impacts on sequential views when travelling in the area and SNH did not comment on impacts from settlements or roads.

49. The ES also assesses the potential impacts on 5 SAWLs within the study area - reading clockwise from the north-east, Ben Armine and Ben Klibreck, Ben Hee and Foinaven, Ben More Assynt, Inverpolly, and Beinn Dearg and the Cromalt Hills - on the basis of the test that NPPG 14: Natural Heritage sets for NSAs, namely whether their integrity would be affected. It concludes, on the assumption these are of high sensitivity, and that all impacts would be indirect, that impacts on the Ben Armine and Ben Klibreck, Ben Hee and Foinaven and Inverpolly SAWLs would be negligible, and that there would be minor impacts on Ben More Assynt and on Beinn Dearg and the Cromalt Hills. SNH considered the impacts on the Ben More Assynt and Beinn Dearg SAWLs likely to be significant and that the quality of "the wild land experience" would be significantly reduced. While acknowledging the lack of an approved methodology for assessing effects on wild land, it also considered that the ES did not allow an adequate assessment of likely impacts.

50. A review of the ES, using the physical and perceptual attributes of SAWLs out in the SNH Policy Statement Wildness in Scotland's Countryside, confirms that the appeal proposal would not compromise the prospect of future designation as wild land in any of the SAWLs. The Ben Armine and Ben Klibreck SAWL is 18 km from the site at its nearest point and mostly outwith the study area. While there would be a slight reduction in wild land characteristics across some south-facing slopes within the ZTV, wildness characteristics are less strongly expressed in this area, and the wind farm would be seen in the distance from only limited areas on the periphery. The Ben Hee and Foinaven SAWL is also too far from the site to suffer more than a negligible impact. Although the Ben More Assynt SAWL is mostly within the study area and extends south into the northern ends of Glen Cassley and Strath Oykel, wild land attributes in these areas
, which would probably be excluded from any formal designation, are less pronounced than further to the north. Much of the SAWL is outwith the ZTV and the impact from Conival and on the SAWL as a whole, would be minor. Distant visibility of the wind farm could actually heighten the contrast between the SAWL and its surroundings, just as the settled valleys on each side of the Ochil Hills emphasise the relative sense of naturalness and remoteness within the hills. Although the Inverpolly and Beinn Dearg and the Cromalt Hills SAWLs are both wholly within the study area, Inverpolly is at least 20 km away, only a small part is within the ZTV, and the impact would be negligible. The wind farm would be 9 km north-east of the boundary of the Beinn Dearg and Cromalt Hills SAWL, where forestry, including in much of the ZTV on the south side of Strath Oykel, gives the area a relatively settled character. The wild land character that does exist would be only slightly eroded and the impact would be minor.

51. Invercassley's potential impacts on SAWLs would not be significantly different from those of Rosehall Hill or Achany, although the former would have a slightly greater impact on the Ben Armine and Ben Klibreck SAWL, as it is closer to it, and slightly less of an impact on Ben More Assynt, Inverpolly and Beinn Dearg and the Cromalt Hills SAWLs because it is further away. Achany would have a greater impact on Ben Armine and Ben Klibreck because it is closer; a slightly greater effect on Ben Hee and Foinaven because Achany's ZTV is greater; a similar effect on Ben More Assynt, when the relative extent and characteristics of the two ZTVs are taken into account; and slightly less of an effect on Inverpolly and Beinn Dearg because it would be further away. On the basis of SNH's consultation response on the Gordonbush wind farm, to the effect that the approval of another wind farm in the area had reduced wild land value, THC's approval of Rosehall must have reduced the value of SAWLs in the Invercassley study area.

52. The Cumulative LVIA (CVLIA) in the ES considered Invercassley in association with wind farms at Beinn Tharsuinn, Novar, Novar Extension, Cambusmore, Kilbraur, Gordonbush and Achany. An updated CVLIA produced for the inquiry considers the cumulative impacts of Invercassley with Rosehall and Achany as the cumulative issues raised by consultees relate largely to the interaction between these 3 schemes. In summary, this confirms that the predicted cumulative impacts when Rosehall is included in the assessment are limited and acceptable. If Achany was also approved, the additional impact of adding Invercassley from locations where the 3 sites would be visible would be reduced, as the Rosehall + Achany group of turbines would be larger than Rosehall alone. Policy U.1 of the HRES states that the Council has taken the view that cumulative visibility of larger scale developments is preferable to development being scattered across the area. Some cumulative impacts are inevitable if onshore wind farms is to meet renewable energy targets and if clustering is preferred to a spread throughout Highland.

53. While the views expressed by THC's landscape witness are not unreasonable professional judgements, she did not consider the effect of adding Achany and Invercassley to a baseline that includes Rosehall. SNH's view that Achany and Rosehall would be complementary is based on factual inaccuracies. The two schemes are not on the same south-west facing slopes and they do not have a similar layout design. The Achany turbines are more irregularly and widely spaced than those at Rosehall, which has a more compact, almost grid-like design. While Invercassley's design is different again, it has some similarities with Rosehall, and would not appear discordant. Although it would extend wind farm visibility further to the west, south-west and north than the other two schemes, including into Glen Cassley and the north end of Strath Oykel, it does not follow that the impacts would be significant. For example, only 4 hubs and 10 blade tips would be visible from Viewpoint 13 at Craggie.

54. The HRERA and HRES do not provide a reliable indication of the capacity of the landscape to accommodate onshore wind development as they do not consider landscape sensitivity or capacity. In listing landscape, visibility and wild land as "possible negative aspects", the HRES also prejudges effects and equates visibility with visual intrusion. The constraints maps in the HRERA database show the site as not highly constrained in terms of visibility criteria or designated landscapes, as located well outside SAWLs, and as possessing an upland character. It is also unclear how these "low constraints" are converted into "presumption against development" areas.

Tourism impacts

55. VisitScotland estimates that tourism expenditure in the Highlands in 2005 amounted to £584 million and that the sector supported over 13,000 jobs. In the absence of more local figures, your client's economic consultant estimates, on the basis of Annual Business Inquiry employment data, that Central Sutherland (which includes Lairg, Bonar Bridge and Invercassley) had fewer than 10,000 tourist trips per year, and a tourism spend of £2.3 million. Allowing for local expenditure, tourism may support 60-90 jobs. This equates to between 8.3% and 12.8% of employment in the area and makes it very important to this remote, rural economy. After a challenging period, the number of overseas trips to Scotland increased by 50% between 2001-2005. Future growth will depend on factors that affect the key questions that tourists consider when deciding on a destination, namely can they get there; can they find accommodation; and can they find things to do; global events; and the ability to make Scotland a competitive, high quality, short break destination, with rural areas providing niche market activities based on health, the environment and outdoor pursuits.

56. The two main types of information on the impact of wind farms on tourism comprise studies based on surveys of visitors, and case studies that consider what has happened where wind farms have been developed. The survey results in the first category are mixed. Some, such as an NFO System 3 study commissioned by VisitScotland, suggest that a minority of visitors may be less inclined to return to an area where wind farms have been developed. A MORI study on the other hand suggests that the impact is neutral or positive. However, neither considers actual effects and claims of negative impacts, specifically in the NFO System 3 study, are based on questionable methodology and/or on visitor perceptions and intentions rather than actual behaviour. Post-event studies, including in Argyll, Wales, Ireland and New Zealand, found that the main drivers of tourism performance are either geopolitical events or more local or regional factors. While the witness did not subscribe to the quantitative approach adopted by SSE's witness on this issue, he agreed with his conclusion that there is no evidence that wind farms have adversely affected tourism. Most studies concluded that their effect had been neutral, although a wind farm at Tararua in New Zealand was considered to have had a positive impact and to have become an attraction in its own right. Tararua now aspires to become New Zealand's wind farm capital and Cornwall is using wind farms for marketing purposes.

57. Tourism in the Invercassley area is traditional and rural in character, with the availability of outdoor pursuits such as fishing in the Cassley and Oykel the key attraction for overnight visitors and facilities such as the Shin Falls Visitor Centre the main attraction for those passing through. The RADAG trails, while unlikely to bring visitors to the area, may well be used by those attracted by other outdoor pursuits. Provided that the wind farm does not compromise the availability of these other activities, there is no reason to expect it to affect visitors' decisions, or to have a negative impact on tourism locally. Accommodation businesses could benefit during the construction phase and improved access could allow l walking routes to be expanded. The wind farm could also become a visitor attraction and provide a marketing opportunity, although it might not attract repeat visits. That all said, a visitor survey for Highland & Islands Enterprise (HIE) in 2003 identified scenery and peace and quiet among the key influences on visits by UK tourists, and scenery as the key selling point for overseas visitors. The wind farm could deter some visitors if it spoiled the area's scenery.

Assessment of the proposal against the development plan and material considerations

58. Overall, the appeal proposal accords with the development plan. The SESLP, while acknowledging the need to safeguard the natural environment, recognises that development must be sustainable. Paragraph 1.54 refers to opportunities for alternative energy, including wind power, to meet local needs. Strategic Policy 22 requires all renewable energy proposals throughout the plan area to be assessed against Strategic Policies 16 and 17. As Policy ENV 3 does not feature in the reasons for refusal, the Council must have been satisfied that this would not be contravened.

59. That said, the HSP is the more relevant component of the development plan. The statement in paragraph 1.2.1 that sustainable development is about ensuring a better quality of life for everyone, now and in the future, broadly embraces the issues surrounding renewable energy development. In such cases, a balance between the potentially conflicting objectives of securing the benefits of development while minimising their impacts on the environment has to be achieved. The plan's General Strategic Policies are derived from sustainability objectives that form part of this balancing exercise.

60. As the reasons for refusal also do not mention Policy G2, the Council must have been satisfied that the proposal would not be contrary to this policy. Your client supports the principle of paying community benefit, which is mentioned in Policy G4. As far as the second reason for refusal is concerned, Policy G6 is expressed in general terms. The appeal site is not within an NSA, and is far enough away from an NSA not to be regarded as "adjacent" to it. While the protection of scenery around NSAs is a material consideration, and the mapping of a 10 km wide fringe area around these areas in SNH's Strategic Locational Guidance indicates that a sensitive approach is required, this does not amount to a buffer, and there are no development plan policies that expressly protect fringe areas. In any event, the proposal would not detract from the quality, character, integrity or setting of an NSA landscape and could contribute to the conservation of designated areas by helping to combat the effects of climate change. As there is enough information available to allow an informed decision on its likely impacts, the precautionary principle to which Policy G8 refers need not be applied.

61. The proposal would be consistent with the aims and objectives of Policy E1. As the fourth reason for refusal mentions only visual and landscape impacts in relation to Policy E2, THC must have considered that it satisfied the other factors listed in the policy. The evidence indicates that the impacts in those respects would not be significantly detrimental, that any measurable effects on an NSA that might be considered to compromise its integrity would be outweighed by the scheme's economic and social benefits and contribution to sustainability, and that the effects on landscape character would be acceptable.

62. As, with appropriate mitigation in place, the proposal would not affect any sites designated for their nature conservation importance, Policy N1 would not be contravened. The proposal would not impact directly on any tourist facility or adversely affect tourism. As far as Policy T6 is concerned, the SESLP does not specifically identify any tourist routes. While the Moray Firth National Tourist Route runs along the A839 from Tain, through Bonar Bridge to Lairg, and then east via Rogart to Loch Fleet, the PDET Committee report states that there would be limited visibility of the turbines from this route.

63. There are no relevant material considerations that warrant a departure from the provisions of the development plan. SPP 6 confirms Scottish Ministers' continued support for renewable energy and the target of generating 40% of Scotland's electricity from renewable sources by 2020. It also states that the target should not be regarded as a cap;

that planning authorities should use the development plan process to support and encourage the continued growth of renewable technologies; and that spatial policies should not be used to restrict development on sites where the technology can operate efficiently and environmental and other impacts can be addressed satisfactorily. Paragraph 40 makes clear that, while search areas should steer developers to acceptable locations, they should not be used to rule out development elsewhere if this can be accommodated in a manner consistent with the approach in the SPP.

64. The spatial framework for considering wind farm proposals over 20 MW in Annex A comprises broad areas of search where proposals are likely to be supported, subject to the usual caveats; areas (including those designated for their national or international heritage value, green belts, and areas where further development would have unacceptable cumulative impacts) to be afforded significant protection by spatial policies, but without imposing blanket restrictions; and the criteria to be applied in considering applications in the remainder of the plan area, on their merits and mindful of the "in principle" support for renewable energy development. This makes clear that the wind farms over 20 MW outwith search areas should not be ruled out. The appeal site is not designated for its national or international heritage value, or in a green belt. The turbines are more than 2 km from the nearest house and about 3 km from the nearest village, and thus beyond the separation distance of 2 km from the edge of cities, towns and villages that SPP 6 states Ministers support. The scheme's potential impacts have been assessed and it accords with the aims and objectives of national renewable energy policy.

65. As already explained, national policy in respect of NSAs as expressed in NPPG 14 would not be contravened. The NPPG makes clear that NSA designation does not preclude development, and that this can be permitted where the objective of designation and the overall integrity of the area would not be compromised, or where significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance. It also makes clear that the precautionary principle should not be invoked to impede development unnecessarily and should only be applied where impacts are uncertain and there are good scientific grounds to believe that significant irreversible damage to natural heritage interests could occur. This is not the case here.

66. Given the time that has elapsed since the HSP was drafted, it is understandable that the Council should have reconsidered its stated intention not to identify preferred areas for wind farm development. However, to be given weight, supplementary planning guidance should be consistent with national policy. The HRES pre-dates, and is inconsistent with, SPP 6. While the SPP is silent on the issue of sub-national targets, which the HRES implies are intended as a cap, paragraph 23 makes clear that a spatial framework should not be used to put in place the type of sequential approach that Policies E.5-E.7 apply. Policy E.7 also contravenes national policy in seeking to exclude development without providing criteria whereby the presumption against development could be set aside. The HRERA model and database is a crude tool. The Strategy acknowledges that its 1 km resolution makes it unsuitable for site-specific application and that it may be possible for an inappropriate project to be proposed in a preferred area and, conversely, for an acceptable project to be approved elsewhere. However, the Council applies it in a prescriptive way.

67. The PDET Committee report acknowledges that the EIA and development control processes had subjected the application to a much more rigorous site-specific assessment than the HRERA model could achieve. Its confirmation that statutory consultees did not object on the basis of the site's proximity to an Annex 1 bird species area, or its potential effects on aviation interests, indicates that the HRERA model was incorrect in those

respects. Your client's revised assessment for the site, which took account of the material in the ES and the consultation responses, demonstrates that the scoring is arbitrary and inaccurate at a site-specific level and does not provide a robust basis for assessing the suitability of the appeal site for a wind farm. Only the 16 of the 30 1 km grid squares assessed would contain infrastructure. Only 10 of these would contain turbines, of which 5 would be above the 0.2 constraint value that the HRERA treats as indicating a presumption against development. The 5 squares below the 0.2 value are primarily constrained by moorland conservation issues, which could be addressed by an HMP. However, if it is concluded that the model and Policy E.7 are relevant, the appeal site should be considered as falling largely within a preferred/possible area where Policies E.5 or E.6 apply.

68. The Sutherland Futures Review of October 2006 is a consultation document, the first stage in the preparation of a new local plan, and is of little direct relevance to the appeal. However, it does refer to success in the siting and impact of turbines and their integration with communities, wildlife and fisheries. The concerns of individual objectors regarding amenity relate largely to visual amenity, rather than residential amenity, which can cover a wider range of considerations.

The case for the Highland Council

The Highland Renewable Energy Strategy and Planning Guidelines

69. Acquatera's Managing Director stated that the HRES was prompted by THC's concern that the lack of national locational guidance for renewable energy developments was leading to widespread and divisive opposition and by its wish to avoid the potential economic benefits of renewable energy from being derailed by local concerns over specific schemes. The 3 zones identified in the Strategy reflect their suitability for wind farm development in terms of technical and planning constraints at a strategic level and are intended to facilitate schemes in appropriate locations.

70. The HRERA model takes account of landscape designations, which give sufficient guidance on landscape value for strategic purposes, selected cost factors (including maintenance costs but excluding the cost of grid connection), planned grid upgrades, and assumed wind speeds (based on a model which, while very crude, was the best source of information available at the time). Areas covered by more than one nature conservation designation were given a score for each. This work indicated that the optimal development areas that were identified are sufficient to allow the targets in Policy A.1, which the Council does not regard as caps, to be met without breaching the 10% threshold in Policy U.2, which reflects concerns that Highland would become "covered with wind farms".

71. While the Strategy's aims and policies are informed by the HRERA model, they are not derived directly from it. The guiding principles adopted by the working group that was established after Aquatera had produced the model and an initial draft Strategy included that onshore wind should not unnecessarily or significantly affect tourism, communities, or the natural heritage; a preference for grouping developments into larger "wind parks" within optimised areas; a desire to avoid a series of small-scale developments; and recognition of the benefits of locating wind farms in the eastern areas of Highland, near existing infrastructure. A consultation draft Strategy was issued in October 2005. The final Strategy reduced the extent and number of green areas through amalgamation and by subsuming individual yellow squares into adjoining red areas. While it provides a framework that seeks to balance the benefits of clean energy with local community, tourism, landscape and other nature conservation interests, the HRERA database is not suitable for determining individual applications and the Strategy is simply a starting point. Policies E.5-E.7 are not intended as

a barrier to development and it is open to anyone promoting a transmission level, "export", scheme to demonstrate, using a precautionary approach, that strategic aims and site specific constraints can be addressed and the presumption against development in a red area set aside. "Re-scoring" a proposal by ignoring constraints on the basis that these can be addressed by mitigation or do not apply misunderstands the model, which assumes no mitigation. Furthermore, for a realistic comparison, equivalent mitigation would have to be assumed throughout Highland. In any event, your client's revised scoring shows most of the site subject to a presumption against development in terms of the HRERA model.

72. Clustering turbines into areas of lower sensitivity is intended to result in "islands" of more intense development separated by undeveloped or less developed buffer areas. This can only be achieved if buffer areas retain their undeveloped character and any development that is permitted in these is especially sympathetic to the landscape character. As the Council regarded Achany and Invercassley as notably less sympathetic to the landscape than Rosehall Hill, refusal of the applications was justified. In addition, as development areas are oriented towards the eastern parts of Highland to retain the feeling of remoteness, wilderness and naturalness associated with the western parts, any wind farms west of Lairg should avoid extending visual intrusion westwards. Unlike Achany, which would have additional visual impacts to the north and west around Loch Shin, and Invercassley, which would have additional impacts to the west and south-west and in Glen Cassley, Rosehall's additional impacts would be to the south-east where the landscape is already affected by energy developments. Rosehall's compact layout is also more energy efficient than Achany or Invercassley, consistent with the Council's wish to maximise the density of energy production. Finally, the commercial forestry on the Rosehall Hill site is of lower conservation value than the undisturbed moorland on Achany and Invercassley.

73. Allowing 3 wind farms around Lairg would effectively result in a "rival" cluster in a new "green" area in a location that contains Annex 1 bird species, and in an extensive visual intrusion westwards that would be visible from main tourist routes. Development would also be visible from a large number of houses, the aim of clustering wind farms in preferred locations would be undermined, and the integrity of the Strategy would be compromised. It adds a strategic dimension to the EIA process, provides clarity and consistency, is exactly what SPP 6 requires, and deserves to be allowed time to deliver. Although paragraph 23 of the SPP advises against a sequential approach, Annex A is sequential in parts.

74. The Council's planning witness described the HRES as the type of interim planning guidance advocated by national policy, stating that it contains robust criteria-based policies that give a spatial dimension to HSP policy and is a clear and consistent strategic planning tool. It makes clear that it should not be used to identify specific sites for detailed site identification, is not a barrier to development and is consistently applied. Questioned, he agreed that it would be inconsistent with SE policy for the HRES to be applied so as to inhibit development unless there were sound reasons for doing so, and that land use policies should be applied irrespective of the political process. The Director of Planning and Development had been closely involved in the formulation of the Strategy and was aware of the political considerations that had influenced it. The fact that the report to the PDET Committee on the overview of the cumulative effects of the 3 applications left it to members to decide whether the possible step changes in the landscape character of the area were acceptable could reflect this political dimension. If the Director had given more weight to political considerations, this would have been inconsistent with SPP 6.

75. South-east Sutherland is the subject of intense interest from wind farm developers. Achany and Invercassley were recommended for refusal because two wind farms outside a green area could have given the "wrong signal" to developers regarding the application of

the Strategy. It is accepted that, if the precautionary approach to which Policy E.7 refers is intended to discourage development outside green areas, the Strategy is not a starting point. It is also accepted that the statement in Table G4.2.3 that planning assessments will be "dictated by" the zoning principles in the Strategy also indicates that it is not a starting point, and that the final sentence in Policy E.7 represents a sequential approach. Most of the applications submitted since the Strategy was approved have been in red areas. There have been none in green areas.

76. Notwithstanding some of the evidence reported above, in its closing submission, the Council stated that, as the HRES pre-dated the publication of SPP 6 in its final and (relative to the consultation draft SPP) much altered form, it inevitably required to be reviewed to ensure that it was consistent with national policy. The Council would be undertaking such a review. As matters stood, it accepts that greater weight should be given to SPP 6 and, in the event of any inconsistency between these documents, that SPP 6 should be preferred. The Council was also satisfied that the roads and transport issues raised by the appeal proposal could be addressed by the tyupe of conditions and legal agreement that your client's witness had described. The mechanism for apportioning financial liability for road repairs and maintenance in the event that more than one wind farm was constructed in the area at the same time had also been agreed with E.ON and would adequately address the cumulative impacts. However, the Council remained firmly of the view that there was sufficient evidence to conclude that Invercassleys' landscape and visual impacts, and its cumulative landscape and visual impacts, would be significant and adverse to a degree which, taking all other material considerations into account, justified dismissing the appeal. On the basis of these impacts, the proposal would fail to maintain or enhance landscape character in terms of HSP Policy L4, would be significantly detrimental in terms of Policies G2 and E2, and would contravene Policy T6. Furthermore, the aim of conserving and promoting the Assynt-Coigach NSA under Policy G6 might not be served.

Roads and transport

77. The Council's Principal Roads Engineer explained that the TMP would require to include an emergency access plan and a contingency plan in the event of vehicle breakdown or road blockage, a pre-commencement survey of the A839 west of the Black Bridge to a specification agreed with the Council; proposals for any pre-commencement road works (including the temporary removal of street furniture and any other works identified from the survey); proposals for new and/or enlarged lay-bys on the road; the commencement date, duration and expected weekly flows of different classes of vehicle; a detailed Road Construction Consent submission; and details of vehicle movements and routing for each phase of construction. Other conditions would require road condition surveys at agreed intervals during construction of all the roads in Highland used by site construction traffic, together with a final survey 1-3 months from the completion of construction, with any reinstatement works attributable to such traffic undertaken at the developer's expense; reserve details of the site access for the Council's approval, require this to be constructed at the outset of development and vehicle counter tubes installed; an on-site turning facility; a guard rail at the access to Lairg Primary School; temporary advance warning signs; and THC's prior approval for the movement of any abnormal loads during major events in the area or when flooding had closed, or was likely to close, the A837 and/or the C43 at Inveroykel.

78. Questioned, the witness agreed that, while sections of the A839 close to Lairg can operate as a double carriageway, it is largely a single-track road. The Council would expect the TMP to cover the timing of large vehicle movements, for example by avoiding peak times. While the conditions would allow construction of the 3 wind farms around Lairg to

coincide or at least overlap, each developer would need to satisfy the Council that the local roads could cope with the traffic generated by its scheme. The Council would not approve a TMP that could result in significant traffic peaks, such as major concrete pours, occurring in the same weeks. A 20-minute gap between large vehicles on the peat-based parts of the A839 applies where very heavy loads are using the very worst roads and could probably be reduced if the road was improved. Specific proposals for road strengthening, lay-bys and any other localised widening could only be drawn up after further investigations had been done. If a road failure did occur, the developers would have to suspend work pending the necessary repairs. However, the TMP was unlikely to address the effects of any increase in traffic on the A837 during the construction period.

79. It is impossible to cover all eventualities. Accidents and/or flooding could occur whether or not the wind farm was built and the TMP is intended to address the additional risks that the development could pose. It is impossible to say how much longer response times would be if a blockage on the A839 required emergency vehicles from Lairg to use the A836 and A837. The police, fire and ambulance services had been consulted on the application but had not responded. However, the Council would seek advice from the emergency services in considering the emergency access plan. SEPA's flood warning system is fairly reliable and the police could set up temporary diversions and/or suspend wind farm deliveries in the event of an accident.

Landscape and visual impacts

80. The Council's witness on these issues stated that development plan and national planning policies confirm the importance of considering the landscape and visual impacts of wind farms in order to protect and enhance the Highland landscape. NPPG 14 states that the scale, siting and design of new development should take full account of the character of the landscape and the potential impact on the local environment. It also advises planning authorities to take particular care that new development in or adjacent to an NSA does not detract from the quality, character, integrity and setting of the landscape. SPP 6 refers to the scale of development and to the need, increasingly, to give careful consideration to cumulative impacts. Wind turbines are now much larger than they were when PAN 45 was published and the distances in Table 8 should be treated with caution.

81. As far as Invercassley's landscape impacts are concerned, the Caithness and Sutherland LCA stresses the need to consider the effects of introducing new elements into the Moorland Slopes and Hills LCT because it "possesses no obvious hierarchy of characteristics". While no issue is taken with the conclusion in the ES that the impact on the part of the Moorland Slopes and Hills LCT that would be directly affected by the Invercassley proposal would be moderate, it would have greater impacts over some parts of the LCT outwith the site than the assessment as "minor" for the LCT as a whole in paragraph 6.150 of the ES suggests. In wider views, Viewpoints 16 (Ben Klibreck) and 17 (West Langwell) are over 25 km from the site and impacts are at the lower end of the scale of significance. However, from Viewpoints 11 (Seana Braigh) and 12 (Mullach a' Chadha Bhuidhe), the turbines would appear strung out and introduce a group of distributed foci, some directly between the viewpoint and peaks on the distant skyline, competing for prominence in the view. This would make the site more prominent than other hilltops and plateaux in the LCT and alter one of its key characteristics. As a consequence, a larger proportion of the LCT would be affected to a moderate and thus significant degree.

82. Impacts on the Strath LCT would also be significant. The wind farm would be dominant and would have a major impact from Viewpoints 1 and 2 in Glen Cassley; prominent, and thus have a major/moderate impact from Viewpoints 3 and 4 (Invercassley

Bridge and Doune); present and thus have a moderate impact from Viewpoint 6 (Achnahanat) and; at most, a moderate, impact from Viewpoint 13 (Strath Oykel). Although the turbines would be 9 km from Achnahanat, they have a stark layout and would be seen as two lines receding towards the summit and with a high degree of overlapping. These various effects, which would extend over two discrete areas of the LCT – Glen Cassley and Strath Oykel – would produce a moderate and thus significant impact on the part of the LCT local to the wind farm. This is because the effect on the character of the landscape as perceived would be sufficiently striking to change the role of the LCT in the landscape.

83. The proposal would not have a significant landscape impact on the Dornoch Firth NSA. However, the arbitrary nature of the south-eastern boundary of the Assynt-Coigach NSA (which follows grid lines) indicates that the landscape in this area has not been fully assessed against NSA criteria. As LCT and SAWL boundaries both cross these lines, and the area to the south-east of the boundary has similar landscape characteristics, a less arbitrary boundary could extend closer to the site. In that context, given the scheme's significant impacts on landscape character within 10 km of the NSA, including in Glen Cassley, its overall impacts on the NSA are unacceptable. A precautionary approach should be taken so that development does not prejudice any future NSA review. That said, it is possible that a review could set the boundary further away. Apart from Viewpoint 15 (Conival) over 16 km from the site, the wind farm would not affect the characteristics of the NSA. However, while it would occupy a very small part of what would be a 360^{o} view from Conival, it would draw the eye, particularly as the turbine blades would be moving. The landscape impacts on the Ben Klibreck, Ben Wyvis, Glen Loth-Loch Fleet and Beinn Dearg-Fannichs AGLVs would not be significant, although impacts on the last of these, illustrated in Viewpoints 11 and 12, would be slight rather than negligible as the iconic shape of Ben More Assynt would appear on the horizon, directly above the wind farm.

84. In cumulative sequential views from roads, the "glimpses" described in the ES could combine with other views to give the impression of a landscape populated by wind farms. Local residents and tourists would therefore be subject to greater impacts than those using only the roads considered in the ES. SNH guidance indicates that sequential effects can be greater than the sum of the parts.

85. As far as visual impacts from viewpoints are concerned, the ES understates the impacts from Viewpoint 6, where the scheme's dominance would result in a major impact; from Viewpoint 10 (Carn Salahaidh), which should be assessed as moderate/minor and thus on the threshold of significance; and from Viewpoint 11 (at distance of 22.5 km), which would be moderate and thus of likely significance. In the case of Viewpoint 15 (Conival) where the ES regards the impact as negligible, the array would occupy the same portion of the view as Ben Klibreck and other peaks on the horizon. This factor, combined with the acknowledged high sensitivity of the viewpoint, mean that the impact would be moderate rather than negligible.

86. It is acknowledged that, in assessing cumulative impacts, Rosehall Hill forms part of the baseline, although inadvertently this is not reflected in the witness' precognition. As regards the impacts of Rosehall, Achany and Invercassley from viewpoints, the contrast between Invercassley's layout and that of Achany/Rosehall is not apparent from Doune and the combined arrays could be perceived as one continuous development running behind the ridge on the opposite side of the valley. The additional impact of Invercassley is therefore medium, although the impact from the viewpoint overall remains significant. The introduction of Invercassley raises the impact from Viewpoint 16 (Carn Chuinneag) and from Meall Dola overlooking Lairg to a significant level, and it has an adverse effect on the already significant cumulative impacts from Struie Summit. However, it does not increase

the impact from Viewpoint 18 (Struie Hill) or on the Beinn Dearg-Fannichs AGLV as a whole. Bearing in mind the precautionary approach justified by the arbitrary NSA boundary, the cumulative impacts of the 3 wind farms from Ben More Assynt should be regarded as potentially significant. Achany would not increase Invercassley's significant impacts from Achnahanat, Seana Braigh or Conival. Adding Achany to Rosehall Hill would increase the extent of effects on the Moorland Slopes and Hills LCT. Invercassley would increase the area of impact further, with its contrasting layout bringing a different quality to the emerging "Moorland Slopes and Hills with Wind Farms" as they would introduce a geometric element into an LCT that is currently free of such elements.

87. In conclusion, Invercassley's landscape and visual impacts, considered individually, are unlikely to make the proposal unacceptable. However, considered together, they make the proposal incompatible with Policies G6, E2, L4 and T6 of the HSP, and with NPPG 14, and indicate that the recommendation of refusal was correct.

Planning assessment

88. The Council's planning witness maintained that the appeal proposal does not accord with the development plan on account of its adverse landscape and visual impacts and that there are no material considerations that indicate that it should be approved. Although the nature conservation issues and many of the amenity issues raised by the proposal could be adequately addressed by conditions and/or a legal agreement, the evidence of the previous witness and SNH's consultation response indicate that its landscape and visual amenity impacts could not be readily mitigated. In the latter regard, the Council agrees with SNH that, even if the scale and design of the current proposal were to be significantly modified, the appeal site is unsuitable for a wind farm. The Council's landscape witness had explained why the Council also agrees with SNH that Invercassley's cumulative visual and landscape impacts with Achany and with Rosehall are unacceptable.

89. While the SESLP includes a renewable energy policy, the key development plan policy in the appeal is Policy E2 of the HSP. The structure plan makes clear that the Council is supportive of renewable energy proposals but is aware of their potential environmental impacts, and that schemes are only likely to be supported where the impacts can be demonstrated not to be significantly detrimental. Against that background, and the provisions of Government energy and planning policy, the Council had taken a positive and responsible approach to wind farms and had approved 15 schemes with a capacity of up to 376 MW where it has been satisfied that these balance the production of renewable energy with the protection of the natural and historic environment. That said, for a scheme to contribute to the HRES 2010 target, which currently seems unlikely to be met, it would need to be approved within the next 12 months. Although SSE has not provided written confirmation that it has a grid connection offer for Achany, the National Grid, May 2007, GB Seven Years Statement lists it as having Planned Transmission Contracted Generation for 62 MW with a completion date of 31 August 2009. The Council acknowledges that this is an important consideration. As matters stand, Rosehall Hill is unlikely to be able to connect to the grid prior to 2012, although its position could improve as the 2007 Energy White Paper confirms moves to improve the management of the queue for connections.

90. Notwithstanding the landscape character assessment methodologies that have evolved, the way landscape is perceived and appreciated is inherently subjective. The fact that the appeal site is not covered by a specific landscape designation does not mean that it is not locally valued or worth protecting, or that it will not be designated in the future. Recommendation L2 of the HSP recommends Government to review NSAs and looks to further NSA coverage in Highland while Proposal L3 commits the Council to reviewing

AGLVs. In addition to the advice in NPPG 14, SNH's Strategic Locational Guidance states that the location and design of wind farms adjacent to NSAs should avoid significant adverse impacts on their character and enjoyment and that, within up to about 10 km from an NSA, the potential for effects on the NSA should be carefully assessed.

91. Wild land provides recreational opportunities for those seeking remoteness and a sense of sanctuary and there is an onus on the decision taker to safeguard the relatively limited areas of wild land that provide a sense of freedom from the effects of human activity. Glen Cassley gives access to popular walking areas in the Assynt-Coigach NSA and, while the appeal site itself does not appear to be used for recreation by significant numbers of people, those who do use it do so for the openness, wildness and solitude that it provides and for its panoramic views. The wind farm would destroy that experience. The turbines would be particularly apparent from the south side of the Kyle of Sutherland, and from the tranquil river valley of Glen Cassley where the impact of two rows of rotating turbines running along the ridge for 4.75 km would be fundamental and adverse. The presence of the wind farm would also weaken the impression from locations such as the Assynt-Coigach NSA, Beinn Dearg, the Fannichs and Ben Klibreck, of being within a vast upland landscape with few signs of human activity, harm the enjoyment of these areas and the objectives of NSA and AGLV designation, and prejudice their future extension or reassessment. Although the proposal would not impact directly on existing footpaths and cycleways, and new tracks could attract some people to view the wind farm, the site's main attributes are its natural qualities. The scheme's impacts on recreation, and by association on designated landscapes and SAWLs, weigh very heavily against it.

92. The fragile nature of the local economy makes any adverse impact on tourism unacceptable in terms of Council policy and your client's prediction that the proposal would have little impact is speculation. That said, Policy T6 is concerned with the proposal's effect on views from tourist routes and viewpoints, not its effects on tourism as a business activity. Although the SESLP does not identify specific tourist routes or viewpoints, all the principal roads in the area are tourist routes in practice. The HSP states that tourism in the Highlands is strongly based on the area's high quality scenery, that developments should seek to avoid being visually intrusive in scenic views, and includes areas close to strategic tourist routes and clearly visible from tourist viewpoints as potentially sensitive. Invercassley would have particularly adverse collective visual impacts from the A836 Moray Firth National Tourist Route south of the A837 junction, from the A837 near Invershin Farm, and from the A839, and adverse visual impacts from the A837 lay-by at Invershin, Achnahanat, Invercassley Bridge, looking north and east from Rosehall, from Altass, and from Ben More Assynt, Conival, Beinn Dearg and Ben Klibreck. That all said, the evidence in relation to the impact of wind farms on tourism is inconclusive. Invercassley's impact on tourist routes would no better or worse than that of any wind farm and it would be far enough away from Rosehall Hill and Achany to be perceived as a separate project.

Evidence for SSE Generation Ltd in relation to the Invercassley proposal

93. SSE's landscape witness stated that, while the locations from which Invercassley would be seen in combination with Rosehall Hill and Achany are fairly limited, Invercassley and Rosehall together would be unacceptable. Invercassley would extend the potential visibility of wind energy development into the east side of Glen Cassley, into Strath Oykel and Strath Mullie, west of the A835, and onto higher ground east of Ullapool. While adding Achany to Rosehall and Invercassley would reinforce the significant effects on visual amenity in this area, and sequential effects on views from the road network to the south. However, the more regimented linear layout of the turbines at Invercassley relative to the other two schemes would create a visual imbalance. The addition of Achany to this wider

baseline would not be significant in itself. The same applies to effects of the Moorland Slopes and Hills and the Sweeping Moorland LCTs.

94. Although Achany and Invercassley have the same lateral spread from Viewpoint 4, Invercassley's different design style would introduce a discordant note to the landscape character experienced within the Strath LCT, which Achany might reinforce by increasing the number of turbines in the vicinity of Rosehall Hill. However, there would be no additional cumulative effects on SAWLs, or on landscape elements. SNH considered that it would be the addition of Invercassley to Rosehall and/or Achany that would result in unacceptable cumulative effects. Viewed from the south-east, its two lines of turbines would present a strong contrast to the rounded shape of the Beinn Rosail ridge. Airtricity's landscape witness concluded, mainly on the basis of separation distances, that Achany and Rosehall would not have a significantly different impact on wild land from Invercassley. A more comprehensive assessment that also considered altitude, form and design could have drawn out more conclusions.

Evidence for Scottish Natural Heritage on ornithological and bog habitat issues

95. SNH, which submitted that the Invercassley appeal should be dismissed for the landscape and visual impact reasons set out in its written consultation response, gave oral evidence at my request on the habitat and ornithological issues that featured in the objection to the application by RSPB Scotland. In that regard, SNH considers that, in determining the appeal, the proposal's potential effects on habitats and species listed in Annexes I and II of the Habitats Directive and birds listed in Annex I of the Birds Directive in the wider countryside require to be considered. Article 10 of the Habitats Directive, which encourages Member States to manage features of the landscape that are of major importance to wild flora and fauna, also recognises the importance of the wider countryside to the coherence of the Natura 2000 network. SNH assesses the impacts of wind farms on bird populations not connected to SPAs on the basis that an impact should be regarded as of concern where it would adversely affect the favourable conservation status of an Annex 1 species (as defined in the Birds Directive) or stop a recovering species from reaching this status at international or national level or regionally. It also seeks to safeguard and enhance areas of habitat outwith SACs, including blanket bog and wet heath, where these are of major importance or contribute to the Natura network.

96. Dealing with these matters in turn, as the site is 3.5-4 km from the CSPSPA and there are no suitable foraging fields within foraging range that would cause golden plover from the SPA to use the appeal site, SNH is satisfied that the proposal would not have a likely significant effect on this SPA qualifying interest. While there is evidence of a general negative trend by golden plover within 500 m of turbines, the vast majority of displacement appears to occur within 200 m. Applying the latter figure to the locational information for golden plover territories in the ES indicates that 6 pairs of plover, less than 0.5% of the 2,028 pairs estimated in the Natural Heritage Zone (NHZ) in which the appeal site is located would be displaced. This would not affect the favourable conservation status of the species in the NHZ. Adding the 5 pairs likely to be displaced by the Achany scheme would produce a displacement level of less than 1% of the population in the NHZ, which was 37% higher in the period 2002-2002 than over the period 1980-1991.

97. As far as habitats are concerned, the Invercassley ES states that up to 8 ha of the 659 ha of blanket bog on the appeal site would be lost and a further 12 ha disturbed and that up to 16 ha of the 676 ha of wet heath on the site would be lost and a further 16 ha disturbed. However, given the site's distance from the nearest area designated for its blanket bog or wet heath interest and the separation afforded by Glen Cassley, the areas of

habitat that would be affected do not form part of the interests of a designated site. These areas are also small relative to the extent of the habitat type both in the UK and in the Natura sites in the area and their loss would not conflict with the Habitats Directive. Although blanket bog and wet heath are also UK BAP priority habitats, the BAP recognises that achieving its aims will mean local gains and losses. The critical issue is to secure a satisfactory range, extent and function of habitats and, in the context of over 2 million ha of blanket bog in the UK and almost 1 million ha of upland heath, the effects at Invercassley are of low significance. SNH is satisfied that an appropriate CMS and HMP, together with on-site restoration, would allow these effects to be minimised and the habitats to retain as much of their functional integrity as possible.

The case for Ardgay and District and Creich Community Councils

98. The Community Councils consider that 3 wind farms at Rosehall – Rosehall Hill, Achany and Invercassley - and a fourth – Ben Tharsuinn - in the wider Kyle of Sutherland area are too many in one place and that the Achany and Invercassley appeals should be dismissed. If both schemes were allowed, there would be one turbine for every 2 houses in the Rosehall area, turbines on the hills all the way from Struie to Oykel Bridge and a huge strain would be placed on local roads, tourism, wildlife, drainage and scenery. Responses to surveys undertaken before the applications were lodged revealed concerns regarding traffic and visual impacts and all those who voted at a public meeting opposed both appeal proposals. Conditions would not provide adequate protection against the associated risks. Community Councils in Highland accepted the HRES, which does not envisage any large wind farms in red areas, after lengthy consultation.

99. Tourism, which is a mainstay of the local economy, would be adversely affected, with a consequent loss of jobs and income in a fragile area that a 2007 report by EKOS considered faced economic problems. Visitor figures to the local Tourist Information Centre show a long-term decline. Peat slides or other pollution could damage fishing, and freshwater pearl mussel in the Oykel. Local initiatives such as the Rosehall Trails and cycle tracks in Balblair and Carbisdale build on the area's scenery and unspoiled environment on which the local tourism industry depends. About 95% of respondents in the VisitScotland report regarded the chance to experience unspoiled nature as very important or quite important. Only 9% thought that wind farms would be an added attraction in tourist areas, while 15% said that they would steer clear of an area with wind farms and 10% that they would be less likely to come back. No respondents said that they would be more likely to return and there was a consensus that, where possible, wind farms should be sited away from popular tourist areas. In the long-term, tourist business would be lost and disruption during construction would deter visitors from staying. Any economic benefits would be short-term. A Community Trust Fund would simply seek to compensate for the damage that local residents would rather avoid in the first place. While no existing tourist businesses opposed the appeal proposals at the inquiry, none supported them.

100. The single-track roads leading to the site, on which the local community relies, are already in poor condition. The A839 is built on peat, the A837 is liable to flooding and has a weight restriction, and bridges act as "choke points". Each wind farm will require over 300 low loader trips for the turbines alone and is liable to cause a year's disruption overall. Breakdowns, accidents and other unforeseen events could cause serious problems, even with conditions and road bonds in place.

The case for the Rosehall Wind Farms Group

101. The Group regards the Rosehall Hill wind farm as more than a fair share of development for a small community like Rosehall. The majority of local residents have consistently opposed the Achany and the Invercassley applications, and the number of wind farms proposed in the area. As the northern Highlands is already self-sufficient in energy for most of the year, the energy that schemes would generate would inevitably be exported south, incurring loss in transmission. This failure to make best use of resources is a further sound reason for dismissing the appeal, locating wind farms closer to where power is needed and avoiding ruining Rosehall.

102. The mitigation proposed to control the scheme's hydrological and run-off impacts may look satisfactory in theory, but is unlikely to be adequate for an area with high rainfall and increasingly frequent flash flooding. Your client's witness on this issue did not deny that the mitigation measures that are proposed could be overcome. In that event, salmon spawning grounds and the River Oykel SAC would be at risk.

103. The work done by RADAG in developing the Rosehall Trails to bring visitors to the area and help address its economic decline would be undermined. Rosehall is dependent on visitors, with a niche market focussing on recreational pursuits, including walking and salmon fishing, which depend on its unspoiled landscape and scenery. Balnagown Estates is obliged to develop footpaths in Rossal Wood under the terms of a forestry planting grant. SPP 15: Rural Development recognises that tourism is vital to the economic, social and cultural well-being of rural Scotland. The appellant's economic witness ignored local circumstances and misjudged any local economic benefits. Allowing 3 wind farms in total would mean that, between Strathkyle and Brae, over 60 turbines would be visible within a 5-mile radius, on elevated ground, turning a rural area into an industrial site, and destroying its natural beauty. All 3 sites would also be seen, at much closer quarters, from Altass and from several Munros.

104. The Group also considers that, having agreed to Rosehall Hill, THC is taking a huge gamble in not rejecting Achany and Invercassley on traffic grounds and that it failed to undertake a proper risk assessment in the event of combined flooding on the A837 and the C43 crossing at Inveroykel, accidents on the A837, and the collapse of parts of the un-engineered A839. If an accident on the A839 near the War Memorial coincided with flooding on the A837 and C43, emergency services could not reach Rosehall. The THC traffic witness was unconvincing, ignored the 20-minute guideline for HGVs that applies to timber lorries on the A839, and did not appreciate the dangers that could arise. No traffic management plan is foolproof and the other conditions proposed do not adequately address potential problems. Some of the traffic figures in the ES are old and out-of-date and do not take account of increased flows over the past 5 years, particularly in summer. A computer generated test demonstrates only that a low loader could travel from A to B, not what can happen in reality. SSE's traffic representative agreed that the A839 could be closed while low loader deliveries were in transit.

The case for residents at Durcha

105. Ms Mouat and Mr Mouat, who stated that they also spoke on behalf of other residents at Durcha in relation to Achany and Invercassley, shared the local concerns summarised above and regard THC's apparent willingness to allow 3 wind farms to be built concurrently and using primarily a single-track, unengineered road for very heavy loads without knowing how this road is constructed as a recipe for disaster. Residents would be unable to realise the value of their homes or enjoy a satisfactory quality of life, potentially for 3 years. At the

very least, the community should be involved in the development of the traffic management plan to ensure that it fully addresses emergency cover and economic impacts.

CONSULTATION RESPONSES, REPRESENTATIONS AND OTHER WRITTEN SUBMISSIONS

106. Consultation responses from parties that did not give evidence at the inquiry can be summarised as follows:

- **Lairg Community Council** objected to the Invercassley application for similar reasons to the other Community Councils, adding that it understood that your client did not have a grid connection.
- **The SE Rural Group Landscapes and Habitats Division** referred to the statutory protection afforded to European and certain other animal and bird species and stated that SNH's recommendations and a pre-construction walkover survey of the site for protected species should be the subject of conditions.
- **The SE Environment Group Air, Climate and Engineering Division** had no comments on the ES, but drew attention to published information regarding the effects of low frequency noise.
- **The SE Trunk Road Network Management Division** (SE-TRNMD) noted that the proposal would increase traffic movements on the local road network but regarded the environmental impact on the trunk road network as likely to be minimal. Liaison with TRNMD staff regarding the feasibility and administration of transporting large loads was recommended.
- **The Civil Aviation Authority** advised that aviation obstruction lighting might be required and that any turbines more than 300 feet (sic) high would have to be charted on aviation maps. **Defence Estates** had no concerns but asked to be informed of construction dates and the height of some structures if the development went ahead. **Highlands and Islands Airports Ltd** had no objections.
- **Ofcom** stated that none of the civil microwave fixed links that it managed would be affected by the proposal. The **Joint Radio Company, on behalf of the UK Fuel and Power Industry**, did not foresee potential interference problems with its communications systems.
- **SEPA** confirmed in May 2006 that, as its previous concerns had been resolved, it did not wish to sustain any objections. Conditions to control the storage of fuel on the site, the washing of vehicles and method statements for construction, surface water management, and emergency procedures in the event of accidental pollution were recommended.
- **Scottish Water** confirmed that none of its assets would be affected.
- **Historic Scotland** offered no comments on the ES.
- **THC's Archaeology Unit** agreed that the proposal would not have direct impacts on recorded archaeological remains and that the potential for discovering unrecorded buried remains during construction was, for the most part, low. However, as there was potential for remains, there should be an archaeological watching brief on all ground works.
- **THC's TECS Services (Geotechnical Section)** commented in July 2006 that the methodology followed in the peat risk assessment for the site appeared very rigorous, although somewhat lacking in data, noting that its author had stated that further investigations would be required prior to construction.
- **THC's Access Officer** stated that any permission granted should take account of ADL's obligations under the Scottish Outdoor Access Code
- The PDET report on the application states that **NATS (En Route) Ltd**, which is concerned with Air Navigation and Safeguarding, considered there would be no conflict with its safeguarding criteria; that **CSS Spectrum Management** had no objection in relation to UHF scanning telemetry; and that **Council Environmental Health** officials recommended

limiting operational noise from the wind farm based on guidance for quiet rural areas, generally to within 5dB(A) of existing background levels. Conditions limiting working days and/or hours would mitigate construction noise impacts on Roselie Cottage, which is adjacent to the site access.

107. **SNH** lodged a conditioned objection that the proposal could have adverse effects on water quality in the River Oykel SAC, but stated that these could be overcome if the mitigation identified in the ES was implemented to ensure that sediment entering the SAC did not exceed 25 mg/l suspended solids. It also objected that the proposal would have significant adverse landscape impacts on the Moorland Slopes and Hills LCT and the Strath LCT, significantly reduce the quality of the wild land experience from the Ben More-Assynt SAWL and the Beinn Dearg SAWL, and that its cumulative landscape impacts when considered with Achany and/or Rosehall were likely to be significant and adverse. The effects on the Moorland Slopes and Hills LCT would be especially noticeable in distant views and the wind farm would dominate the adjacent Strath LCT in Glen Cassley and parts of Strath Oykel.

108. On the basis of its likely landscape impacts, SNH considered that the site was not suitable for a wind farm even if the scale and design of the scheme were significantly modified. As regards cumulative impacts, Achany and Rosehall Hill could be considered complementary, due to their location alongside each other on the same south-west facing slopes and similar layout design and from many viewpoints would appear as one wind farm. SNH's main concerns related to the cumulative impacts if all 3 wind farms, or Invercassley and Achany and/or Rosehall, were constructed. While the 3 sites are in the same LCT, Invercassley would introduce a degree of formality, its two rows of turbines would create a dominant linearity, conflict with the rounded hills, and this linearity would dominate and intrude with the smooth landform and random layout of Achany and/or Rosehall. SNH also advised mitigation measures for otter and water vole; post-construction bird monitoring; the implementation of a detailed CMS and a detailed HMP; implementation of the recommendations in the peat stability report; and access arrangements in accordance with the Land Reform (Scotland) Act 2003.

109. The Council received **38 letters of objection** to the application, mostly from people living within 10 km of the site and including a letter signed by 29 residents of Strathkyle and Ardgay. Some objectors confirmed their objections after the appeal was lodged. The main concerns raised are that the proposal would not accord with development plan policies or with the HRES, would have adverse effects on visual and residential amenity, tourism, water quality, the Rosehall Trails, and on the local road network during construction, and that there would be adverse cumulative impacts if more than one wind farm was built in the area. Adverse effects on birds and on property values and the potential for noise problems and the contamination of private water supplies are mentioned, and the prospect of local economic benefits is disputed.

110. **RSPB Scotland** objected to your client's application in December 2005 on the grounds of its potential adverse effects on golden eagle, golden plover and blanket bog, but withdrew its objection in relation to golden eagle in July 2006.

111. In a written submission for the inquiry, the RSPB stated that, while the ornithological surveys reported in the ES followed standard guidelines, the methods used are acknowledged as likely to under-estimate the more cryptic species and the number of breeding pairs of golden plover, dunlin and greenshank described were likely to be minimum figures. While these birds would not normally contribute to the SPA population, the RSPB was not aware of a wind farm located in such a good area for the species concerned. The

objection was based on the precautionary principle as the RSPB was unaware of any published studies showing that this type of proposal would not have a negative effect on these species. A condition suggested by your client in September 2006, that permission for the wind farm could not be implemented until THC and RSPB Scotland were satisfied, following research by the developer, that the scheme would not have an adverse effect on the golden plover population on the site, was unlikely to satisfy the tests in SODD Circular 4/1998: The Use of Conditions in Planning Permissions. Alternative, potentially less damaging sites were available. In relation to blanket bog, the issue of whether the proposal allowed the obligation under Article 2 of the Habitats Directive to maintain or restore blanket bog at favourable conservation status to be fulfilled ought to be considered. This would only become apparent when an HMP was finalised. However, if permission was granted, conditions requiring research to improve knowledge on the ornithological issues raised by the proposal, an HMP, and controlling the timing of construction, should be imposed.

112. **HiREG**, which supported all 3 Lairg applications, stated that the HRES accepts Local Content as a valid consideration and that the applicants had spoken about placing significant work with HiREG members. Renewable energy was a major opportunity to reinforce the Highland economy and gain export business. More than 600 jobs in Highland depended on the renewable energy sector, in which onshore wind would continue to be the main driver. Companies interested in locating manufacturing turbines and towers in Highland wanted to see project consents coming on-stream.

CONDITIONS AND LEGAL AGREEMENT

113. The conditions tabled by the Council, which include the roads and transport issues discussed at the inquiry, also cover a range of other matters, including a requirement for a CMS and an HMP; sediment controls and mitigation; the appointment of an ECoW; a 10 m micrositing tolerance; controls and other mitigation in relation to peat stability; safeguarding and mitigation measures for birds (including, in condition (12) a prohibition of construction during the main bird breeding season of March to July), otter and water vole; controls over blasting and borrow pit excavation; and site restoration and reinstatement. Taking account of adjustments agreed at the inquiry, except for the differences summarised at paragraphs 115 and 116, these are acceptable to your client and to SNH.

114. The legal agreement would provide for financial bonds (or similar financial arrangements) to cover the restoration of the site, the cost of road reinstatement/repairs attributable to the construction of the wind farm, and the remediation of any interference to radio or television reception. The Council and SNH consider that an agreement is preferable to conditions covering these matters as it ensures that adequate financial provision is in place before permission is granted.

115. The terms of the agreement are generally acceptable to your client. However, it wishes condition (2) to refer to a micrositing allowance of up to 25 m; the insertion of “where technically possible” in relation to turbine dismantling in condition (3); deletion of the requirement for transformers to be housed within the turbine towers or bases unless otherwise agreed with the planning authority from condition (4); the substitution of condition (12) by the condition imposed on the Drumdearg wind farm, which required details of measures to be taken to protect breeding birds, and specifically to dissuade birds from breeding in the areas of the site to be worked during that breeding season, to be agreed; and a similar change to condition (44). It is prepared to provide an acoustic barrier to protect Roselie Cottage, which is about 60 m south of the site access from the A837, from the effects of construction noise.

116. SNH supports the Council's conditions (12) and (44); wishes condition (9) to define the scope of the role of the ECoW, rather than reserving this for the planning authority's approval; and wishes the conditions to require the Council to consult SNH before those relating to the natural heritage are purified. It would also prefer the reference to the "company" and "developer" to be defined to include any successors and assignees.

CONCLUSIONS

116. Section 25 of the Act, read with section 37(2), requires me to determine the appeal in accordance with the provisions of the development plan unless material considerations indicate otherwise. I therefore consider, on the basis of the relevant evidence at the inquiry, my site inspections, and the written submissions, that the determining issues are whether the proposal is consistent with the relevant provisions of the development plan; and, if not, whether there are material considerations that justify an exception to these provisions. My conclusions on these issues take into consideration all the environmental information that has been provided on the proposal.

117. The statutory development plan covering the appeal site comprises the SESLP, which the Council adopted in 2000, and the HSP, which was approved by Scottish Ministers in March 2001. Policy ENV 3 of the SESLP, read in terms, imposes a general presumption against development at this location. However, Policy 16 supports renewable energy development in the plan area where this accords with the structure plan and the national planning guidance that were in force when the plan was adopted. It also requires schemes to be assessed against the provisions of Strategic Policy 17.

118. However, the structure plan and much of the national planning guidance to which the local plan refers have been superseded by more recent material. SPP 1 states that, while there is an expectation that development proposals that accord with the development plan will be granted permission, other considerations such as more recent expressions of policy and planning guidance may outweigh the policies of the plan, either in favour of, or against, the development, and that similar circumstances may apply where plans are out of date and less relevant to changed circumstances. The current structure plan and current national guidance address the issues listed in Strategic Policy 17 that are relevant to the appeal and I conclude that the application ought to be assessed in the context that these provide. The potential for the scheme to undermine the achievement of the aspirations for Rosehall described in Strategic Policies 3 and 4, and the roads intentions described in Strategic Policies 10 and 11, can also fairly be considered on the same basis.

119. The sustainability objectives from which the structure plan's strategic themes are developed and from which its General Strategic policies emerge cover a wide range of social, economic and environmental goals, some of which are likely to give rise to conflict in practice. Determining where the balance of advantage lies where specific proposals are concerned will therefore require a balance to be struck in order to reconcile potentially conflicting objectives. This balance is an integral part of achieving conformity with the strategy, with Policy G1, and with the other General Strategic policies against which the plan requires all developments to be assessed. Paragraph 2.1.1 of the plan makes clear that this assessment should precede consideration against other relevant policies.

120. The criteria in Policy G2 are also wide-ranging and not all are likely to be relevant to every development. The first, eleventh and twelfth criteria appear to be directed primarily at conventional built schemes. Accessibility by means other than car (the second criterion) and the use of brownfield land, existing buildings and recycled materials (the sixth criterion) are unlikely to be practical propositions for wind farms, which generally require rural locations,

sizeable areas of land for operational reasons, and a degree of separation from dwellings. The fourth criterion appears to apply to existing hazards that pose a significant risk, whereas the evidence indicates that the risk of peat becoming unstable while the site remains undeveloped is low. Adherence to the construction methods described at the inquiry should ensure that this risk did not increase significantly as a result of the development. The site is not affected by a safeguarding zone associated with an industrial installation, with which the fifth criterion is concerned.

121. While the third criterion's aim of maximising energy efficiency may sometimes require to be tempered in practice by environmental considerations, it would be surprising if a prospective wind farm developer was to pursue a site with a poor wind resource. In this case, no party challenges your client's statement that this elevated site has a very good wind resource. The purpose of the development is to make use of a source of renewable energy.

122. Given that the turbines would be over 2 km from the nearest house, the relevant issues as far as the seventh criterion, effects on residential amenity, is concerned are the scheme's visual effects and the potential for noise and vibration problems, particularly during construction. There is no technical evidence that suggests that ice throw or shadow flicker, which can occur in some situations, are likely to affect residential amenity.

123. Dealing with these in turn, the introduction of tall, industrial type structures such as wind turbines has the potential to affect residential amenity in all except very remote and unsettled locations. The ZTV indicates that the turbines at Invercassley would not been seen from Lairg, or from the settled areas on the north-east side of Loch Shin. Views from the higher parts of Bonar Bridge, about 20 km to the south-east, would be mitigated by distance. Houses adjacent to the A837 in the lower part of Strath Oykel, including at Invercassley, would see only a small proportion of the turbines. Those at Achanhanat would be able to see the entire development, but at a distance of 9 km and in the context of a very wide view. Altass, although closer to the site, is still 7 km away. Houses at Doune are over 3 km from the site, on the opposite side of Strath Oykel. The turbines would also be far enough from residential properties in Glen Cassley, 2 km to the east, not to have an overbearing or dominant effect on their amenity, which depends on a range of factors.

124. However, the wind farm would also produce noise during construction and in its operational stage. The maximum predicted construction noise levels at all the residential receptors in the vicinity of the site, except Roselie Cottage, are below 50 dB(A), and thus below the level of 55 dB(A) that PAN 50: Controlling the Environmental Effects of Surface Mineral Working regards as acceptable for mineral operations. Without mitigation, Roselie Cottage is predicted to experience a construction noise level of up to 72 dB(A) for about 4 weeks while the access was being upgraded. However, subject to the noise mitigation measures that your client is willing to provide being put in place, and to the limitations on working hours proposed, I find this unlikely to be significantly detrimental to residential amenity for the short period likely to be involved.

125. The ETSU-R-97 methodology, which PAN 45 describes as presenting a series of recommendations that can be regarded as relevant guidance on good practice, seeks to provide indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm developers. It thus seeks, in common with Circular 10/1999 and PAN 56, to strike a balance between potentially conflicting interests in relation to noise, and the recommended levels represent a suitable basis for assessing whether the test of significant detriment is met. The maximum predicted operational noise level, at March Cottage, based on 25 turbines as originally proposed, is 37 dB(A)$LA_{90,\ 10min.}$ This is below the day time limit of 5dB(A) above background, except in "low

noise environments", recommended in ETSU-R-97 where a limit of 35-40dB(A) is recommended. It is also below the recommended night time limit of 43dB(A).

126. On the basis of my conclusions at paragraphs 122-125, I conclude that the proposal would not have a significantly detrimental effect on residential amenity.

127. The resources that require to be considered for the purposes of the ninth criterion are habitats, including the freshwater systems on the site and in the surrounding area, bird and animal species, landscape and scenery, and the cultural heritage. The SNH Strategic Locational Guidance makes clear that the inclusion of an area in Zone 1 does not imply absence of natural heritage interest.

128. The deletion of two turbines from the original scheme would only slightly reduce the 8 ha of blanket bog and 16 ha of wet heath that would have been lost to a development of 25 turbines, and the further 12 ha of blanket bog and 16 ha of wet heath that would have been disturbed. Active blanket bog is an Annex 1 priority habitat and, in common with wet heath, is a UKBAP priority habitat. However, while the loss of any valued habitats is regrettable, these are widely represented in the UK, which has over 2 million ha of blanket bog and almost 1 million ha of wet heath. In that context, while there would be major impacts on areas of these habitats, these would be localised. Even in advance of a detailed HMP, it is reasonable to conclude that the proposal is unlikely to adversely affect the range, extent or function of the habitats concerned, or to undermine the UK's obligation under Article 2 of the Habitats Directive to maintain or restore blanket bog at favourable conservation status. The areas of other UKBAP habitats that would also be affected, such as unimproved acid grassland, are much smaller. Other affected habitats appear to be of lesser value. While any peatslide that occurred would also affect bog habitat in particular, I have already concluded that the risk of such an event is low. A satisfactory CMS and an HMP that incorporated restoration and enhancement of residual areas would provide further reassurance.

129. The periods of high rainfall that the site experiences, and the associated risk of flash flooding, which the Golspie and Lairg Local Plan, a core document for the inquiry, describes as increasing in frequency in the Lairg area, mean that the potential for the scheme to have detrimental effects on freshwater habitats merits careful assessment. The ephemeral watercourses that appear on the site, and which connect indirectly to the River Oykel SAC, are also important considerations. However, the silt control and related mitigation measures that are proposed are wide ranging. Implementation of these measures could be secured by conditions. SNH considers that its "conditioned objection" regarding water quality in the SAC could be overcome by such conditions, and SEPA confirmed, following the receipt of further information based on a 1:100 year flow design, that it no longer wished to sustain any objections, subject to appropriate conditions being imposed. Accordingly, while mitigation cannot be guaranteed always to be wholly effective, the test for planning purposes is whether a significantly detrimental effect is likely to occur. In this case, I find that these measures, together with monitoring of their continuing effectiveness, would provide adequate safeguards. With these in place, there is also no reason to expect adverse effects on freshwater fisheries, which Policy FA4 seeks to promote and enhance. The evidence indicates that neither of the private water supplies in the vicinity is likely to suffer significantly detrimental effects.

130. As far as species are concerned, there is no reason to dispute SNH's conclusion that the mitigation measures that are envisaged should protect otter and water vole from significantly detrimental effects. However, wind farms can also have detrimental effects on birds due to collision risk, loss of habitat and disturbance. While there is no evidence that

collision risk is likely to be a significant problem, and the loss of habitat types that are widely represented in the surrounding area is, in itself, unlikely to have a significant effect on bird populations, the appeal site supports breeding populations of upland waders. These include golden plover, dunlin and greenshank. Golden plover is listed in Annex 1 of the birds Directive, greenshank is listed in Schedule 1 of the Wildlife and Countryside Act, and the ES regards dunlin as of high ornithological imporatance. Greenshank and golden plover are stated to be sensitive to disturbance. SNH refers to evidence of a negative trend by golden plover within 500 m of turbines, with the vast majority of displacement occurring within 200 m. Circumstances at other locations may not be replicated at Invercassley and the limited information available on the effects of wind farms on bird populations justifies a cautious approach. It is therefore prudent to proceed on the assumption that some breeding pairs of waders would be displaced and, in relation to golden plover, that birds within 200 m of turbines are likely to be disturbed.

131. In that regard, the estimated displacement of 5 or 6 breeding pairs of golden plover would be less than 0.5% of the NHZ within which the site is located. The loss of 4 pairs of dunlin, which are likely to have been displaced by a development of 25 turbines, is 1.5% of the breeding population in Caithness and Sutherland. The 2 pairs of greenshank that would also potentially be displaced is less than 10% of the Caithness and Sutherland breeding population. While any adverse effects would be regrettable, even if these are minimum figures, the distribution and the viability of the wider populations of both species is unlikely to be significantly affected provided that measures to minimise disturbance during the breeding season are imposed are habitats are appropriately managed. On that basis, the bird populations to which the European Directives apply should be maintained at a favourable conservation status in their natural range consistent with the relevant statutory obligations.

132. As far as effects on landscape and scenery are concerned, the ZVI maps demonstrate that turbines could be visible more than 30 km from the site. PAN 45 recognises that there are no landscapes into which a wind farm will not introduce a new and distinctive feature and that it will normally be unrealistic to try to conceal turbines. It also recognises that visual effects will depend on the distance over which the wind farm is visible, whether the turbines can be viewed adjacent to other features, weather conditions, the character of the development and the landscape and the nature of the visibility.

133. The appeal site is located in an area characterised by open rolling moorland with extensive commercial forestry on lower ground. The convex profiles of most of the hills in the area tend to limit visibility from a distance and views of hill tops from their bases. The SNH Landscape Strategy and Assessment Guidance for Wind Energy Development within Caithness and Sutherland considers that wind farm development in this area will probably have a high extent of visibility, but is unlikely to intimidate its surroundings due to the landscape's spatial exposure, will only occupy a small amount of visible skyline and may seem to disappear into the background when viewed from a distance. While it makes clear that it does not attempt to define the best type of wind farm design or location, but simply to highlight the main issues that should be addressed in assessing proposals, these characteristics mean that the area is likely to have the capacity to accommodate some wind farm development in landscape and scenic terms. Whether a particular scheme is acceptable will depend on its location, layout and design and other site specific considerations.

134. In that regard, the viewpoints in the ES, which were selected and agreed with the planning authority and SNH, are sufficiently representative to allow the scheme's impacts to be adequately assessed. From two of the more distant viewpoints, 20 km or more from the site, An Loagh and West Langwell, the turbines would be minor elements in a very wide

scene that already contains signs of human activity. From Ben Klibreck and Seana Braigh (Viewpoints 16 and 11), and indeed from Viewpoint 15 (Conival), the development would be viewed in the context of grander scenery and the linearity of the layout would be more pronounced. However, given the distances involved, the effects would not be significantly detrimental. Construction effects would be temporary and the other completed elements of the scheme would be less apparent than the turbines. PAN 45, having identified 100 m high turbines as an example of turbine size, refers to a wind farm 15-30 km away as only seen in very clear visibility and generally perceived as a minor element in an open landscape.

135. The effects from Viewpoints 12 (Mullach a chadha Bhuidhe) and 10 (Carn Salachaidh), from where there would be medium range views, 10-15 km of the site, would be greater as the development would be more obvious in the landscape. However, distance would still moderate these effects sufficiently to avoid significantly detrimental effects.

136. The turbines would be most prominent in closer range views, from within 10 km of the site, as they would appear larger and more obviously moving. However, from upper Strath Oykel (Viewpoint 13), they would be set well to the side of the main direction of view down the Strath and beyond a break of slope that would screen a significant proportion of the turbines. The topographical screening effect from Doune would be less, but sufficient to avoid the development, which would be 3.3 km away, from having significantly detrimental effects in the context of the settled landscape in which it would be viewed. Although the full turbine array would be seen from Viewpoint 5 at Altass and from Achnahanat, at 7 km and 9 km respectively from the site, this would be far enough away to avoid significantly detrimental landscape and scenic effects. The fact that some viewers on Invercassley Bridge are likely to be stationary would heighten their awareness of the development and it is likely to be perceived, at least by some, as having an adverse impact. However, only 6 turbine hubs would be seen, on a receding slope about 3 km away. In that context, I consider that the effect would not be significantly detrimental.

137. However, the wind farm would extend the effects of renewable energy development into Glen Cassley, where the road emerges from the woodland at the lower end of the glen into an intimate and tranquil river valley with few houses. The ES states that the visual impacts from the two viewpoints in the glen would be major. I find that the turbines that would extend for over 4 km along the horizon that encloses the south side of the valley would result in a substantial intrusion that would seriously erode the glen's tranquil and unspoiled landscape and scenery, particularly in the more secluded upper part of the glen, as the end of the cul-de-sac road is approached. I consider that these qualities deserve protection. The fact that the landscape context in which the wind farm would be viewed is contained within the glen accentuates its effect, which I conclude would be significantly detrimental.

138. As regards the cultural heritage, the ES confirms that the construction of the wind farm would not affect any recorded cultural heritage features on, or in the vicinity of, the appeal site and that only one recorded site, the Allt Eilig Chambered Cairn, 9 km to the west, from where the blade tips of two turbines would theoretically be seen, would be intervisible with it. Historic Scotland offered no comments on the ES and THC's Archaeology Unit agrees that the potential for discovering unrecorded buried remains during construction is, for the most part, low. The proposed conditions would provide for the preservation or recording of any archaeological sites that came to light in the course of construction. The wind farm would not be visible from the only HGDL within 30 km of the site, at Skibo Castle, a designation that Policy BC4 seeks to preserve.

139. Criterion 10 requires a development to demonstrate, in the first instance, sensitive siting and high quality design in keeping with local character and the historic and natural environment. While your client's landscape witness stressed the scheme's predictability and legibility, which make it arguably "the best fit" for the site, the policy also requires its siting and design to be in keeping with the local character and natural and historic environment. These qualities extend beyond the appeal site. In that context, while the development would use materials appropriate for a wind farm, for the reasons explained at paragraph 137, its siting and extended linear design would cause it to have a significantly detrimental effect on Glen Cassley.

140. Turning to the final criterion, the wind farm would provide job opportunities at the constructional and operational stage and has the potential to benefit local accommodation providers and equipment suppliers in Highland. It would also support the landowner's efforts towards self-sufficiency and the creation of a sustainable and viable local community in an area that the SESLP regards as socially and economically fragile. The training initiative described at the inquiry would help to realise the economic development opportunities that HiReg and the HRES consider renewable energy development could bring to Highland. However, these contributions have to be weighed against the potential for adverse effects on a tourist industry that is very important to this part of Sutherland. Although the wind farm would not be visible from the Shin Falls Visitor Centre, from the Struie Viewpoint, from the Countryside Centre or the village centre in Lairg, where visitors are likely to use local facilities, the Rosehall area is likely to attract those who enjoy outdoor pursuits such as walking and angling and who are likely to be sensitive to changes in the rural environment. Many of the tourists who come to the area are also likely to be attracted by its high quality scenery. Visitors would see the turbines from a variety of roads as they travelled around the area, including from the Moray Firth National Tourist Route.

141. That said, the topography and vegetation that would intervene in the context of a journey mean that views of this wind farm from most roads would be intermittent. The appeal site is not frequently used for recreation. The proposal would not physically affect the paths that the estate has provided in Rossal Wood and the site is located well away from the RADAG Rosehall Trails, which are also included in the Council's Consultative Draft Core Paths Plan. About 70% of respondents to the VisitScotland survey, which objectors cite as demonstrating the adverse effects of wind farms on tourism, indicated that the development of wind farms would not affect the likelihood that they would return to an area. This survey also reflects intentions rather than outcomes in practice and the "after the event" studies that have been done present a generally encouraging picture. Accordingly, while some local tourist businesses could suffer adverse effects, having also had regard to my conclusion at paragraph 129 regarding Policy FA4, I am not persuaded that the effect on the area would be significantly detrimental.

142. However, on the basis of my conclusions at paragraphs 137 and 139, I conclude that the proposal would not accord with Policy G2 because it would have significantly detrimental effects on the landscape and scenery in Glen Cassley and because it does not demonstrate a sensitivity in siting and a design that are in keeping with the local character and the surrounding environment. Although Policy G2 is not drafted in terms that require all the criteria to be satisfied in order to accord with the HSP, these are very important considerations for a wind farm.

143. The submission of the ES and the other assessments that were done satisfy the first part of Policy G3. These acknowledge that the development would have some negative effects and your client does not claim that no reasonable alternatives exist. Your client's planning witness did not argue, in terms of this policy at least, that the scheme would have

an over-riding strategic benefit. However, while satisfactory mitigation measures could be incorporated in the scheme to avoid significantly detrimental effects in most respects, the proposal would not accord with this policy because its detrimental effects on landscape and scenery could not be satisfactorily mitigated.

144. Turning to Policy G4, my conclusion at paragraph 140 indicates that construction of the wind farm could benefit the local community in some respects. In any event, this sentence is qualified by reference to wider national interests, which would in principle be served by the development of renewable energy. If the appeal was allowed, it would be appropriate for an agreement to include provision for site restoration and road improvements, maintenance and repair, as well as for remedying any TV and radio interference problems. SPP 6 makes clear that, while Community Trust Funds can support a variety of local projects, they can only be offered at a developer's discretion.

145. The best construction I can place on Policy G5 is that it is directed at heritage initiatives, which are not proposed here. Accordingly, in common with Policy G7, which relates to the administration of community planning, it is not relevant to the appeal.

146. Turning to the high quality landscapes that Policy G6 is concerned to conserve, I have already stated that the wind farm would not be visible from the Skibo Castle HGDL. As far as the other landscapes that stand to be considered are concerned, the Council and SNH agree that the proposal would not have a significant impact on the landscape of the Dornoch Firth NSA. This is 20 km from the site at its nearest point and the wind farm would be visible from only limited areas. The Council's landscape witness identified Conival as the only viewpoint from which the scheme would affect the characteristics of the Assynt-Coigach NSA. However, it would occupy only a small part of a 360^{o} view, would be seen at a distance of 16 km, and the turbines could probably be perceived to be moving only in very clear weather. It cannot be assumed that an NSA review would extend the boundary. In any event, the site is well away from, and has little intervisibility with, the core landscapes of the NSA. As the same considerations apply in relation to the 4 AGLVs in the study area, Ben Klibreck, Ben Dearg-Fannichs, Ben Wyvis and Glen Loth-Glen Fleet, I agree with SNH that the proposal would not have significant adverse effects on designated landscapes. There is therefore no reason to expect the proposal to prejudice Recommendations L1-L3, which relate to future landscape designations, or an NSA review. No party argues that it would have affect a high quality archaeological or built environment area.

147. The policy's intention that areas identified as being of high quality on account of their nature conservation interest should be conserved and promoted is reflected in Policy N1. Policy G6 can therefore be regarded as being satisfied if this policy is satisfied or is not engaged. In this case, the latter applies. The appeal site's distance and topographical separation from the nearest area designated for its blanket bog or wet heath interest means that the habitats that would be affected by the proposal do not form part of these designated interests. The evidence also indicates that, for similar reasons, it would not affect the ornithological interests that form part of the qualifying interests of designated sites of international or national importance.

148. As there is sufficient information available to allow the scheme's potential impacts to be assessed, the precautionary principle to which Policy G8 refers need not be invoked. The policy recognises that such situations will be relatively rare.

150. As far as effects on landscape character is concerned, Policy L4 is set in the context of the LCAs that have been produced for Highland. The Caithness and Sutherland LCA shows the site at the south-eastern end of a much larger swathe of the Moorland Slopes and

Hills LCT, which displays the characteristics described at paragraph 133. The LCA states that a wind farm will relate to the exposed and wind dominated character of the landscape and may appear as a positive, futuristic–looking and sculptural addition. However, it also points out that it may conflict with the sense of remoteness and "wild land" character, particularly if access tracks and substations are required, and that the variable nature of the sloping landform will make it difficult to locate numerous wind turbines without creating a confusing visual image. The appeal site does not have a pronounced wild land character or a pronounced variation in landform. Significant effects on some parts of the Moorland Hills and Slopes LCT, and in the Strath LCT, would be confined in geographical extent. Both are widespread in this area, and considered overall, their character would be maintained. While landscape character would not be enhanced, the policy does not treat this an essential test, but as a factor to which it is desirable to have regard. Paragraph 2.14.8 of the plan refers to the assessment of proposals in terms of their compatibility with present landscape character.

151. As Policy T6 is not confined to protecting views from tourist routes and viewpoints identified in local plans, it is immaterial that neither of the local plans covering this site identifies such features. However, while all of the public roads around Lairg are likely to have some tourist use, the policy is concerned only with important scenic views. I find that only the views from come into this category. In that regard, I am satisfied, having taken my previous conclusions into account, that the objectives of the policy would not be undermined.

152. Policy E1 supports the use of Highland's renewable energy resource in principle, confirming the need for assessment against the plan's General Strategic policies, and the expectation that any permissions granted will normally be for a temporary period whereupon restoration and reinstatement will be required. Policy E2 further qualifies this support where wind energy developments are concerned in terms of the 6 factors listed, some of which overlap with some General Strategic policies. It is a key development plan policy for the appeal and I have come to address it only at this stage because the plan requires proposals to be assessed in the first instance against the General Strategic policies and because some of the issues raised by these policies are relevant to subsequent policies in the plan and it is more logical to address them in that order.

153. Against this background, I have already considered the proposal's visual and noise impacts in the context of Policy G2 and concluded that the visual impacts from Glen Cassley would be significantly detrimental. There is no evidence that the scheme would cause electro-magnetic interference and no party with responsibilities for safeguarding civil or military aviation suggests that it would affect their interests. As far as roads, bridges and traffic are concerned, the SE-TRNMD, while recommending liaison regarding the transport of large loads, considered the proposal likely to have a minimal environmental impact on the trunk road network. The public roads east of Lairg are of a generally good standard. However, those to the west are essentially single track with passing places, bridge crossings, and limited forward visibility at some parts, and are not well-suited in their current state to significantly increased use by very large construction vehicles. The fact that part of the A839 in this area is built on peat and its structure has not been fully investigated is a further complication. It is therefore important that the scheme's transport impacts and the scope for adequate mitigation are carefully assessed.

154. In that regard, the arrangements that your client has agreed with the Council are comprehensive. While traffic flows appear to have increased in recent years, the main issue relates to the physical and operational effects of large, slow-moving vehicles rather than quantitative road capacity. Whether the 20-minute gap between very large or heavy loads that THC regards as a guideline can be reduced will depend on the outcome of an initial structural survey, but a reduction is not stated to be essential in order to construct the

scheme. Your client agrees that the wind farm developer should be responsible for any pre-construction road strengthening, localised improvements and safety measures found to be required and for road maintenance or repairs necessitated by its development. The TMP would allow the planning authority to insist that "abnormal" loads avoided local peak and school travel times and important local events, and to involve the emergency services in drawing up emergency and contingency access arrangements. While coincidental accidents and/or flooding on the A839, the A837 and/or the C43 could prevent access to some areas for a temporary period, it is impossible to foresee all eventualities and any large civil engineering project is likely to cause some local disruption and inconvenience. Having also had regard to the fact that the construction period would be temporary, I am not persuaded that its effects, or those during decommissioning, would be significantly detrimental in transport terms. The development would generate very little traffic at the operational stage. It would also not prejudice the future road improvements to which the SESLP refers and construction traffic would pass through Lairg for only a limited time.

155. Traffic effects would be greater if more than one wind farm was to be constructed in the area at one time. However, this is unlikely to happen as the 3 schemes in this area have grid connection dates that are several years apart. In any event, as the Rosehall Hill permission is to be subject to the same conditions and agreement as those proposed for Achany and Invercassley, the Council would be in a position to prevent the more traffic-intensive phases of construction from coinciding.

156. The only other potential cumulative effect relates to landscape and visual impacts. which SPP 6 states will become increasingly important as the numbers of wind farms increase. The SNH Locational Guidance indicates that the form of development, as well as the geographical extent of visibility, can have a bearing on cumulative impacts and this can be more than the sum of the parts.

157. The Cumulative Assessment in the ES considered Invercassley in association with Achany, Cambusmore, Gordonbush, Beinn Tharsuinn, Novar (Phases 1 and 2), Rosehall, Lairg and Braemore. Given that PAN 45 states that, in assessing these effects, it would be unreasonable to expect consideration to extend beyond schemes that have been built, have permission or are the subject of undetermined applications, Braemore can be discounted as it remains at scoping stage. However, the Council's decision on Rosehall means that it ought now to be considered as part of the baseline.

158. Most of the other sites considered are a significant distance from the Invercassley site and would sometimes occupy a different part of a view. Other than in relation to Achany, the cumulative effect of introducing Invercassley is unlikely to be significant. However, the ES acknowledges that the additional impacts arising from the introduction of Invercassley would be particularly noticeable where Achany is visible. It also states, in the absence of information on the Rosehall Hill layout, that it might appear to merge with Achany in many views. Although an element of contrast between the two layouts has emerged, they would often read as a single development. While Invercassley would be discrete to the extent that it would appear separate, it would be intervisible with the Achany/Rosehall Hill array, particularly from the south, at a similar distance, and the pronounced contrast in its layout would be seen in sharp focus. It would also extend a landscape with wind farms into new areas, notably to Glen Cassley and to parts of upper Strath Oykel. This is a case in which siting and design combine to produce a cumulative detrimental impact that is greater than the sum of the parts and is significant.

159. Drawing together my conclusions this far, I conclude that, because of its landscape and visual impacts, both on its own and cumulatively, the appeal proposal does not accord

with the relevant provisions of the approved structure plan. In reaching this conclusion, I have had regard to the balance that is integral to achieving accordance with the HSP strategy, and to the contribution that a renewable energy scheme could make to enhancing the well-being of the people of Highland. However, this turns on avoiding significantly detrimental adverse effects, which this scheme would incur. For similar reasons, it does not accord with the thrust of the local plan provisions on this issue, to the extent that these remain relevant.

160. However, this does not mean that planning permission must be refused and section 25 of the Act requires me to decide whether there are material considerations that indicate that planning permission for the wind farm should be granted notwithstanding its lack of accordance with the relevant provisions of the development plan.

161. In that regard, SPP 1 states that the range of considerations that might be considered material in planning terms is, in practice, very wide and falls to be determined in the context of each case. In this case, having had regard to the examples of possible material considerations listed in the SPP, I find the main material considerations to be:

- UK Government and SE energy policy on reserved and devolved matters respectively;
- the planning policy guidelines and planning policies contained in the NPF, NPPGs, SPPs and Circulars and the best practice advice issued in PANs;
- relevant European policy;
- the HRES; and
- the effect on the qualities of wild land, which the HSP regards as a material consideration in evaluating development proposals.

These are considered below, to the extent that they have not been addressed in the context of the development plan. My conclusions this far encompass other matters that SPP 1 also identifies as possible material considerations, namely environmental and design issues, the relationship of the development to its surroundings, access, the views of statutory and other consultees, the public concern and support that have been expressed on relevant planning matters and, in relation to nature conservation issues, European policy. The consultation document, Sutherland Futures, represents an early stage in a local plan review and does not raise any significant new issues.

162. The UK Government has overall responsibility for energy policy in the UK. The 2007 White Paper on Energy confirms the 4 energy policy goals of its predecessor, which include cutting the UK's emissions of carbon dioxide by 60% by 2050, with real progress by 2020. These targets reflect a recognition worldwide, including by the European Community, which has identified targets for Member States, of the need to counter global warming. It also makes clear that renewable energy development will play a vital part in achieving these objectives and confirms the UK Government's intention that 10% of electricity should come from renewables by 2010, with an aspiration for 20% by 2020. To that end, the White Paper envisages a more diverse energy system by 2020, which would include hydro, wave, tidal, offshore and onshore wind and biomass as well as more traditional sources. While promoting an RO banding system that would help bring forward emerging renewable technologies, the White Paper does not set targets for the share of the total supply to be met by different fuels and acknowledges onshore wind as a key element of the supply from renewables in this period. These principles are consistent with other UK Government statements on energy policy.

163. The Scottish Government, to which some energy powers have been devolved, has proportionately higher targets than apply to the UK as a whole, whereby 17%-18% of electricity generation would come from renewables by 2010, rising to 40% by 2020. SPP 6 confirms that the 2010 target has been met. However, the purpose of the SPP is to facilitate achievement of the 2020 target, which has been quantified as 6 GW of installed capacity. The SPP also makes clear that this figure should not be regarded as a cap, that sufficient developments are expected to be consented, at a minimum, to enable achievement of the target several years ahead of schedule, and that hydro and onshore wind are expected to continue to make the most significant contribution, albeit increasingly as part of a renewables mix. The NPF confirms support for renewable energy development and the expectation that wind power's contribution will increase substantially over the next 10 years.

164. However, this support is not unconditional and the SPP makes clear that support for renewable energy development and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals if an effective response is to be made to the challenges of sustainable development and climate change. In that context, it sees the planning system as playing a significant role in resolving conflicts so that progress towards the 2020 target continues to be made in a way that affords appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy development. In common with the development plan, achieving this objective requires a balance to be struck. To that end, SPP 6 makes clear that planning policy should be based on the principle that renewable energy development, including onshore wind, should be accommodated throughout Scotland where the technology can operate efficiently and environmental effects can be addressed satisfactorily. While I have no doubt that the Invercassley wind farm could operate efficiently, I consider that some of its environmental effects could not be satisfactorily addressed.

165. SPP 6 also takes the view that its expectations of the planning system should be realised, where appropriate, through spatial policies supported by broad criteria identifying the issues that must be satisfactorily addressed to enable development to take place. It advises planning authorities to update their development plans accordingly, including by identifying broad areas of seach and areas that will be given significant protection because of national, international or green belt designations, or potential cumulative effects. However, the SPP also makes clear that, while areas of search should provide a steer to developers, these should not be used to rule out development elsewhere that can be accommodated in a manner consistent with the approach in the SPP. It also sees a role for supplementary planning guidance in providing an interim basis for efficient and consistent decision-making, prior to incorporation in development plans in due course. To be consistent with national policy, any such guidance has to reflect these principles.

166. Given the time that has elapsed since the HSP was drafted, it is understandable that the Council should have reconsidered the statement at paragraph 2.12.3 of the plan that it did not intend to identify preferred search areas. That said, the HSP cites the difficulty of assessing potential constraints, other than on a site-specific basis, as the reason for not identifying preferred search areas and the Council agrees that, irrespective of how the HRES may be applied in practice, the HRERA database is not suitable for determining individual applications. Significantly, the HRES also pre-dates SPP 6 and THC accepts that it needs to be revised. It is feasible that a reappraisal would retain some of the Strategy's topic based policies and, while SPP 6 is silent on regional targets, these are not necessarily at odds with national policy, provided they are not treated as a cap. THC could also decide, for planning reasons, to retain a preference for clustering wind farms in certain areas that excluded the area around Lairg, and Policy U.2. However, the spatial framework that Policies E.5-E.7 provide amounts to the type of sequential approach that the SPP specifically advises

against. Furthermore, while the Strategy makes clear that a project could be approved outwith a preferred area, and the Council agreed at the inquiry that it is open to a developer promoting an "export" scheme to demonstrate that strategic aims and site specific constraints can be addressed and the presumption against development in a red area set aside, the Strategy does not identify the criteria on which national policy expects any such demonstration to be based.

167. Turning to the final consideration listed in paragraph 161, of the two SAWLs at issue, Beinn Dearg is 9 km from the site at its nearest point. While the Invercassley wind farm would be clearly visible from Viewpoint 12, Mullach a chadha Bhuidhe, this landscape aspect is extensive. From Conival in Ben More Assynt, it would be seen at a distance of almost 17 km. I accept that the scheme would introduce a new man-made feature. However, on balance, I conclude that it would be at sufficiently far away for a sense of remoteness in these locations to be retained. Its effects on Glen Cassley are on the character of the glen itself, where wild land character is not strongly expressed.

168. Drawing these matters together, I find no material considerations that justify allowing the appeal. SPP 1 states that the purpose of the planning system is to ensure that development takes place in suitable locations and is sustainable. While a renewable energy development is, in principle, sustainable, I conclude that the appeal site is not a suitable location for this development. I have considered whether conditions and a legal agreement could make the scheme acceptable. However, its unsatisfactory nature relates to its siting and design and I have concluded that they could not. I have taken account of all the other matters raised, including Balnagown Estates' intentions for local development and the training initiative with which your client is involved, neither of which is stated to depend on the appeal scheme proceeding, but find none that outweighs my conclusion that the proposal is unacceptable for the reasons that I have explained.

DECISION

169. Accordingly, In exercise of the powers delegated to me, **I hereby dismiss your client's appeal and refuse to grant planning permission** for the development to which it relates.

170. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

171. A copy of this letter has been sent to the Highland Council and to the other parties to the inquiry. Others who wrote regarding the proposal have been advised of the decision.

Yours faithfully

This is the version issued to parties 13 December 2007

MISS J M McNAIR
Reporter