

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE
05 August 2014**

Agenda Item	6.11
Report No	PLN/059/14

**14/02480/S42: RWE Renewables Ltd
Land at Bad A Cheo, Achkeepster, Spittal, Caithness**

Report by Head of Planning and Building Standards

SUMMARY

Description: Construction of a 13 wind turbine (105m to blade tip) wind farm (Bad a Cheo Wind Farm) without compliance with Condition 23 of permission PPA-270-2098 (12/02868/FUL) requiring the relocation of the WW2 Flying Fortress Memorial.

Recommendation: **GRANT** planning permission

Ward: 4 – Landward Caithness

Development category: Major Application

Pre-determination hearing: None

Reason referred to Committee: Variation of condition on a Major Application

1.0 PROPOSED DEVELOPMENT

1.1 The application seeks to remove the applicant's obligation under Condition 23 of the planning permission granted on appeal (PPA-270-2098) on 06 May 2014 for the Bad a Cheo wind farm.

1.2 Condition 23 of the planning permission states:

No development shall begin until a scheme for the relocation and consequent adjustment of the memorial to the crew of the WW2 Flying Fortress currently situated on the west side of the A9(T) (VP8 in the ES), has been submitted to and agreed in writing by the planning authority. The agreed scheme shall be implemented before erection of the first turbine, or some other date as may be agreed with the planning authority.

Reason: *To ensure that the memorial continues to have an open relationship with the landscape of the crash site to which it relates.*

1.3 A copy of the appeal decision and planning permission is contained within Appendix 2.

2.0 PLANNING HISTORY

2.1 **20.09.2014** – Planning Permission for construction of a 13 turbine wind farm refused (12/02868/FUL).

2.2 **06.05.2014** – Planning Permission for construction of a 13 turbine wind farm granted on Appeal (PPA-270-2098).

3.0 PUBLIC PARTICIPATION

3.1 Advertised: Neighbour Notification

Representation deadline: 18 July 2014

Timeous representations: 11

Late representations: 0

3.2 Material issues raised can be summarised as:

- The memorial should not be moved and therefore support the application (4 individuals and the Thurso Branch of the British Legion)
- The applicant should do what it is required to do and move the memorial (1 individual)
- The applicant should remove the offending turbines (1)

4.0 CONSULTATIONS

4.1 No consultations undertaken.

5.0 DEVELOPMENT PLAN POLICY

5.1 The development plan comprises of the Highland Wide Local Development Plan (2012), the Caithness Local Plan (2006) (as continued in force) and Statutory Supplementary Guidance.

5.2 The following policies are relevant to the assessment of the application:

Highland Wide Local Development Plan 2012

5.3	Policy 28	Sustainable Design
	Policy 57	Natural, Built and Cultural Heritage
	Policy 61	Landscape

Caithness Local Plan 2002 (as continued in force)

5.4 No relevant policies apply.

Statutory Supplementary Guidance

5.5 None.

6.0 OTHER MATERIAL POLICY CONSIDERATIONS

Scottish Government Planning Policy and Guidance

6.1 Scottish Planning Policy (2014)

7.0 PLANNING APPRAISAL

7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan in this case comprises the Highland wide Local Development Plan (approved April 2012).

Determining Issues

7.2 The determining issues are:

- do the proposals accord with the development plan?
- if they do accord, are there any compelling reasons for not approving them?
- if they do not accord, are there any compelling reasons for approving them?

Planning Considerations

7.3 The principal of the development has been established. This is an application to remove the applicant's obligations on a condition of the existing permission. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

7.4 It is worth highlighting that an application submitted under S42 of the Planning Act provides a planning authority with an opportunity, in considering the proposed application, to amend any, or all, of the conditions on a planning permission that it considers necessary to regulate the development proposed.

Development Plan

7.5 While the decision made by the Reporter was against the decision of this Committee, the principal of the development is now clearly established and should not be open to re-examination – including the matter of removal of turbines raised by one objector. Development Plan Policy has not changed since the time of the Reporter's decision. The key issue therefore is whether the removal of the condition proposed would make the development incompatible with the Development Plan.

- 7.6 The reason for the condition relates to the need to preserve the open relationship in the landscape (and associated visual link) between the memorial on the A9(T) to the crash site. The existing memorial is not a historic monument but the crash site is a recorded archaeological site. The issue from the perspective of the Development Plan therefore is really whether an uninterrupted visual link between the memorial and the crash site is of utmost importance to preserving the historic and cultural importance of the crash site.
- 7.7 At the time of the Council's consideration of the proposal, Historic Scotland and the Council's Historic Environment Team were both of the view that the wind farm would not affect the historic and cultural importance of the crash site itself. A similar condition to that imposed by the Reporter was contained within the Reports to Committee. Since there is no direct relationship, in a direct historical sense, between the crash site and the memorial the suggestion for its relocation was made at the time simply to improve visitor experience and appreciation.
- 7.8 The Development Plan supports the protection and preservation of landscape designations and landscape character as well as features of historic and cultural importance. Were the proposal not to relocate the memorial considered not to have an unacceptable impact on the heritage resource then the proposal would comply with the Development Plan.

Material Considerations

- 7.9 Of the eleven letters of representation received seven support the removal of the condition as it stands, including one letter received from the Thurso Branch of the Royal British Legion. One, although not content with the decision to grant permission for the wind farm, states that the memorial should not be moved and has therefore been taken as a letter of support. Both letters of objection were a clear response to non acceptance of the Reporter's decision with one, as outlined above, stating that the wind farm operator should remove the offending turbines. The comment received resulted from confusion over what response should be given.
- 7.10 The over-riding reasons set out within the correspondence for supporting the proposal relates to the time and effort that has been invested in achieving the goal of erecting a memorial to the crash victims. While a modern memorial this in itself is of cultural significance. The clear message from those in support is that there is no desire for the memorial to be removed.
- 7.11 Members may recall the debate on this issue when the wind farm was considered at Committee on 17 September 2013 following a site visit. As noted above a similar condition to that imposed by the Reporter was contained within the Report to Committee. The Team Leader gave a clear indication that, notwithstanding the recommendation, the condition could be altered or removed if Members so wished. The decision to refuse permission meant that this did not receive further consideration. However, the indication given was that had permission been granted this condition would have been removed.

- 7.12 On reviewing the Reporter's decision against the conditions set out within the Committee Report it became apparent that there are minor yet significant errors that require to be addressed.
- 7.13 Condition 20 relates to noise. The figures for night time noise limits at individual properties Corner Cottage and Tacher set out within Table 2 of Condition 20 on the Reporter's decision are incorrect and seem to have been transposed. This application provides the opportunity to correct these errors.
- 7.14 There are no other Conditions that require amendment, variation or deletion.
- 7.15 There are no other material considerations.

8.0 CONCLUSION

- 8.1 All relevant matters have been taken into account when appraising this application. The representations received indicate support for the removal of the condition requiring the relocation of the memorial. This does not suggest that it is the inter-visibility and open relationship between the memorial and the crash site that is most important; rather it is the cultural significance of the effort and dedication of many people to put in place a physical marker to those that made the ultimate sacrifice in a time of war. The removal of Condition 23 would not result in the development being incompatible with the Development Plan.
- 8.2 The application provides an opportunity to amend conditions other than those applied for. In this case it has been discovered that there are errors with Condition 20 of the Reporter's decision. These can now be rectified.
- 8.3 It is considered that the application to amend the conditions on this extant planning permission accords with the development plan and is acceptable in terms of all other applicable material considerations.

9.0 RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended that the application be **granted** planning permission subject to:

- A.** Amendment to Condition 20 to correct the noise levels set out within Table 2 at Corner Cottage and Tacher.
- B.** All other conditions pertaining to planning permission PPA-270-2098 (12/02868/FUL), except Condition 23, which shall be deleted.

Signature: Malcolm MacLeod
Designation: Head of Planning and Building Standards
Author: David Mudie (01463) 702255
Background Papers: Documents referred to in report and in case file.

APPENDIX 1 - LIST OF REPRESENTATIONS

OBJECTORS

1. Mr Stuart Young, Dunmore Westside West Dunnet Road, Dunnet, Highland, KW14 8YD
2. Mrs Lynsey Ward, Darach Brae Beaully, IV4 7AE

SUPPORTERS

1. Mrs Brenda Herrick, Sandmill, Harbour Road, Castletown, Thurso, KW14 8TG
2. Mr William Brown, Dunvegan Achscrabster Achscrabster Road, Thurso, Highland, KW14 7QN
3. The Royal British Legion Scotland, Thurso Branch , Riverside Road, Thurso, Caithness, KW14 8BU
4. Mr Adrian Donovan, Aljolichsa, West Watten, Wick, KW1 5XJ
5. Colin Merriott, 3 Seaview Terrace, Latheron, KW5 6DN
6. Mrs Denise Brown, Upper Larel Farm, Halkirk, KW12 6UZ
7. Mrs Lyndall Leet, 8 Burnside, Thurso, Highland, KW14 7UG
8. Mr N Ward, Darach Brae, Beaully, IV4 7AE

COMMENT

1. Mrs Victoria Coghill, Tether's End, Dunn, Watten, Wick, KW1 5NX

Appeal Decision Notice

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Decision by Dannie Onn, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2098
- Site address: Bad a Cheo, Achkeepster, Spittal, Caithness
- Appeal by RWE Npower Renewables Ltd against the decision by the Highland Council
- Application for planning permission 12/02868/FUL dated 25 July 2012 refused by notice dated 20 September 2013
- The development proposed: a wind farm comprising 13 turbines (max rated capacity 2.5MW), including a crane hardstanding and an external transformer at the base of each turbine; an access bellmouth from the A9; permanent access tracks within the site; a permanent anemometry mast; and a control building and substation compound.
- Application drawings: Figure 1 – site location; Figure 2 – site layout; Figure 3 – typical turbine elevation; Figure 4 – control building; and Figure 5 – control building and substation compound
- Date of site visit by Reporter: 3 and 4 March 2014

Date of appeal decision: 6 May 2014

Decision

I allow the appeal and grant planning permission subject to the 23 conditions listed at the end of the decision notice. Attention is also drawn to the four advisory notes there.

The appellant, RWE Npower Renewables Ltd, has made an application for expenses against the Highland Council. My decision on that matter is in a separate notice.

Reasoning

1. I must determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. The determining issue in this appeal is the visual impacts of the proposed turbines, particularly in combination with other wind farms.

Visual impacts

3. The appeal site covers around 230 hectares of relatively flat peatland between the A9 trunk road and the existing Causeymire wind farm. Part of the site has been used for forestry research planting and part is in use for commercial peat extraction. The landform hereabouts has immense openness, relieved by sweeping moorland and coniferous



plantations. There is often panoramic visibility. The existing wind farms can be seen from many of the surrounding moorland slopes and hills as well as the A9 trunk road and other roads in the area. This is an open and exposed location.

4. The development plan includes the Highland Wide Local Development Plan. Policy 67 of that plan includes that the council will support renewable energy developments where they will not be significantly detrimental overall, either individually or cumulatively with other developments having regard to (amongst other things) visual impact and tourism and recreation interests.

5. This site lies in an area appropriate for wind farm development as defined by the council's interim supplementary guidance. In addition to the existing 21 turbines at Causeymire, planning permission has recently been given for 15 turbines at the Halsary wind farm across the A9 to the east, and for 5 turbines at the Achlachan wind farm about 2 kilometres to the north-west of the appeal site.

6. To the south, the 15 turbine Boulfruich wind farm is visible from the A9 and the permitted scheme at Burns of Whilk (9 turbines) could also be experienced by those travelling through the area, but these are remote from the appeal site and my general impression of the area is that it is a landscape where wind farms are now expected. The 25 turbine Camster wind farm to the east would be seen in some views of the proposed development and there is also a cluster of wind farms close to the A882 at Bilbster, further east again. These wider developments contribute to the experience of Caithness as a landscape with wind farms.

7. The applicant's environmental statement (ES) provides useful images of how the wind farm might appear. The cumulative impact was updated with further assessment to reflect other consents and proposals in the area. My analysis of the information provided, together with my inspection of the area around the site and viewpoints further afield leads me to the following observations.

- There would be very few places where any of the proposed turbines would be seen other than in combination with those at Causeymire. A similar turbine height and spacing has been proposed and the associated infrastructure would be similar. The two developments would be seen as one in most views, limiting the wider impact of the scheme.
- With the consented schemes nearby, the proposals would be seen as part of a large but relatively compact cluster of wind turbines in the central area of Caithness. This cluster would be a dominating feature of the experience when travelling along this part of the A9 and on surrounding roads and paths. The turbines would all be of similar design and size. They would consolidate this localised cluster.
- Any cumulative impact, including sequential experience, with wind farms beyond this cluster would be occasional and of low impact, in my view. The proposed turbines would be seen in combination with other wind farms, but generally where one or both would be a distant feature and peripheral to the main view.

8. Taken together, the clustering and cumulative impacts would be marginal because of the close proximity of the proposed to existing and permitted schemes. The increased number of turbines would add to the complexity of the views, with more crossing of blades

and overlap of turbines, but the scale and extent of the impacts would be increased by only a small amount.

9. I note that there could be differences in turbine height and blade diameter between the neighbouring schemes, depending on the turbines selected. However, the differences would be slight and a measure of control over colour, appearance and direction of spin could be retained by planning condition. Although some difference in blade speed might be apparent on close inspection, I consider that the number and layout of turbines would limit the effect, particularly when seen by those moving through the cluster or from long distance viewpoints.

10. Within the local area, the settlements at Westerdale, Mybster and Spittal are already affected by the existing Causeymire wind farm. From Westerdale the existing windfarm is prominent on the principle views south-eastward from the dwellings along the main road. These views will be further affected by the permitted turbines at Achlachan, which would be considerably closer and more imposing. By contrast, the effect of the Bad a Cheo turbines would be limited. They would be largely behind and seen as one with the turbines which are already there. Mybster and Spittal align to the north of the appeal site. From there the proposed turbines would be behind either the existing turbines at Causeymire or those proposed for Halsary or filling the narrow gap between. The downward slope to the south would allow clear sight of what would become a large cluster of turbines across the view. However, the marginal effect of the Bad a Cheo proposal would be a concentration of turbines within the same visual range. Although it would be a more complex group, I consider that the impact would not be so great that it would increase significantly the harm to the visual amenity for those living in these places.

11. Views from the A9 would change significantly close by, but, as with the views from the settlements along the road, the impact would be slight due to the overlap with the existing and permitted turbines. Those on the A9 approaching from north or south would only see the proposed turbines as part of a compact cluster. Their visual amenity would not be significantly harmed.

12. I have considered carefully whether four turbines to the south of the site (numbered 5, 6, 12 and 13 on the plans) should be omitted by condition. SNH does not object on landscape or visual grounds but suggests that this would reduce adverse effects. In my analysis of the impacts, I do not find the harm with those turbines to be significant.

13. Beyond those I have mentioned, further wind farms are proposed and some of these are within the planning system. I can give little weight to the combined impact with schemes that may not be permitted. That would be a matter for those decisions in due course.

14. To conclude on this main issue, I consider that there would be no significantly harmful visual or cumulative visual impacts from the proposed development. It would thus accord with policy 67 of the local development plan in that regard.

Other matters

15. The potential noise from the proposed wind farm has been assessed in the ES. The council requested further assessment of the cumulative noise impacts and this was provided in the supplementary environmental information (SEI). With the consented Halsary scheme, there would be three independently operated wind farms close together.

16. Scottish Government advice is that ETSU-R-97 should be followed in assessing noise from wind farms. It provides a method of assessing what might be fair to developers and nearby residents. It operates by accepting that the benefits of wind energy development may be balanced with additional noise at a few residential properties in the countryside and sets a range of acceptable noise limits to protect those who might be affected. It recommends that the limits should apply to all wind turbines in the area rather than to individual wind farms.

17. Based on the ETSU-R-97 method, the appellant's supplementary environmental information shows that the likely noise levels from the three wind farms at Causeymire, Halsary and Bad a Cheo would be within the council's preferred limit of 35dBA or 5dB above background in the daytime and 38dBA or 5dB above background at night. This is based on Halsary wind farm operating in accordance with the predictions in its Environmental Statement and with Causeymire levels assessed from the sound power ratings of the turbines. Causeymire has a higher limit set by condition. Clearly, if that limit was reached the cumulative effect would be greater. However, the appellant's assessment shows that the increase would be within the range set by ETSU, where the increase in renewable energy output and the relatively few properties affected might in any case justify a higher limit. The suggested noise conditions would set limits at the nearby houses, and ensure mitigation if the noise level from all the wind farms exceeded those limits.

18. The appellant has assessed the proposed development in relation to European Sites under the Habitats Directive. It concludes that there would be potentially significant effects on the Atlantic salmon at the River Thurso Special Area of Conservation (SAC) due to pollution and sediment runoff during construction and decommissioning; on otter at the Caithness and Sutherland Peatlands SAC due to pollution sediment runoff and collision with vehicles; and on merlin and golden plover at the Caithness and Sutherland Peatlands Special Protection Area and Ramsar site due to disturbance or collision with turbine blades. Scottish Natural Heritage (SNH) is the Scottish Government's specialist advisor on nature conservation. SNH does not object to the proposed development, subject to conditions requiring mitigation as set out in the ES. I note that impacts are likely and have considered carefully the information before me. In my assessment, there would be no significant effect on the integrity of these sites, either from the proposed development alone or in combination with other schemes, provided those planning conditions would be imposed.

19. Other nature conservation would be managed by the suggested conditions and SNH has no outstanding objection to the proposed development subject to the necessary mitigation and protection afforded by the suggested planning conditions.

20. The proposals would be in sight and setting of a number of scheduled monuments. These are all affected by the existing turbines nearby. In particular, the standing stones at Halsary would be surrounded by the turbines from the wind farm recently permitted there. Historic Scotland raises no objection to the scheme. In my view, any impacts from the proposed turbines would be slight in the context of the cluster it would be part of.

21. The application included in its description of the proposed development that part of the site is forested and part is cut for peat extraction. It continued that these activities would cease should the wind farm proposal be approved. However, this has been reconsidered since. The peat extracted from the site has been used for malting and it is proposed that this will continue. I have been given no reason why it should not.

22. Transport Scotland does not object to the proposed turbines. Although the group would be alongside the road, individual turbines would be no closer than 200m, which is the same as the Causeymire turbines. They would be read as part of the same cluster. The open landscape and the long views from north and south along the A9 prevent surprise. There is unlikely to be any driver distraction as a result of the proposals.

23. Construction impacts including traffic would be managed in accordance with a document approved by the council as a requirement of a planning condition. That would prevent any significant impacts on road safety or residential amenity

24. The proposed turbines could interfere with TV and radio reception nearby. However, a condition is suggested which would require a scheme to be agreed to mitigate any problem which arises.

25. A memorial cairn with plaques has been erected close by the site at a lay-by on the A9. It remembers the victims of a military air crash in 1945. The crash site itself is a monument and the memorial a guide to it. The significance of the location of the memorial is that it allows those who care, the opportunity to appreciate the landscape of the crash site. The sense of desolation and openness would be seriously compromised by further turbines near the memorial, particularly as the southernmost turbines proposed would encroach on the views towards the crash site from the memorial. I consider that this is of such importance that it justifies requiring the memorial to be re-sited and adjusted as a condition of the permission. I note that there are other locations along the A9 which might be suitable and am content that this could be left to the parties to agree the detail.

26. I have given no weight to the financial concerns levelled against the proposals. The use of subsidies and renewable energy obligations, money promised to the community and the effects on electricity prices are not matters for my examination of the appeal. The Scottish Government's policy is one of support for on-shore wind farms in the right place and the proposed development would provide renewable energy in support of the targets it has set.

27. I have given thought as to whether enough is enough (as the council puts it). I have considered the proposed development on its own merits and reached the conclusion that it would provide a useful contribution to renewable energy without significant harm. The Scottish Government puts no upper limit on the amount of energy that can be harnessed by renewable energy developments. There should be no restriction on wind turbines provided that the environmental and cumulative impacts can be satisfactorily addressed, as they would be in this case.

Conditions

28. The council suggests conditions which should be attached should I allow the appeal. These include recommendations from statutory consultees. As discussed above, concerns relating to environmental impact, protected nature sites and residential amenity can be mitigated provided suitable conditions are attached. I note that in some cases these will require further detailed information and careful control of works on site. Nevertheless, I consider that those conditions would overcome the potential harm. Other conditions would be required to control construction and decommissioning impacts. The precise details of the turbines and other structures on the site would need to be controlled by planning condition, particularly as the acceptability of the scheme relies on matching as far as possible the other wind farms in the cluster. There would also need to be conditions

requiring steps to be taken for aviation safety. A further condition is suggested to manage outdoor recreation interests during construction and operation. These will all be attached, modified broadly as agreed by the main parties and otherwise only for neatness and to comply with the advice of circular 11/1994.

29. Suggested condition 5 seeks removal of turbines should they not be generating for a period of 6 months. The appellant says that 9 months would allow for the ordering and fitting of replacement parts. I consider that an ineffective turbine could stand out amongst those still operating as well as having no energy generating justification. Such failures should be removed as soon as possible. I therefore include 6 months in the condition, but have allowed for unforeseen circumstances by including for alternative arrangements to be agreed with the planning authority.

30. The council proposes a condition related to the advice from SNH that there should be additional mitigation to ensure unimpeded otter movement along watercourses. The blanket restriction on working at night or within one or two hours of sunset and sunrise is not the intention of the mitigation. Further, I consider that this matter could be left to the construction environmental management document, in particular the species protection plan, required under condition 8 and the habitat management plan required by condition 9. That would allow agreement to be reached and thereby address the concerns of SNH without the need for a specific condition.

Conclusions

31. I have found that the proposed wind farm development would not harm visual amenity. Having assessed the other matters before me I have found that, subject to planning conditions being imposed, they do not provide reasons to refuse the application. I therefore conclude that the proposed wind farm would accord overall with the relevant provisions of the development plan and there are no material considerations which would justify refusing planning permission.

Dannie Onn

Reporter

Conditions

1. Unless otherwise agreed with the planning authority, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement (ES) of June 2012, including Supplementary Environmental Information of March 2013. This permission shall be for a maximum of 13 turbines and 1 anemometer mast, to be sited as shown on the site layout drawing (Figure 4.1a) contained within Chapter 4 of the Bad a Cheo Wind Farm ES.

[Reason: In order to clarify the terms of permission.]

2. This planning permission shall expire and cease to have effect after a period of 30 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "first export date"). Upon the expiration of a period of 25 years from the first export date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 3 of this permission. Written confirmation of the first export date shall be submitted in writing to the planning authority within one month of the first export date.

[Reason: Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, reassessment to be made of the environmental impacts of the development and the success, or otherwise, of noise impact, species protection, habitat management and mitigation measures. The 30 year cessation date allows for a 5 year period to complete commissioning and site restoration work.]

3. No development shall commence until a draft decommissioning and restoration plan (DRP) for the site has been submitted to, and approved in writing by, the planning authority in consultation with Scottish Natural Heritage (SNH) and Scottish Environmental Protection Agency (SEPA). Thereafter:

- i. No later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the wind farm operator and a copy submitted to the Planning Authority for their written approval, in consultation with SNH and SEPA; and
- ii. No later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft plan, shall be submitted to, and approved in writing by, the planning authority, in consultation with SNH and SEPA.

For the avoidance of doubt, the DRP shall include the removal of all above ground elements of the development, all new access tracks (if the environmental impacts of removing them are assessed as acceptable), the treatment of disturbed ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The detailed DRP shall be implemented as approved.

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

4. No development shall commence until the following have been submitted to, and approved in writing by, the planning authority:

- i. full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the decommissioning and restoration plan approved under condition 3 of this permission; and
- ii. confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs; and
- iii. documentary evidence that the bond or other financial provision approved under parts (i) and (ii) is in place.

Thereafter, the wind farm operator shall:

- i. ensure that the bond or other financial provision is maintained throughout the duration of this permission; and
- ii. pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the site restored.

Each review shall be:

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

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

[Reason: To ensure financial security for the cost of the restoration of the site.]

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

- i. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, then the wind turbine in question shall be deemed to have ceased to be required. Under such circumstances, the wind turbine, along with any ancillary equipment, fixtures and

fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition unless otherwise agreed in writing with the planning authority; or

- ii. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the wind farm operator must notify the planning authority in writing immediately. Thereafter, the planning authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition. For the avoidance of doubt, in making such a direction, the planning authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the wind farm operator and such other parties as they consider appropriate.

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

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

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

- i. the make, model, design, power rating and sound power levels of the turbines to be used; and
- ii. the external colour and finish of the turbines to be used (incl. towers, nacelles and blades) which should be non-reflective pale grey semi-matt.

Thereafter, development shall progress in accordance with these approved details and, with reference to part ii above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned. All wind turbine blades shall match as far as possible and rotate in the same direction as those at the adjoining Causeymire wind farm.

[Reason: To ensure that the turbines chosen are suitable in terms of visual, landscape noise and environmental impact considerations.]

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

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

8. No development shall start on site until a construction environmental management document (CEMD) is submitted to and agreed in writing by the planning authority in consultation with SNH and SEPA. The document shall include:

- An updated schedule of mitigation (SM) including all mitigation proposed in support of the planning application and other relevant agreed mitigation (such as required by agencies) as set out in the relevant planning conditions.
- Processes to control / action changes from the agreed SM.
- The following specific construction and environmental management plans (CEMP):
 - i. peat management plan – to include details of all peat stripping, excavation, storage and reuse of material
 - ii. pollution prevention plan
 - iii. drainage and surface water management plan - to address both construction and post construction with specific regard to protection of the River Thurso SAC.
 - iv. chemical pollution plan
 - v. species protection plan
 - vi. fisheries protection plan
 - vii. site waste management plan
 - viii. noise and vibration mitigation plan
 - ix. traffic management plan– providing details on the proposed route for any abnormal loads, any accommodation measures required and any additional signing or temporary traffic control measures deemed necessary
- Details of the appointment of an appropriately qualified environmental clerk of works with roles and responsibilities which shall include but not necessarily be limited to:
 - i. providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
 - ii. monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
 - iii. advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
 - iv. directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and
 - v. the power to call a halt to development on site where environmental considerations warrant such action.

- Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the wind farm operator, planning authority and other relevant parties.
- Statement of any additional persons responsible for stopping the job or activity if there is a potential breach of a mitigation or legislation.

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

[Reason: To protect the environment from the construction and operation of the development.]

9. No development shall commence, including tree felling operations, until a habitat management plan (HMP) has been submitted to, and approved in writing, by the planning authority in consultation with SNH and SEPA, providing for measures to protect and manage habitat and species within the site. The HMP, which shall be implemented in full and in accordance with any timescales outlined therein unless otherwise agreed in writing, shall include the following elements:

- Measures to minimise any impact of the development on statutorily protected species and other species of nature conservation interest (including hen harrier, otters, bats, water vole and wild cat) and their respective habitats
- The enhancement, restoration and future management of the site to its blanket bog/heath habitat

[Reason: To protect and enhance the nature conservation interests of the area, including the management of vegetation and peatland within the site, mitigate any effects on statutorily protected species and their habitat and avoid adverse effects on other species of nature conservation interest.]

10. No development shall commence, including tree felling works, until precommencement surveys to locate the presence or absence of water vole, otter and wild cat is undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall be carried out in the year preceding the commencement of development and the report of survey shall inform any mitigation measures identified in the species protection plan required as part of the CEMD approved under condition 9.

Reason: To protect and enhance nature conservation from construction activities.

11. No development shall commence until the applicant has provided the Ministry of Defence (Defence Estates - Safeguarding) with the following information; a copy of which shall be submitted to the planning authority:

- proposed date of commencement of the construction;
- estimated date of completion of the construction;
- height above ground level of the tallest structure;
- maximum extension height of any construction equipment;
- position of the turbines in latitude and longitude plus eastings and northings;

[Reason: In order to ensure the safety of low flying military aircraft.]

12. No turbine shall be erected on site until a Noise Measurement and Mitigation Scheme has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:

- i. A framework for the measurement and calculation of noise levels to be undertaken in accordance with "The Assessment & Rating of Noise from Wind Farms", September 1996, ESTU report number ETSU-R-97 (ETSU-R-97). Wind speeds shall be determined using the methods in the Institute of Acoustics (IOA) Good Practice Guide to the application of ETSU-R-97.
- ii. Mitigation measures to be enacted, along with a timetable(s) for implementation, should noise imissions exceed the limits prescribed under this planning permission.

[Reason: To ensure that the noise impact of the built turbines can be assessed, if necessary following a complaint, in order to determine whether they exceed the predicted noise levels set out within the supporting ES, and where excessive noise is recorded, suitable mitigation measures can be undertaken.]

13. No development shall commence until the baseline water quality within the site has been assessed and a scheme for monitoring quality both during construction and post-construction has been submitted to and agreed in writing by the planning authority, in consultation with SEPA. The agreed scheme shall be implemented for the period specified therein unless otherwise agreed in writing by the planning authority in consultation with SEPA.

[Reason: To provide a baseline on water quality against which to monitor construction methods.]

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

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

The approved access management and recreation plan, and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

[Reason: To safeguard and maximise the opportunities for continued public access to the countryside during the construction and operation of this wind farm.]

15. No development shall commence until a TV and radio reception mitigation plan has been submitted to, and approved in writing by, the planning authority. The plan shall provide for a baseline TV reception survey to be carried out prior to the commencement of turbine installation, the results of which shall be submitted to the planning authority. Within 12 months of the final commissioning of the development, any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building, shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the Planning Authority. Should any impairment to the TV signal be attributable to the development, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

[Reason: To ensure local TV and Radio Services are sustained during the construction and operation of this development.]

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

- i. That no turbine rotor shall fall within 50m of any trees on or adjacent to the site
- ii. No wind turbine, mast, hardstanding or track shall be moved more than 50m from the position shown on the original approved plans; and in any case shall not be moved to a position within 50m of any watercourse.

All micro-siting permissible under this condition without requiring the approval of the Planning Authority must be approved by the development's environmental clerk of works (ECoW) identified under Condition 9. A written record must be kept of any such ECoW approval and shall be kept for no less than four years following the first export date.

Within one month of the wind farm being commissioned, the developer must submit an updated site plan to the planning authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure within the site. The plan should also highlight areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority's approval, as applicable.

[Reason: To minimise the effect of the development on the landscape and species and habitat of conservation importance.]

17. Bird flight deflectors should be fitted, at 5 metre intervals, to all anemometer mast guy wires. Stops or clamps should be fitted to the guy wires to prevent the deflectors sliding down the wires. The mast should be inspected and maintained annually to ensure the deflectors remain in place.

[Reason: To minimise bird collision risk.]

18. Unless otherwise agreed in writing by the planning authority, in consultation with Ministry of Defence, the cardinal turbines shall be fitted with infra-red or 25 candela red lighting at the highest practical point.

[Reason: In order to ensure the safety of low flying military aircraft.]

19. Access to the site by heavy goods vehicles and any noisy construction activity (such as piling, blasting, rock-breaking) shall be restricted to 07.00 to 19.00 on Mondays to Fridays and from 07.00 to 13.00 on Saturdays with no such access on Sundays unless otherwise agreed in advance in writing by the Planning Authority.

[Reason: In order to control noise in the interest of amenity.]

20. The wind turbine noise levels, including the application of any tonal penalty specified in ETSU-R-97 at pages 99-109, shall not exceed the values specified for the locations listed in Tables 1 and 2 below. For noise-sensitive premises not listed in Tables 1 and 2, but on the date of this planning permission lawfully exist or are yet to exist but benefit from extant planning permission, noise limits shall be taken from the listed location that is closest matching in terms of background noise.

This condition shall apply at wind speeds not exceeding 12m/s, as calculated at a height of 10m above ground level in accordance with the methods described in the IOA Good Practice Guide to the application of ETSU-R-97.

Table 1 – Daytime Noise Limits

Location	Noise levels (dB LA90) at standardised 10 meter height wind speeds (m/s)								
	4	5	6	7	8	9	10	11	≥12
Mybster	25.0	25.0	27.3	29.9	31.6	33.0	33.0	33.0	33.0
Corner Cottage	25.0	25.0	25.0	26.5	28.6	30.6	32.3	33.8	34.8
Tacher	32.8	36.1	38.6	40.6	42.2	43.8	45.2	46.5	47.8
Shielton	25.0	25.0	26.5	29.7	32.9	35.8	38.3	40.2	41.1

Table 2 – Night Time Noise Limits

Location	Noise levels (dB LA90) at standardised 10 meter height wind speeds (m/s)								
	4	5	6	7	8	9	10	11	≥12
Mybster	28.0	28.0	28.0	29.9	31.6	33.0	33.0	33.0	33.0
Corner Cottage	25.0	25.0	25.0	26.5	28.6	30.6	32.3	33.8	34.8
Tacher	28.0	28.0	28.0	28.0	28.0	28.9	30.0	30.9	31.7
Shielton	28.0	28.0	28.0	28.0	29.7	31.5	33.2	34.9	36.5

[Reason: To ensure that the noise impact of the built turbines does not exceed the predicted noise levels in the interest of residential amenity.]

22. The Wind Farm Operator shall, beginning with the first day upon which the wind farm becomes operational, log wind speed and wind direction data continually and shall retain the data for a period of at least 12 months from the date that it was logged. The data shall include the average wind speed, measured in metres per second, over 10 minute measuring periods. These measuring periods shall be set to commence on the hour and at 10 minute consecutive increments thereafter. Measurements shall be calculated at 10m

above ground level using the methods described in IOA Good Practice Guide to the application of ETSU-R-97. All wind speed data shall be made available to the planning authority on request in Microsoft Excel compatible electronic spreadsheet format.

[Reason: To ensure that the noise impact of the built turbines can be assessed, if necessary following a complaint, in order to demonstrate whether they exceed the predicted noise levels set out within the supporting environmental statement.]

21. At the reasonable request of the planning authority, the wind farm operator shall assess, at its own expense and using a suitably qualified consultant, the level of noise imissions from the wind turbines. Assessment shall be carried out in accordance with the noise measurement and mitigation scheme approved under this planning permission and a report of assessment shall be submitted to the planning authority within two months of a request under this condition, unless an alternative timescale is otherwise agreed in writing by the planning authority. If noise imissions are found to exceed limits prescribed under this planning permission, then the wind farm operator shall implement mitigation measures in full accordance with the approved noise mitigation scheme, or alternative equal or better mitigation measures as may first be approved in writing by the planning authority, in order to reduce noise levels to comply with prescribed limits. The time period for implementing mitigation measures shall be as outlined in the approved noise mitigation scheme or as otherwise may be specified in writing by the planning authority.

[Reason: To ensure that, following a complaint, noise levels can be measured to assess whether or not the predicted noise levels set out within the supporting environmental statement have been breached, and where excessive noise is recorded, suitable mitigation measures are undertaken.]

22. A community liaison group shall be established by the developer prior to development commencing, in collaboration with The Highland Council and local community councils. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components; this should also ensure that local events and tourist seasons are considered and appropriate measures to coordinate deliveries and work to ensure no conflict between construction traffic and the increased traffic generated by such events/seasons. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the wind farm has been completed and is operational.

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

23. No development shall begin until a scheme for the relocation and consequent adjustment of the memorial to the crew of the WW2 Flying Fortress currently situated on the west side of the A9(T) (VP8 in the ES), has been submitted to and agreed in writing by the planning authority. The agreed scheme shall be implemented before erection of the first turbine, or some other date as may be agreed with the planning authority.

[Reason: To ensure that the memorial continues to have an open relationship with the landscape of the crash site to which it relates.]

Advisory notes

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 4. Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.)