Energy and Climate Change Directorate
Energy Division

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Caplich Wind Farm Ltd
c/o Muirhall Energy Ltd
Muirhall Farm
Carnwath

ML11 8LL

27 April 2018

Dear Sir or Madam,

REFUSAL OF APPLICATION FOR CONSENT FOR THE CONSTRUCTION AND OPERATION OF CAPLICH WIND FARM, 450 METRES NORTH WEST OF BEINN AN EÒIN BHEAG, CAPLICH, LAIRG.

Application

I refer to the Application made by Caplich Wind Farm Limited ("the applicant") dated 28 October 2014 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") for construction and operation of the Caplich wind farm ("the proposed development"), located approximately 450 metres north west of Beinn An Eòin Bheag, Caplich, Lairg. It comprises an area of upland moorland located in the valley basin of the Urlar Burn and is in the Planning Authority area of The Highland Council.

The Application proposed a development with a total output of up to 68MW, consisting of 20 turbines with a maximum height from ground to blade tip of 132 metres. This letter contains the Scottish Ministers' decision to refuse the Application.

Consultation

On 28 October 2014, in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations") the applicant submitted an Environmental Statement describing the proposed development and giving an analysis of its environmental effects.

In accordance with statutory requirements, notice of the application and Environmental Statement were published appropriately and copies placed in the

public domain in the locality of the proposed development and those wishing to make representations had the opportunity to do so.

Under Schedule 8 of the Electricity Act and the 2000 Regulations, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. In terms of the 2000 Regulations, notifications were sent to The Highland Council as the Planning Authority, SNH, SEPA and Historic Environment Scotland. A wide range of relevant organisations were also consulted as bodies likely to be affected by the proposed development.

A summary of consultation responses and third party representations are contained within Chapter 1 of the Public Local Inquiry Report.

Public Local Inquiry (PLI)

The Highland Council objected to the application on 16 September 2015, and in accordance with the terms of Schedule 8 to the Electricity Act, a PLI was held.

Inquiry sessions were held on 21st and 22nd June 2017 and the hearing sessions took place on 19th and 20th June 2017.

Unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence were conducted on 10th to 12th May 2017 and 11th to 14th September 2017. Accompanied site inspections took place on 23rd June 2017.

The Report was received by the Scottish Government on 29th November 2017. The Reporter's recommendation is that the application for section 36 consent should be refused.

Environmental matters

The Scottish Ministers are satisfied that environmental information, including an Environmental Statement, has been produced in accordance with the Electricity (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations") and that the applicable procedures regarding publicity and consultation laid down in the those Regulations have been followed.

On 16 May 2017 the 2000 Regulations were replaced by the 2017 Regulations. Regulation 40 provides that a reference to an EIA Report in the 2017 Regulations includes a reference to an environmental statement prepared under the 2000 Regulations, if the environmental statement is prepared and submitted before 16 May 2017.

Regulation 3 of the 2017 Regulations requires that Scottish Ministers must not:

a) grant an Electricity Act consent for EIA development; or
b) direct that planning permission is deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of EIA development,

unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the Scottish Ministers must take the environmental information into account.

In accordance with paragraph 3 of Schedule 9 to the Electricity Act the Scottish Ministers have had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Ministers have also had regard to the extent to which the Company has done what it reasonably can to mitigate any effect the proposal would have on those matters.

Scottish Ministers are satisfied that the requirements of the 2000 Regulations and the Electricity Act have been met.

The Scottish Ministers' Considerations

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

In Chapter 8 of the report the Reporter gives his overall conclusions and recommendations.

The Reporter concludes that:

- The proposed development would have both positive and negative effects on a wide range of interests;
- In assessing the proposal against the requirements of the legislation, it is necessary to balance its positive and negative attributes in order to determine where the balance lies;
- The development would make a meaningful contribution towards meeting Scotland's renewable energy and greenhouse gas emissions targets to which significant weight should be attached. The positive effect the proposal is likely to have on the local economy, including through community ownership on some of the development is another matter favouring the grant of planning permission;
- Whilst it would comply with most, it would not comply with all of the requirements of national planning policy. This is on account of the harm the proposal would cause to the character of the landscape and (particularly) its adverse effects on visual amenity, which would extend beyond a radius within which such effects would normally be considered inevitable with a proposal of this scale, and would include locations that are of recognised national importance. These are matters of great importance;
- The proposal would harm (albeit over a limited geographical area) some of the qualities of the Assynt Coigach NSA and some of the objectives of its designation such that its overall integrity would be compromised;

- The proposal would (again over a geographically limited area) cause significant harm to Wild Land Areas 34 and 29 and would compromise the natural environment, amenity and heritage resources of these areas;
- In respect of effects on a part of the Assynt-Coigach NSA and parts of WLA 34 and 29, the proposal does not comply with the development plan as the location, dominance and scale of the proposal would have unacceptable landscape and visual impacts.
- Having had regard to Schedule 9 of the Electricity Act 1989 , the proposal would not preserve natural beauty , nor has the applicant undertaken reasonable mitigation of all the effects the proposal would have on the natural beauty of the countryside.
  Weighing up all of the material considerations, on balance, the adverse consequences outweigh the proposal's benefits.
- There would be significant adverse effects to a small number of residential properties, to those participating in field sports close to the site and to users of a short section of the A837, although these effects do not have a significant influence over the balancing exercise.

In Chapter 8.64 the Reporter recommends that consent under Section 36 of the Electricity Act 1989 should be refused.

Scottish Ministers agree with the Reporter's findings, reasoning and conclusions and adopt them for the purposes of their own decision.

The Scottish Ministers' Determination

Scottish Ministers **refuse the application for consent** under section 36 of the Electricity Act 1989 for construction and operation of the Caplich Wind Farm.

A copy of this letter has been sent to the Planning Authority. This letter and PLI report have also been published on the Scottish Government Energy Consents website at www.energyconsents.scot.

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

https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12.

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

Yours sincerely,

Redacted

A member of the staff of the Scottish Ministers

Planning and Environmental Appeals Division

Scottish Government
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Report to the Scottish Ministers

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

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

- Case reference: WIN-270-7
- Site Address: Caplich Estate, land 450 metres north west of Beinn An Eòin Bheag, Caplich, Lairg
- Application by Caplich WF Ltd
- Application for consent (section 36 Electricity Act 1989) and deemed planning permission (section 57 Town and Country Planning (Scotland) Act 1997)
- The development proposed: construction and operation of Caplich Wind Farm
- Dates of inquiry / hearing sessions: 19 to 22 June 2017

Date of this report and recommendation: 29 November 2017

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The construction and operation of Caplich Wind Farm at land 450 metres north west of Beinn An Eòin Bheag, Caplich, Lairg

• Case reference	WIN/270/7
• Case type	Application for consent (section 36 Electricity Act 1989) and deemed planning permission (section 57 Town and Country Planning (Scotland) Act 1997)
• Reporter	David Buylla
• Applicant	Caplich WF Ltd
• Planning authority	The Highland Council
• Other parties	Scottish Natural Heritage, Oykel Proprietors, Mountaineering Scotland The John Muir Trust
• Date of application	28 October 2014
• Date case received by DPEA	1 June 2016
• Method of consideration and date	Inquiry session on landscape and visual effects. Hearing sessions for socio-economic effects and tourism, policy matters, effects on the water environment and conditions. All between 19 and 22 June 2017.
• Date of report	29 November 2017
• Reporter's recommendation	Refuse section 36 consent and deemed planning permission.

The site and development:

The application site has an area of 693 hectares. It lies approximately 19.9 kilometres to the west of Lairg, five kilometres to the north of Oykel Bridge, 9.5 kilometres to the north west of Invercassley and approximately 25 kilometres north east of Ullapool.

Twenty wind turbines, each with a blade tip height of 132 metres, are proposed. Associated development would include vehicular access to the A837, approximately 15 kilometres of new access tracks and 7.6 kilometres of upgraded access tracks.

Background to the proposal:

This application falls to be considered by Scottish Ministers because there has been an objection to it from the Highland Council.

Consultations and representations

Consultation responses are summarised in the main report from paragraph 1.5.

At the time the application was reported to the council's planning committee there had been 424 objections submitted to the Scottish Government's Energy Consents and Deployment Unit and 12 letters of support. The council had received 580 objections, 63 letters of support and 1 representation.

The applicant's case:

The applicant regards the site as remote from the Assynt-Coigach NSA. Due to the limited visibility of the development, it argues that there would be no significant effect on any of the special qualities of the NSA or to the integrity of the designation as a whole.

Effects on Wild Land Areas would be confined to locations that already have reduced qualities of wildness due to the presence of commercial forestry and other development.

Other landscape and visual effects, including on local residents, users of the A837 and those participating in country sports would be insufficiently detrimental to justify refusal of consent, and are in line with what would expect of a proposal of this scale.

Effects on the River Oykel SAC are not predicted to be significant due to the in-built design of the scheme and the applicant's willingness to adhere to the highest standards of environmental protection during the construction process.

There is very clear policy support for the proposal. Its contribution to renewable energy and climate change targets is an important factor in its favour.

The applicant does not believe that sufficient weight was given by the council to the socio-economic benefits of the proposal. It contends that too much weight was paid to concerns over socio-economic harm (as a result of reduced visitor numbers) which were not supported by any evidence. In contrast, the applicant believes its research proves that this would not be an issue.

The Highland Council's case:

The council's concerns are with what it believes would be a significantly detrimental visual impact particularly as viewed from properties, travellers, including tourists, and recreational users of the outdoors in the wider vicinity of the site but particularly to the north and west of the proposed development due to its design and location.

It believes the proposal would have an unacceptably detrimental impact on the special qualities of the Assynt-Coigach National Scenic Area and would be detrimental to Wild Land Areas 34 (Reay-Cassley), 29 (Rhiddoroch-Beinn Dearg-Ben Wyvis) and 32 (Inverpolly-Glencanisp). It believes that its adverse effects could not be mitigated by siting or design.

Other parties' cases:

Scottish Natural Heritage is satisfied that effects on ecological interests, including on the River Oykel SAC, could be adequately controlled by planning conditions. Subject to this approach, it is satisfied that Ministers would not need to carry out an appropriate assessment, should they be minded to grant consent.

SNH is not satisfied with the proposal's effects on the nationally important assets that comprise the Assynt-Coigach NSA and three Wild Land Areas (WLAs). Given the very high sensitivity of the areas affected by the proposal and the proposal being a prominent moving focal feature, SNH believes it would significantly detract from the current appreciation of the qualities expressed within these nationally important areas

The John Muir Trust's principal concern is over effects on WLAs

It contends that the whole of the mapped WLAs in Scotland are now fixed in their extent and boundaries as a result of the endorsement of the SNH mapping by Ministers, and they are all afforded the same, strengthened, significant protection by planning policy (SPP and NPF3). That significant protection applies to the whole of the WLA and guidance specifically cautions against the loss of edge areas.

The proposal is partly within and partly immediately adjacent to WLA 34 and would be visible from WLAs 29 and 32. Effects on the qualities of these WLAs would be significant and unacceptable. This would be a significant loss for Scotland's reputation as a country with large landscapes and a major loss to Scotland's sense of place.

The Trust finds this proposal to be contrary to national planning policy and should be strongly resisted. Unless a consistent approach is taken, then all mapped WLAs will become vulnerable to similar losses resulting in the material deterioration of what is a recognised national level environmental asset – Wild Land.

The Trust does not accept the applicant's predictions as to the likely absence of an adverse tourism effect and does not accept that the proposal would have a positive net socio-economic outcome.

Oykel Proprietors

Oykel Proprietors is a group that represents local fishing interests and residents. Its primary concern is over potential harm to the water environment including the River Oykel, which is a Special Area of Conservation (SAC). The river and its tributaries are of immense importance for Atlantic salmon and freshwater pearl mussel. The former is also of great significance to the local economy. If the proposal were to harm the fishing in the Oykel, this would have very significant adverse socio-economic effects, not just within Strath Oykel, but as far as Ullapool and Bonar Bridge.

Mountaineering Scotland (MScot)

MScot is concerned over the proposal's likely effect on the unspoiled qualities of upland areas within the NSA and WLAs.

It contends that hill-walkers come to the area for many reasons but for almost all, an important part of the distinct experience of Assynt is the spaciousness - the expansive views punctuated by distinctive individual hills to west and north, and more extensive elevated skylines to east and south (though there too distinctive hills can be identified).

MScot believes the proposal would have significant adverse effects on the qualities of these upland areas, which would betray what it believes to have been a largely sound approach to decision making in the country's most valuable landscapes. This could potentially lead to reduced visitor numbers and consequent socio-economic harm.

Ms B Wright (a local resident)

Ms Wright accepts that community benefit contributions cannot be regarded as a material planning consideration. However, she emphasises how important they are to local communities. She does not believe that wind farms have any adverse effects for tourism. She notes that those who have objected to the proposal tend not to be local people but those who view the area as their playground and do not have the issues that local residents have to contend with, including a lack of job opportunities and cutbacks in council spending.

She particularly welcomes the offer for the community to obtain an ownership share in the proposed development.

Mr P Batten (a local resident)

Mr Batten questions whether the applicant's predictions about the development's carbon-saving contributions are accurate.

Reporter's conclusions:

Schedule 9 of the Electricity Act 1989 requires regard to be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. The applicant must also undertake reasonable mitigation of any effect which the proposal would have on the natural beauty of the countryside or on any flora, fauna, features, sites, buildings or objects. These requirements provide the basis for the decision Ministers must take on this proposal.

The proposed development would have both positive and negative effects on a wide range of interests. In assessing the proposal against the requirements of the Act, it is necessary to balance its positive and negative attributes in order to determine whether the balance lies in favour of granting or refusing consent.

The UK government's apparent lack of enthusiasm for onshore wind – certainly towards its subsidy, does not amount to a moratorium on that form of generation. And in any event, the Scottish Government has adopted its own targets and policies in relation to renewable energy and greenhouse gas emissions that are more challenging than in the remainder of the UK, and are supportive of the principle of on-shore wind. It is the Scottish Government that is responsible for the consideration of individual development proposals within Scotland. Therefore, greater weight should be given to Scottish Government policy.

The contribution this proposal would make to these targets and the consequent support in principle that it can draw from Scottish Government policy are factors in its favour, to which significant weight should be attached.

Taking all relevant factors into account, I find that the proposal should not benefit from the SPP presumption in favour of development that contributes to sustainable development.

It would comply with most but not all of the requirements of SPP paragraph 169. Where I have found there to be conflict with its requirements, this is on account of its adverse landscape and visual effects, which are matters of great importance.

The proposal would compromise some of the objectives behind the designation of the Assynt-Coigach NSA, and, although its adverse effects would be geographically limited in extent, this would undermine the integrity of the designated area.

It would also cause significant harm to WLA 34 and WLA 29 and would compromise the natural environment, amenity and heritage resource of those areas.

Matters favouring the grant of consent include the favourable policy position towards this form of development in principle at both national and local level, the contribution the proposal would make to renewable energy and greenhouse gas reduction targets and the positive effect it is likely to have on the local economy including through community ownership of some of the development.

Factors indicating that consent should not be granted include the harm the proposal would cause to the character of the landscape and (particularly) its adverse effects on visual amenity, which would extend beyond a radius within which such effects would normally be considered inevitable with a proposal of this scale, and would include locations that are of recognised national importance. In addition, the proposal would harm (albeit over a limited geographical area) some of the qualities of the Assynt Coigach NSA and some of the objectives of its designation such that its overall integrity would be compromised. It would also (again over a geographically limited area) significantly affect some of the qualities of wild land areas 34 and 29 in a manner that could not be substantially overcome.

Further adverse consequences of the proposal (although not in my view having a significant influence over the balancing exercise) include significant adverse effects to a small number of residential properties, to those participating in field sports close to the site and to users of a short section of the A837.

Taking all matters into account, my conclusion is that the predicted benefits of the scheme are outweighed by its disbenefits.

Recommendation:

Refuse section 36 consent and deemed planning permission.

Scottish Government
Planning and Environmental Appeals Division
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Callendar Business Park
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FK1 1XR

File reference: WIN-270-7

The Scottish Ministers
Edinburgh

Ministers

In accordance with my minute of appointment dated 19 December 2016 I conducted a public inquiry in connection with an application to construct and operate the Caplich Wind Farm at land 450 metres north west of Beinn An Eòin Bheag, Caplich, Lairg. The Highland Council as planning authority has lodged an objection to the proposal which has not been withdrawn.

I held a pre-examination meeting on 3 February 2017 to consider the arrangements and procedures for the inquiry. It was agreed that landscape and visual effects would be addressed at an inquiry session. In addition it was agreed that there would be hearing sessions on the following issues: socio-economic effects and tourism, policy matters, effects on the water environment and conditions.

The inquiry session was held on 21 and 22 June 2017, and the hearing sessions took place on 19 and 20 June. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 28 July 2017.

I conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 10-12 May and 11-14 September 2017. Accompanied site inspections took place on 23 June 2017.

After the inquiry had closed I allowed the parties the opportunity to respond to the judgement of the Court of Session of 30 August 2017 in the case of *Wildland Ltd and The Welbeck Estates v Scottish Ministers*. This concerned a challenge to Scottish Ministers' decision to grant section 36 consent and deemed planning permission for the Creag Riabhach wind farm.

My report, which is arranged on a topic basis, takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the Environmental Statement (ES), the ES Addendum and all other environmental information submitted by the parties, and the written representations made in connection with the proposal including those made in response to my request for submissions on the Creag Riabhach case.

Abbreviations

AA	Appropriate Assessment
CD	core document
CP	Core Path
ECDU	(Scottish Government) Energy Consents and Deployment Unit
EIA	Environmental Impact Assessment
ES	Environmental Statement
ETSU	The Assessment & Rating of Noise from Wind Farms (ETSU-R-97)
GPG	Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise (IoA May 2013)
ha	hectares
IoA	Institute of Acoustics
km	kilometres
LCA	landscape character assessment
LVIA	Landscape and Visual Impact Assessment
MW	Megawatts
m	metres
m/s	metres per second
NPF	National Planning Framework
NSA	National Scenic Area
SAC	Special Area of Conservation
SDP	Strategic Development Plan
SEPA	Scottish Environment Protection Agency
SINC	Site of Importance for Nature Conservation
SNH	Scottish Natural Heritage
SPG	Supplementary Planning Guidance
SPP	Scottish Planning Policy
VP	viewpoint
WLA	Wild Land Area
ZTV	zone of theoretical visibility

CHAPTER 1: BACKGROUND

The proposal

1.1 It is proposed to develop the site with 20 wind turbines, each with a blade tip height of 132 metres. Ancillary development is also proposed in the form of turbine foundations and crane hard standings, an internal transformer at the base of each turbine, vehicular access to the A837, approximately 15 kilometres of new access tracks (10.6 kilometres of which would be floating) and 7.6 kilometres of upgraded access tracks, underground cabling, a substation and control building (including welfare and electrical metering facilities), up to three temporary construction compounds and laydown areas, and two 80 metre permanent anemometer masts.

1.2 The installed capacity of the development would be 68 megawatts. Consent is sought for 25 years following a construction period that is estimated to be 24 months. Decommissioning of the site is predicted to take 12 months to complete.

1.3 On 16 May 2017, the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. These 2017 regulations revoked the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 although certain transitional provisions set out in regulation 40(2) are applied to applications for which a scoping opinion was sought or an environmental statement submitted before 16 May 2017. Those transitional provisions therefore apply in this case. Amongst other arrangements, they allow the environmental statement to be treated as an EIA report for the purposes of the 2017 regulations.

Site description

1.4 The application site is located approximately 19.9 kilometres to the west of Lairg, five kilometres to the north of Oykel Bridge, 9.5 kilometres to the north west of Invercassley and approximately 25 kilometres north east of Ullapool.

1.5 The site covers an area of approximately 693 hectares. It comprises sloping moorland with rock outcrops and streams that is contained by higher ground to the north east, forming a shallow, west to south west-facing bowl on the slopes of Beinn an Eòin Bheag, which has a height above ordnance datum (AOD) of 544 metres. There are coniferous plantations to the west and south east of the site. To the south is Strath Oykel, which has a more settled character and features the A837 and a number of scattered houses and farms.

Consultation responses

1.6 This section provides an outline of the responses received from all consultees. Where necessary, these are set out in more detail in the chapters which follow.

1.7 **Ardgay and District Community Council** expressed an interest in being informed about the application, but neither objected to, or supported it.

1.8 **Creich Community Council** objects to the proposal on behalf of many local people who have contacted it. Particular concern is expressed over the potential loss of fishing income should measures to protect the River Oykel fail. There is also concern over

increased flood risk due to tree felling, increased traffic levels during the construction period and harm to the landscape leading to a reduction in tourist numbers.

1.9 **Scottish Natural Heritage (SNH)** objects to the proposal on grounds of harm to three Wild Land Areas and to a National Scenic Area (NSA). It considers the proposal would have significant adverse effects on Wild Land Areas 34 (Reay-Cassley), 29 (Rhiddoroch-Beinn Dearg-Ben Wyvis) and 32 (Inverpolly-Glencanisp). It is also concerned that it would have significant adverse effects on the Assynt-Coigach NSA such that the objectives of the designation and the overall integrity of the area would be compromised. SNH is satisfied that effects on the qualifying interests of the River Oykel Special Area of Conservation (SAC) could be addressed by appropriate conditions.

1.10 The **Scottish Environmental Protection Agency (SEPA)** initially objected to the proposal on grounds that there was insufficient information on groundwater dependant terrestrial ecosystems (GWDTEs). However, following the submission of additional information[1] it withdrew its objection, subject to certain conditions being imposed.

1.11 **Historic Environment Scotland (HES)** does not object to the proposal as it is unlikely to affect sites that fall within its remit. It recommends that the views of the council's archaeological and conservation advisers should be sought on potential impacts on unscheduled archaeology and category B and C listed buildings.

1.12 **The John Muir Trust (JMT)** objects to the proposal. It believes that it would result in significant and detrimental cumulative effects on wild land (both sequentially and in combined views) with other wind energy development. The JMT contends there would be unacceptable harm to views from key locations within the NSA. It also believes there is the potential for considerable damage to peatland, with negative impacts on biodiversity, ecosystems and greenhouse gas emissions. The degradation of landscape character that JMT predicts to occur would, it contends, result in socio-economic harm through the discouragement of tourism.

1.13 **Mountaineering Scotland** (formerly The Mountaineering Council of Scotland) objects. It considers the proposal to be out of scale with its surroundings and to be clearly visible from the landscapes of the Assynt to the west and north west, which are of considerable value in their own right and for tourism. The impact on the Assynt-Coigach NSA would be significant, adding to the incremental whittling away of the special qualities of the NSA. It notes that exiting wind farms are eight to 10 kilometres further away from Assynt than the appeal site. In addition, it points out that the proposed site lies partly on wild land – in the Reay-Cassley Wild Land Area (WLA) – and, by imposing large built structures, would have an adverse impact upon its physical attributes and perceptual responses. Mountaineering Scotland is concerned that the proposal could discourage visitors to mountain landscapes, which would have an adverse socio-economic impact and sees no merit in the proposed recreational enhancement fund.

1.14 **Ramblers Scotland** believes the proposal would have significant negative impacts over a huge tract of land in the North West Highlands, which is of national importance in terms of landscape and to recreation and tourism interests. Of particular concern is its impact on three core areas of wild land. Significantly adverse individual and cumulative

[1] Technical Appendix A4.1

visual effects are predicted for the Assynt mountains with consequent harm to the area's economy.

1.15 The **Civil Aviation Authority** has no comments.

1.16 The **Ministry of Defence, Defence Infrastructure Organisation** has no objections. It would be content with either infra-red or visible illumination of the perimeter turbines.

1.17 **Highlands and Islands Airports** and **Aberdeen International Airport** have no objections.

1.18 **NATS en route plc** has no objections.

1.19 **Oykel Proprietors** (formerly known as Keep Strath Oykel Wild) is a group of local fishing interests and residents. It objects to the proposal because it considers that the limited economic benefits it would bring would not outweigh its disbenefits when weighed in the planning balance. These disbenefits include the proposal's significant adverse landscape and visual effects, including on wild land, its adverse effect on the enjoyment of users of the river (with associated threats to employment), and other potential adverse effects including on protected species, none of which can be adequately mitigated.

1.20 The **Kyle of Sutherland District Salmon Fishery Board** and the **Kyle of Sutherland Fisheries Trust** object to the proposal due to the potential for it materially to affect the hydrological regime of the receptor watercourses and in turn the River Oykel Special Area of Conservation (SAC), increasing sediment loading, leading to both short- and long-term effects on Atlantic salmon and freshwater pearl mussel.

1.21 **Visit Scotland** strongly recommends any potential detrimental impact of the proposed development on tourism - whether visually, environmentally or economically - be identified and considered in full. This includes when taking decisions over turbine height and number. The basis for this should be an independent tourism assessment of the particular geographical and other sensitivities of the case in question.

1.22 **Marine Scotland** does not object to the proposal but has raised some concerns over the amount of information that has been provided by the applicant on the potential for effects on water quality and fish populations.

1.23 **RSPB Scotland** has no objections and welcomes the intention to avoid, where possible, construction works between April and July. It welcomes the proposal to implement a programme of monitoring and adaptive management in relation to bird of prey activity to deal with the potential increase in prey availability within the site.

1.24 The **Scottish Wildlife Trust** objects to the proposal. It considers the applicant's proposed habitat management plan to be too vague to be relied upon to avoid significant harm to the upland habitat mosaic within the site. It is concerned that the large number of proposed river crossings upstream of the River Oykel SAC could pose a pollution risk. It also fears that the proposal could introduce unacceptable harm to birds.

1.25 **ScotWays** is particularly concerned with the extent to which the proposal would intrude upon the distinctive landscapes adjacent to, and to the west of, the application site. It accepts that distance from the application site to the Assynt hills would diminish the

degree of visual impact, but not to an acceptable degree. It is also concerned over effects on two Wild Land Areas (34 and 29).

1.26 **Scottish Water** has no objections, subject to certain precautions and protection measures being implemented to ensure no adverse effect on drinking water abstractions.

1.27 **Transport Scotland** has no objections.

1.28 **CH2M Hill** (Scottish Government's adviser on peat slide risk) agrees with the findings of the applicant's assessment of peat stability and landslide risk.

1.29 **British Telecommunications plc** is satisfied that the proposal should not cause interference to its current and presently planned radio networks.

1.30 The **Joint Radio Company** is satisfied that the proposal would not adversely affect any radio link infrastructure operated by electricity and gas suppliers.

Representations

1.31 At the time the application was reported to the council's planning committee there had been 424 objections submitted to the Scottish Government's Energy Consents and Deployment Unit and 12 letters of support. The council had received 580 objections, 63 letters of support and 1 representation.

1.32 Matters raised in opposition include:

- impact on wild land;
- adverse economic impact;
- visual impact (individual and cumulative);
- landscape impact (including the impact on landscape designations);
- traffic Impact (road and use of port);
- impact on wildlife and ecology (bryophytes);
- impact on ornithology;
- impact on recreational users of the outdoors including those using the area or walking, cycling, fishing, deer stalking;
- impact on water environment ;
- impact on fisheries;
- environmental Impact of construction;
- impact on private water supplies;
- noise Impact;
- tourism Impact;
- impact on peat;
- limited economic benefit

1.33 Matters raised in support include:

- limited additional visual impact;
- avoids impact on amenity;
- positive economic benefits;

- limited additional landscape impact;
- development would fit with the “working” landscape;

Council consideration

1.34 The council resolved to object to the proposal for the following reasons:

1. The application is contrary to Policy 67 (Renewable Energy) and Policy 28 (Sustainable Design) of the Highland Wide Local Development Plan as the development would have a significantly detrimental visual impact particularly as viewed from properties, travellers, including tourists, and recreational users of the outdoors in the wider vicinity of the site but particularly to the north and west of the proposed development due to the design and location of the proposed development.

2. The development is contrary to Policy 67 (Renewable Energy) and Policy 61 (Landscape) of the Highland wide Local Development Plan when taking account the detrimental impact on the special qualities of the Assynt-Coigach National Scenic Area.

3. The application is contrary to Policy 67 (Renewable Energy) and Policy 57 (Natural, Built and Cultural Heritage) of the Highland-wide Local Development Plan and Scottish Planning Policy 2014 as the impacts of the development would be detrimental to Wild Land Areas 34 (Reay-Cassley), 29 (Rhiddoroch-Beinn Dearg-Ben Wyvis) and 32 (Inverpolly-Glencanisp) and are not able to be mitigated by siting or design.

4. The proposal would not preserve the natural beauty of the area surrounding the application site as required under Schedule 9(3)(2) of the 1989 Act.

CHAPTER 2: POLICY CONTEXT

2.1 Policy issues were discussed in a hearing session.

2.2 Wind farms proposals which would have an installed capacity of more than 50 megawatts, require to be assessed in accordance with the terms of Schedule 9 of the Electricity Act 1989. This requires regard to be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. The applicant must also undertake reasonable mitigation of any effect which the proposal would have on the natural beauty of the countryside or on any flora, fauna, features, sites, buildings or objects.

2.3 In assessing the proposal against these requirements, important factors that must be taken into account include UK and Scottish Government energy policy, Scottish Government climate change and planning policy, relevant provisions of the development plan and the views of statutory consultees and interested parties.

United Kingdom energy policy

2.4 Energy is not a devolved matter. It is necessary therefore to take account of UK policy on this matter.

2.5 UK Government energy policy is influenced by binding European Union (EU) targets and other international commitments, with which it must comply. The parties generally agree that these targets and commitments are material considerations. However, there is some disagreement over the weight they should be given in the planning balance.

Scottish energy and climate change policy

2.6 The Scottish Government has also adopted its own policies on energy matters. These are closely linked to its policies on climate change and greenhouse gas reduction.

2.7 The parties agree on the renewable energy and greenhouse gas policies and targets that apply in Scotland, but disagree on the relevance of targets to the consideration of this proposal.

Scottish Government planning policy

2.8 Scottish Government Planning Policy is set out in the Third National Planning Framework 2014 (NPF3[2]) and in Scottish Planning Policy (SPP[3]). Subject-specific advice and guidance is also provided on a range of matters including renewable energy.

2.9 NPF3 sets out a long term strategy for Scotland and is the spatial expression of the Scottish Government's Government Economic Strategy 2011. NPF3's planning vision confirms an aspiration to reduce emissions and sets out a commitment to low-carbon energy. It also confirms, as one of its planning outcomes, that the planning system will make Scotland a low-carbon place. NPF3 confirms the Scottish Government's ambition to

[2] CD 3.06
[3] CD 3.07

be a world leader in low-carbon energy generation, both onshore and offshore. However, it also sets out a commitment to respecting natural and cultural assets.

2.10 NPF3 restates the Scottish Government's commitment to achieving at least an 80% reduction in the emissions of greenhouse gases by 2020 and confirms the value of onshore wind energy in achieving that target. It also confirms the Scottish Government's aim to meet at least 30% of overall energy demand from renewables by 2020 and to generate the equivalent of at least 100% of gross electricity consumption in that way.

2.11 SPP sets out national planning policies for Scotland. Of relevance to this application are the commitments to reducing carbon emissions, while protecting natural and cultural assets.

2.12 SPP refers to the Climate Change (Scotland) Act 2009 target of reducing greenhouse gas emissions by at least 80% by 2050, with an interim target of reducing emissions by at least 42% by 2020.

2.13 SPP introduced a presumption in favour of development that contributes to sustainable development. Where development plans are more than five years old, SPP requires that presumption to be a significant material consideration when assessing the planning merits of a proposal. Any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies of SPP must be weighed in the planning balance.

2.14 National planning policy on delivering heat and electricity as part of a low-carbon place is set out in paragraphs 152 to 174 of SPP. Specific expectations are set out for both the development plan preparation and development management processes.

2.15 SPP requires development plans to set out a spatial framework identifying those areas that are likely to be most appropriate for onshore wind, and those where such development will not be acceptable (the latter being limited to National Parks and National Scenic Areas). Areas must also be identified where wind farms might be appropriate in some circumstances. The aim of such strategies is to guide developers and communities.

2.16 For the development management stage, paragraph 169 of SPP requires the content of any spatial strategy to be taken into account. In addition, it sets out 19 factors that should (where relevant) be taken into account when considering a wind farm proposal.

The development plan

2.17 In an application for consent under The Electricity Act 1989, section 25 of the Town and Country Planning (Scotland) Act 1997 is not engaged. This means that the primacy that is given to the development plan in the 1997 Act does not apply. Nevertheless, relevant provisions of the development plan are material considerations in deciding whether consent under The Electricity Act should be given.

2.18 In this instance, the development plan comprises the Highland Wide Local Development Plan 2012 (the LDP[4]) and its accompanying supplementary guidance[5] and

[4] CD 3.01
[5] CD 3.04

those parts of the Sutherland Local Plan 2010 that have not been superseded by the LDP (although none is relevant to this proposal).

2.19 There is an emerging Caithness and Sutherland Local Development Plan (the proposed LDP[6]) which was submitted for examination on 6 April 2017. Any relevant provisions of this proposed plan must also be taken into account.

The main points for The Highland Council

2.20 The council agrees that Scottish Government targets for renewable energy provision and greenhouse gas reduction are material considerations and accepts that targets are not caps. These require at least an 80% reduction in greenhouse gas emissions by 2050, and to meet at least 30% of overall energy demand from renewables by 2020, including generating the equivalent of at least 100% of gross electricity consumption from renewables.

2.21 The council believes that the reasons behind the UK Government's decision to change subsidies for onshore wind are relevant to the consideration of this application. The then Secretary of State for Energy and Climate Change expressed confidence to parliament that there is a strong pipeline of renewable energy projects to meet binding EU targets.

2.22 However, the council recognises the statement from the Scottish Government's Chief Planner of 11 November 2015[7] as representing the current position of the Scottish Government in relation to on-shore wind.

2.23 In the council's submission, significant weight should be given to SPP in the determination of this application. The Council fully acknowledges the policy principle favouring development that contributes to sustainable development but also considers that this requires to be balanced against the environmental and economic objectives of SPP. As set out in SPP, the aim of the policy principle in the presumption in favour of sustainable development is to "achieve the right development in the right place; it is not to allow development at any cost."

2.24 The council notes that the criteria in paragraph 169 of SPP are very similar to those in Policy 67 of the Highland-wide LDP. The council recognises that a failure against one of these criteria does not mean that a development fails; all these criteria must be given consideration and it is up to the decision maker to attribute weight to these on a case by case basis.

2.25 The council has complied with the SPP requirement to identify and safeguard Wild Land Areas through its development of the spatial framework in its Onshore Wind Energy supplementary guidance. The site is partly within WLA 34 and is visible from WLAs 29 and 32. The test to be applied to development which is within a Wild Land Area is set out in paragraph 215 of SPP and requires consideration of whether any significant effects on the qualities of the area can be substantially overcome by siting, design or other mitigation. The council does not consider that this has been achieved.

2.26 The council submits that the applicant has failed to mitigate effects on Wild Land. Referring to Ministers' determination of the Creag Riabhach[8] wind farm proposal, a

[6] CD 3.02
[7] CD 3.13

distinction was drawn between those turbines within the Wild Land Area and those outwith. In doing so, Ministers appear to have considered that paragraph 215 does not apply to turbines outwith the Wild Land Area. Considering the 10 turbines and associated development within WLA 34 in these terms, the test in paragraph 215 has not been met. Consideration of the turbines outwith Wild Land Area 34, and the impact of the whole development on Wild Land Areas 29 and 32, if not covered by paragraph 215, should be considered part of the wider planning balance.

2.27 The council notes that paragraph 212 of SPP is clear that development that affects a National Scenic Area should only be permitted where "the objectives of the designation and the overall integrity of the area will not be compromised" or "any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance". The council finds that the development fails to satisfy these requirements.

2.28 The council does not consider that recent draft Scottish Government publications: the Draft Climate Change Plan, January 2017[9] the Draft Scottish Energy Strategy: The future of energy in Scotland, January 2017[10]; and the draft On-shore Wind Policy Statement, January 2017[11] materially change the national policy position.

2.29 Relevant policies in the development plan are found in the Highland Wide LDP. The Caithness and Sutherland proposed LDP should also be taken into account as it has recently been submitted for examination, although it is not considered to have much policy content of direct relevance to this proposal.

2.30 The principal LDP policy is Policy 67. This requires a balance to be struck between the delivery of proposals which make a contribution towards meeting renewable energy generation targets and the protection of natural resources which contribute to the overall character of the Highland area.

2.31 The *Onshore Wind Energy* supplementary guidance[12], now adopted, must be given significant weight in the consideration of this application. This states that a Strategic Capacity and Landscape Sensitivity Study will be undertaken for Central and East Sutherland, where the site is located. This has yet to be prepared. However, discussions with one of the assessors have informed the council's decision to object to this proposal.

2.32 In the Scottish Government's spatial framework, the site sits across a Group 2 "Area of significant protection" and Group 3 "Area with potential for wind energy development". Group 2 areas are identified as such due to the incorporation of SNH's Carbon and Peatland Map, published in 2016 and SNH's Wild Land Area Map.

2.33 The council does not consider its renewable energy strategy and planning guidelines 2006 to be a material consideration.

2.34 With regard to the requirements of Schedule 9 of the Electricity Act, the proposal has had regard to the desirability of preserving natural beauty but has not delivered adequate

[8] CD 8.01
[9] CD 4.16
[10] CD 4.17
[11] CD 4.18
[12] CD 3.04

mitigation for the effects of the development on the natural beauty of the countryside. In considering these matters the council does not consider that having "regard to" and "in doing what he reasonably can" to mitigate these effects mean that the effects of the development are acceptable.

The main points for the John Muir Trust

2.35 The Trust is of the view that this industrial-scale development is entirely in the wrong place and is contrary to national policy.

2.36 NPF3 sets out a Scottish Government commitment to respect, enhance and make responsible use of natural and cultural assets and recognises the importance of Scotland's landscapes to national identity and the visitor economy. The national importance of wild land is recognised and sets out a commitment to strong protection of Scotland's wildest landscapes. The individual and cumulative effects of this proposal would conflict with this commitment.

2.37 SPP recognises the sensitivity of land that has a wild character and confirms that such land has very little capacity to accept new development.

2.38 The Trust believes that the proposed Caplich Wind Farm development would physically and visually intrude on the character of WLA 34, and would also have adverse effects on the wild land qualities of WLA 29 – Ben Wyvis, and WLA 32, and adversely affect the Assynt – Coigach National Scenic Area. As such the proposal is in clear conflict with SPP, since the developer's plans do not "*safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas*."[13]

2.39 The Trust considers that it is notable that the 2014 SPP replaced "may have little capacity" with "little or no capacity", in recognition that the locations with wild land character which are left, are already the minimum core areas which all need to be retained, as mapped in 2014, if Scotland is to remain a country with an internationally renowned wild land character

2.40 Scotland's Economic Strategy 2015 emphasises the importance of natural capital, describing it as fundamental to a healthy and resilient economy. It confirms a commitment to protect and enhance our natural capital, our brand and reputation as a country of outstanding natural beauty. By diminishing the area's natural capital, the proposal would conflict with these commitments.

2.41 It is argued that Scottish Ministers' refusal of consent for the proposed Glenmorie wind farm must be taken into account when considering the current proposal. In that case, although the applicant fulfilled its Schedule 9 duties, the Minister found the adverse environmental impacts of the development outweighed its significant contribution to national renewable energy targets, its modest contribution to the local economy during operation with a more substantial contribution during construction, and its possible improvements to recreational access,

The main points for Oykel Proprietors

[13] CD 3.07 at paragraph 200

2.42 Oykel Proprietors agree that the tests in Schedule 9 of the Electricity Act require to be considered but do not regard these as providing a valid basis for a detailed assessment of the proposal. Oykel Proprietors' view is that, due to the proposal's significant adverse landscape and visual effects, including on wild land, and other potential adverse effects including on protected species, none of which can be adequately mitigated, the applicant has neither preserved natural beauty and flora, nor secured reasonable mitigation, contrary to the requirements of Schedule 9.

2.43 The proposal is argued to be contrary to the development plan, principally on account of its significant adverse landscape and visual impacts, including adverse impacts on valued landscapes and viewpoints / routes that cannot be mitigated; on account of cumulative landscape and visual impacts; on account of the scheme-specific and cumulative adverse impacts on wild land; and on account of the likely significant adverse hydrological effects. This range of significant adverse effects is not offset by the limited economic benefits of the scheme or by its assumed generic environmental benefits.

2.44 Oykel Proprietors contend that there are no material considerations that would change the conclusion that arises from the assessment against the development plan, which is that deemed planning permission should be refused.

2.45 It states that, despite certain elements of the section 36 consenting process being devolved, there can be no doubt that national energy policy and the associated framework for fiscal support for renewables technologies, lies with the UK Government. To the extent that there remains UK Government support for wind energy, this appears to be focussed on off-shore proposals. This is a material consideration in the assessment of this proposal.

2.46 The Renewable Energy Foundation asserts that the UK as a whole now has sufficient renewable electricity capacity to overshoot the 110 terawatt hours electricity demand component by over 30%.

2.47 Oykel Proprietors accept that there might be some shortfall in achieving the 2020 EU Renewables Directive target due to a shortfall in either heat demand or transport fuel demand. However, it submits that the electricity component of the target has been met and the reduction in fiscal support for renewable energy generation shows there is no intention on the part of the UK Government to offset shortfalls in heat or transport fuels with electricity In any event, post-Brexit, the 2009 EU targets will have limited future relevance.

2.48 In addition, Oykel Proprietors argue that regard needs to be had to issues of intermittency and grid capacity / grid management that undermine the case for further wind energy development.

2.49 The Scottish Government Chief Planner's letter of November 2015 and the view that the Scottish Government's targets are not a cap, must be read in the context of UK Government energy policy and in the context of the Scottish Government's draft strategy of seeking to reduce overall energy usage.

2.50 The Scottish Government's Draft Climate Change Plan makes no claim that policy and related decisions have had any effect on climate change. The figures it sets out of installed and in the system renewable energy capacity confirm the considerable extent of surplus capacity that needs to be built in order to meet the 100% renewable electricity

generation target. No reference is made to the effect of Scottish Government aspirations to reduce energy usage. No changes are proposed to the consenting or planning processes.

2.51 The Draft Scottish Energy Strategy recognises the need for a greater focus on heat and transport and recognises that the task to decarbonise electricity production has been largely achieved in Scotland.

2.52 The Draft Onshore Wind Energy Policy Statement appears to be a review of past policy performance rather than a document setting out new policy measures. There is no suggestion that Scottish subsidies should be offered to replace the withdrawn UK Government fiscal support.

2.53 Oykel Proprietors strongly support the council's analysis of the proposal against the development plan and the requirements of Schedule 9.

2.54 Oykel Proprietors argue that an update is required in respect of Policy 57 in the Highland Wide LDP to reflect the fact that Wild Land Areas are of recognised national importance and therefore require to be assessed under part 2 of this policy. This requires that any significant adverse effects must be clearly outweighed by social or economic benefits of national importance. In addition it must be shown that the development will support communities in fragile areas who are having difficulty in keeping their population and services. It is clear that a single wind farm cannot possibly deliver benefits of national importance. It is also clear that there is no evidence to support a conclusion that the second test is satisfied.

2.55 Oykel Proprietors regard it as necessary to consider effects on the River Oykel Special Area of Conservation (SAC) under part 3 of the policy, as SAC designation confirms an asset of international importance. This requires an appropriate assessment of effects on the SAC. Where it is not possible to ascertain that a proposal will not adversely affect the site, then the development should only be permitted if there is no alternative and if there are imperative reasons of overriding public interest, including those of a social or economic nature. Oykel Proprietors believe there is insufficient information to carry out an appropriate assessment. Furthermore, it believes that the evidence suggests the proposal would have adverse effects on the SAC and that no imperative reasons for approval have been provided.

2.56 Therefore, it argues that, in addition to the matters raised by the council, there is clear conflict with LDP Policy 57.

2.57 Oykel Proprietors note that the *Onshore Wind Energy* supplementary guidance was adopted in November 2016 and is part of the development plan. The site lies within a group 2 area of significant protection in the spatial framework. Oykel Proprietors believe that the characteristics of the appeal site and the surrounding area (including wild land and NSA designations nearby) are such that it will, in future be identified as an area identified as having no strategic capacity for commercial-scale wind energy development.

2.58 With regard to the Creag Riabhach wind farm decision, the proprietors conclude that both the decision to grant consent and the decision of the Court of Session not to overturn that decision, relied upon the particular facts of that case and should set no precedent for other cases involving wild land.

2.59 Recent publications from SNH – one providing Wild Land Area descriptions and the other a draft guide to assessing effects on Wild Land Areas are not considered to materially alter the policy position.

2.60 The presumption in favour of sustainable development in SPP does not seek to allow development at any cost. Paragraph 29 provides a set of guiding principles with which the application proposal does not comply.

2.61 Specifically….

a. it does not give due weight to net economic benefit;
b. it does not deliver good design;
c. it is not a sustainable land use given the recognised significant adverse effects;
d. it does not protect and enhance the natural heritage and landscape; and
e. it constitutes over development.

2.62 Therefore, Oykel Proprietors contend this proposal cannot therefore benefit from the presumption. Ministers took a similar view in the Allt Duine decision[14].

2.63 Development management criteria for the assessment of renewable energy proposals are set out in paragraph 169 of SPP. It should be noted that the applicant has not carried out a net economic impact assessment, nor has the applicant provided any verifiable evidence as to the measurable effects of this proposal on actual greenhouse gas emissions or on climate parameters.

2.64 Paragraph 170 confirms that locations identified for wind farms should be suitable for use in perpetuity. In Oykel Proprietors' submission, that rules out any "reversibility" argument

2.65 Wild land is given particular importance in SPP and it should be noted that Scottish Ministers have rejected all but one wind farm proposal within a Wild Land Area.

2.66 Due to adverse effects on the SAC, the proposal is considered to be contrary to paragraphs 203 and 207-8 of SPP.

2.67 The material benefits of the proposed development are only the limited economic benefits and those generic, assumed environmental benefits associated with wind energy generation. These generic benefits (which are only assumed benefits) are already factored into the favourable policy environment for this type of development and should not be counted twice. Considering these limited benefits with the disbenefits of the scheme in the planning balance, Oykel Proprietors conclude that the benefits do not outweigh the significant disbenefits.

2.68 Oykel Proprietors find the proposal to be contrary to the LDP and its supplementary guidance. Material considerations do not support a decision to grant deemed planning permission in the face of this development plan conflict.

2.69 Given the significant adverse landscape and visual impacts, including cumulative impacts, given the likely adverse impacts on valued local landscapes and viewpoints which

[14] CD 8.06

cannot be mitigated, including adverse impacts on WLAs and the NSA, and given the other potential adverse effects including the adverse effects on the water environment and species of the SAC, it is concluded that the applicant has neither preserved natural beauty and flora, or secured reasonable mitigation. The Electricity Act Schedule 9 tests are not met for the Caplich wind farm proposals.

The main points for Mr Peter Batten

2.70 Mr Batten, a local resident, did not take part in any of the oral sessions, but did make written submissions to the inquiry.

2.71 Mr Batten notes that it is a Scottish Government aspiration to reduce the carbon intensity of electricity generation and, by 2030 (but perhaps achievable earlier) to be carbon-negative. This is set out in the Scottish Government's second report on policies and proposals and restated in the draft Climate Change Plan (2017)[15]. To achieve the latter, some form of carbon-capture will be required. The applicant's own revised calculations demonstrate a carbon intensity for the Caplich scheme of 60 grams of CO_2 per kilowatt hour, which exceeds the existing policy target and will hinder the achievement of the aspiration to be carbon-negative in the draft Climate Change Plan. Although targets are non-statutory, they are intended to set the context for planning decisions under section 36.

The main points for applicant

2.72 The applicant notes that no part of the application site is designated for its nature conservation interest or has any international, national, regional or local landscape designation. There are no core paths or public rights of way within the site and no cultural heritage designations. Some of the site is included within a Wild Land Area, but this does not necessarily preclude wind energy development.

2.73 The applicant states that it has sought to develop a project that takes full account of the Schedule 9 duties. It considers it relevant to note the use of the terms 'desirability' and 'reasonably' with regard to project design, siting and mitigation. This recognises that there are balances and reconciliations to be considered in decision making for this type of application.

2.74 The applicant notes that some objectors have sought to argue that good performance against targets means there is less need for the proposal. This is argued to be incorrect because:

1) the 100% target for 2020 is based on operational megawatts, not consented megawatts;
2) many of the extant permissions may not be delivered, primarily due to issues associated with grid connections (e.g. Viking 400 megawatts on Shetland);
3) the 100% figure is a minimum target not a cap;
4) the change in subsidy regime will likely mean that many consents will not prove economic to implement; and,
5) there is no policy need test for wind farm development at either national, strategic or local level.

[15] CD 4.16

2.75 As a consequence, any debate as to whether the target will be achieved or is likely to be met is argued to be wholly irrelevant, and proposals for onshore wind development which would not cause unacceptable environmental impacts and would provide for significant economic and wider environmental benefits as is the case here, should continue to be supported

2.76 NPF3 sets out the Scottish Government's very positive approach to renewable energy technologies in helping Scotland to become a low carbon place. It highlights a target of 100% of Scotland's gross electricity consumption being generated from renewable resources by 2020. This target is not a cap and there is an expectation that the energy targets will be met from a mix of technologies including on-shore wind developments.

2.77 The 2020 Routemap for renewable energy in Scotland (September 2015)[16] highlights the important role of onshore wind in securing socio-economic benefits while meeting renewable energy targets.

2.78 The Chief Planner's letter of 11 November 2015 confirms that despite some changes to UK policy, the Scottish Government's policy remains unchanged and that it supports new onshore renewable energy developments including onshore wind farms. Importantly, it also adds that this policy support continues in the situation where renewable energy targets have been reached. It also stresses the benefits that can be secured from shared-ownership of wind energy developments.

2.79 The recently published draft Onshore Wind Policy Statement[17] states that although electricity generation energy policy is largely reserved to the UK Government, the Scottish Government wishes to make full use of its devolved powers to promote investment in appropriately sited onshore wind in order to achieve the targets in the Climate Change (Scotland) Act.

2.80 The applicant contends that, as a statement of Ministers' priorities, NPF3 and SPP should carry significant weight in the consideration of this application.

2.81 It points out that paragraph 212 of SPP confirms that development that affects an NSA (among other designations of national importance) should only be permitted where the objectives of designation and the overall integrity of the area will not be compromised; or where any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

2.82 Unlike National Parks, the applicant notes that there are no clearly defined policy objectives or aims for NSAs and no specific policy direction regarding development outwith a National Scenic Area that potentially affects such an area. In the applicant's conclusion, the proposal would not affect the Assynt - Coigach NSA to the extent that the objectives of designation and the overall integrity of the area would be compromised.

2.83 If Ministers did not agree that the proposal satisfies the first test of Paragraph 212, it is contended the proposals would meet the second test in that any significant adverse effects on the qualities for which the NSA has been designated, would be outweighed by the

[16] CD 4.02
[17] CD 4.18

collective social, environmental and economic benefits of national importance accruing from the proposals

2.84 Paragraph 215 of SPP confirms that even within areas of wild land, development may be appropriate in some cases. And paragraph 196 confirms that buffer zones should not be established around areas designated for their natural heritage importance

2.85 The applicant notes that SNH has recently published for consultation new technical guidance on assessing impacts on Wild Land Areas. Example 3 shows how this might be undertaken for a proposal located partly within and partly outwith a wild land area. However, given its draft status, the applicant has relied upon the adopted SNH guidance for its assessment.

2.86 The applicant agrees with the council that the proposed Caithness and Sutherland LDP[18] has no policies of relevance to this application, although it notes that this proposed plan recognises the economic benefits delivered to the area through renewable energy generation (paragraph 53), and continues to support it (paragraph 58).

2.87 The statutory development plan, which includes the Highland Wide LDP and the Onshore Wind Energy Supplementary Guidance 2016, should be taken into account in the round with all other material considerations, but has no primacy in the consideration of this application.

2.88 The applicant notes that a number of policies in the LDP area are relevant to matters arising in this application, but that Policies 57, 67 and 68 are of most relevance.

2.89 It points out that, under Policy 67, proposals will be supported where they are located, sited and designed such as they will not be significantly detrimental, individually or cumulatively with other developments, having regard to the specified Policy 67 criteria. This is argued to be the key policy test and should be the primary focus of any assessment of the proposal in terms of its accordance with the development plan.

2.90 However, the applicant points out that the Highland Wide LDP is more than five years old and must, in accordance with paragraph 33 of SPP be regarded as out of date. In such circumstances, the presumption in favour of sustainable development becomes a significant consideration for this application.

2.91 Within the spatial framework that is set out in the Onshore Wind Energy supplementary guidance, the site lies within an Area of Significant Protection, where wind farms may be appropriate in some circumstances, subject to assessment against Policy 67 and subject also to demonstrating ‘that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation”.

2.92 The applicant notes that, as no landscape capacity statement has been prepared to date, the provisions of section 5 of the supplementary guidance do not apply.

2.93 The applicant argues that the socio-economic benefits that the proposal would deliver are, in terms of SPP paragraph 169, particularly welcome in rural areas, and are not

[18] CD 3.02

only relevant material considerations of significant weight, but are also collectively of national significance.

2.94 Policy 68 of the LDP is argued to provide support to proposals such as this, in circumstances where a community would take an ownership share in a project. The applicant points out that community shared-ownership has been offered here.

2.95 Calculated CO_2 emissions reductions, net of all sources of CO_2 generation due to peat disturbance transportation and construction sources, are argued to be significant and would satisfy LDP policies 55 and 67. Effects on the water environment have been very carefully assessed in conjunction with SEPA and, subject to appropriate mitigation and compensation, are argued to satisfy LDP policies 63 and 67.

2.96 Effects on the natural environment have been minimised following discussions with the appropriate agencies and, subject to an archaeology condition there would also be no threat to cultural heritage assets. In these respects too therefore, the applicant believes there would be no development plan policy conflict.

2.97 In the applicant's view, effects during construction, noise and shadow flicker implications, aviation and community infrastructure implications would similarly give rise to no policy conflict.

Reporter's conclusions on policy matters

2.98 Ministers' consideration of this proposal must be based upon the requirements of Schedule 9 of the Electricity Act 1989: to have regard to the desirability of preserving or protecting various features of importance; and the duty imposed upon an applicant for consent under the Act to undertake reasonable mitigation of the proposal's effects.

2.99 Provided that all material considerations are taken into account when assessing the merits of the proposal, I am satisfied that the above requirements provide an appropriate basis for determining the acceptability of the proposal and I do not share Oykel Proprietors' view that Schedule 9 does not provide a valid basis for its detailed assessment.

2.100 In the Chapter 8 of this report, where I draw together my conclusions on the proposal, I weigh all of its positive and negative aspects, including the extent to which it complies with policy, in order to determine whether the balance lies in favour of, or against, the proposal. In the current chapter, I outline the policy considerations that feed into that assessment.

2.101 The parties are in general agreement that NPF3 and SPP are supportive of renewable energy proposals including on-shore wind, but that this support is not at any cost and that any adverse consequences of a proposed development must be weighed against any benefits. There is also general agreement that, while SPP paragraph 215 applies only to turbines situated within a Wild Land Area, it is necessary to take account of significant effects on a Wild Land Area from turbines sited outside it.

2.102 Paragraphs 152 to 154 of SPP reflect the commitment that is set out in NPF3 to Scotland's transition to a low-carbon economy and the need for there to be a transformational change in order for this to happen.

2.103 The John Muir Trust points out that, in the 2015 Government Economic Strategy, unlike in the 2011 strategy which informed SPP, there is reference to the importance of natural capital, which includes irreplaceable assets such as wild land. I agree that this confirms that natural capital is an important resource, the protection of which requires to be taken into account in this decision. However, I agree with the applicant that there is nothing in the 2015 strategy to suggest that SPP is no longer an up to date expression of Scottish Government policy on the appropriate approach to balancing the protection of natural capital with the delivery of renewable energy.

Targets

2.104 There has been much discussion amongst the parties over the weight that should be given to international, UK and Scottish Government targets for renewable energy generation and greenhouse gas emissions reduction. All parties accept that such targets (and the contribution this proposal would make to their achievement) are material to Ministers' consideration of this application. However, there is disagreement over whether current performance against targets is a material consideration, and if it is, what conclusions should be drawn about the level of that performance.

2.105 For the reasons I set out below, my view is that performance against such targets has little relevance to the assessment of this proposal. However, in the event that Ministers disagree, I have also set out below, my conclusions on performance against those targets.

2.106 Scottish Government's position on targets was confirmed in the letter that was issued by its Chief Planner on 11 November 2015[19]. This letter was a response to the UK Government's decision to bring an early closure to the Renewables Obligation subsidy scheme. The letter confirms (among other things) that, notwithstanding any change in the UK Government's funding position, the Scottish Government remains supportive of on-shore wind farms and that this support will remain even if or when renewable energy targets have been reached.

2.107 It is clear therefore that, when considering the level of policy support that is offered by the Scottish Government to proposals such as this, it does not matter whether targets have been met or exceeded. Support for appropriate on-shore wind energy proposals will remain, even when existing targets have been met.

2.108 The council accepts that the targets are not caps on the level of renewable energy development that should be permitted. However, it argues that some weight should be given to the reasons for the UK Government's decision to change subsidies for onshore wind, which it believes can be attributed to good progress having been made on the delivery of that form of renewable energy. Its argument was put no more strongly than to suggest that, based upon this evidence, the applicant should not be able to draw any additional support from UK Government policy. In contrast, Oykel Proprietors' position was that this change in UK Government policy should count against the proposal.

2.109 My conclusion is that it cannot be stated with confidence that the UK Government's reluctance to offer further subsidy support to on-shore wind is a consequence of there having been good progress in the delivery of on-shore wind energy. Evidence from the UK Government of performance against targets (which I discuss briefly below) is equivocal and

[19] CD 3.13

there could be other reasons (perhaps fiscal or political) for the decision to withdraw subsidy. Therefore, I do not accept the argument that anything useful can be taken from the UK Government's subsidy decision.

2.110 In any event, while subsidy for on-shore wind is (or was) provided by the UK Government, the Scottish Government has, for a number of years, developed its own policies towards renewable energy and the reduction of greenhouse gas emissions, which have been more positive than those of the UK Government. The determination of an application for consent under The Electricity Act for a proposal within Scotland, is a matter for Scottish Ministers. Therefore, while I agree with Oykel Proprietors that UK Government policy is a material consideration, my view is that, where any difference in policy between the UK and Scottish administrations is identified, it is Scottish Government policy should be given greater weight in the determination of such an application. I note that the council accepted, during the policy hearing session, that a decision on this application would be primarily led by the Scottish Government policy position, despite energy policy not being a devolved matter.

2.111 I note that the Scottish Government's draft Onshore Wind Policy Statement[20] states that although electricity generation energy policy is largely reserved to the UK Government, the Scottish Government wishes to make full use of its devolved powers to promote investment in appropriately sited onshore wind in order to achieve the targets in the Climate Change (Scotland) Act.

2.112 Oykel Proprietors argue that, where performance against a target has been good, as is the case with the delivery on on-shore wind in Scotland, such that the target has been met or almost met, any proposal for further development that would contribute to that target should be given less weight in the planning balance than if progress against targets had been poor. The applicant's response, with which I concur, is that that view is not shared by the Scottish Government. In addition to the Chief Planner's letter and draft Onshore Wind Policy Statement I have referred to above, the 2020 Routemap for Renewable Energy in Scotland[21] makes it clear that, despite there having been good progress in the delivery of renewable energy generating capacity, "*Onshore wind has a pivotal role in delivering our 2020 renewable targets, and also ensuring that communities have the opportunity to benefit from the huge economic potential of renewable energy*."

2.113 My conclusion therefore on the relevance of performance against targets is that, in terms of assessing the level of policy support, it should be given minimal weight and that, even when a broader perspective is taken – looking not just at the level of policy support but at the benefits and disbenefits of the proposal more generally, no significant weight should be given to progress against targets because it cannot be concluded that achievement of those targets represents the achievement of the objective they were set out to attain, or even that as much progress towards the achievement of those objectives as could reasonably be hoped for, has been made.

2.114 Turning briefly to the state of progress against the targets, the council referred me to a statement to parliament made by the then UK Secretary of State for Energy and Climate Change, which expressed confidence that there is a strong pipeline of renewable energy projects to meet binding EU targets. However, the applicant produced a leaked letter from

[20] CD 4.18
[21] CD 4.02

the same Minister of 29 October 2015[22], which appears to express less confidence in achieving those targets.

2.115 Oykel Proprietors point to the findings of a study by The Renewable Energy Foundation that the UK as a whole now has sufficient renewable electricity capacity to overshoot the 110 terawatt hours electricity demand component by over 30%. However, the applicant points out that this is based upon consented as well as installed capacity and that it cannot be assumed that all of the former will be built.

2.116 On this issue, I agree with the applicant. Targets for renewable energy generation refer to installed capacity. And the achievement of those that relate to reductions in greenhouse gases, will clearly only be assisted by schemes that are not only consented but are actually operational. On that basis, I find that the fact that existing targets could be met by consented but, as yet un-built schemes, has no relevance to an assessment of progress against targets.

2.117 The most up to date picture of Scottish performance against targets that has been provided to the inquiry can be found in the draft Scottish Energy Strategy.[23] Although this is a draft document, no party has suggested that the data in diagram 4 on the amount of electricity generated from renewable sources, cannot or should not be relied upon. This shows that in 2015, the figure was 59.4% against a target for 2020 of 100%.

2.118 In any event, as I have set out above, I do not accept that such progress should have any significance to Ministers' consideration of this proposal.

2.119 The issues of Brexit and the Scottish Government's aspiration for reduced energy demand were also cited by the Oykel Proprietors as reasons why less weight should be given to the proposal's renewable energy and greenhouse gas reduction benefits.

2.120 In the case of Brexit, it is impossible to state at this time whether targets set by the EU will be retained by the UK Government once the UK leaves the EU. And in any event, as was accepted by the council at the policy hearing session, there are other international obligations to which the UK has committed, such as the 2016 UN Paris Agreement, that are not EU membership-dependent, which will continue to require an on-going commitment to renewable energy and to reducing emissions of greenhouse gases.

2.121 Part of the Scottish Government's aspirations for a more sustainable future include a commitment to reducing total energy demand. This is confirmed in the draft Scottish Energy Strategy[24]. Diagram 15 in that document shows that good progress has been made up to 2014 (the date of the latest figures) in reducing final energy demand across Scotland. The strategy confirms that 22% of energy demand is for electricity but it is not stated whether electricity consumption has followed the same downward trajectory as total energy demand. If it has, and if it can continue to fall, then that is likely to make it easier to achieve the 2030 target for 100% of electricity generation to be met by renewable means. However, there is simply insufficient evidence to support such an assumption and therefore I have given this issue no weight in the consideration of this application.

[22] CD 4.3
[23] CD 4.17
[24] CD 4.17

2.122 Issues of intermittency and the need for additional grid development to facilitate onshore wind, were other issues raised by Oykel Proprietors as reasons why the in-principle policy support that Scottish Government provides to renewable energy should be given limited weight in the consideration of this proposal. However, these issues are recognised features of this form of energy generation, which must already have been factored into Scottish Government's decision to support it. There is nothing to suggest that this site would perform any differently in regard to these issues than any other on-shore wind energy site.

2.123 Oykel Proprietors claim that the applicant has not provided any verifiable information on reductions in greenhouse gas emissions that could be expected to be delivered by the proposal. However, the applicant has produced a carbon payback calculation using the latest Scottish Government Carbon Calculator Tool (v1.0.1) that demonstrates that, excluding the beneficial effects of the proposed replanting of approximately 10 hectares of woodland, the proposal is expected to deliver a net reduction in CO_2 emissions after 1.8 years of construction[25]. Using the most pessimistic data, that period would be 3.6 years. Even if a precise figure for subsequent CO_2 savings is unknown, there can be no doubt that it would be significant.

2.124 Submissions were made by a local resident querying the basis for the applicant's carbon intensity calculations and suggesting that the true carbon intensity of the proposal might exceed the non-statutory target in the Scottish Government's 2013 Report on Proposals and Policies, of 50 grams of CO_2 per kilowatt hour. However, the applicant confirmed that the estimated figure for Caplich is 30 grams per kilowatt hour and that an earlier figure of 60 grams was due to incorrect testing of peat samples in the laboratory.

2.125 The draft Climate Change Plan[26] carries forward the 50 grams target, but aims to achieve negative carbon intensity in electricity generation by 2030. It is argued that the proposal would not comply with that longer-term aspiration and that it could actually hinder its achievement. I do not agree with that conclusion. The draft Climate Change Plan confirms that, in order for negative carbon intensity to be achieved, carbon capture and storage, and gas from plant material and biomass waste will be required. It is those technologies that it is hoped will remove carbon dioxide from the atmosphere leading to a negative emissions balance. Other forms of electricity generation that have a low level of carbon intensity (such as the appeal proposal) would complement rather than conflict with such technologies.

2.126 The third National Planning Framework (NPF3) sets out the spatial expression of the Scottish Government's economic strategy. It recognises that good progress has been made in the diversification of Scotland's energy supply and confirms an expectation that the pace of on-shore wind energy development will, in time, be overtaken by a growing focus on marine energy. However, it continues to support on-shore wind and expects that it will continue to make a significant contribution to the diversification of energy supply in the future. The only locations that NPF3 states are unsuitable for such development are National Parks and National Scenic Areas. It confirms that SPP contains the spatial framework for this form of development. Particular support is given to proposals for community-ownership of renewable energy developments.

Sustainable development

[25] CD 1.19
[26] CD 4.16

2.127 SPP introduces a presumption in favour of development that contributes to sustainable development. Paragraph 29 of SPP sets out 13 principles that should guide policies and decisions in order to implement the presumption.

2.128 I agree with the applicant that the introduction of a formal policy presumption into SPP was a very significant step. I do not accept the council's view is that it effectively repeats the approach of a criteria-based policy such as LDP Policy 67 (in which support in principle is offered, provided that certain criteria are satisfied). My view is that, by being set out separately in SPP as a requirement to be followed both in policy formulation and decision making, the presumption has greater significance, and that it would not be 'double counting', as the council suggests, to give weight to the presumption, over and above the positive weight that would be given to a proposal that complied with a relevant development plan policy.

2.129 It is of course necessary, if the presumption is to have any bearing on the determination of this application, for it to be demonstrated that what is proposed could reasonably and accurately be described as development that would contribute to sustainable development.

2.130 There is general agreement amongst the parties that renewable energy proposals should not reflexively be characterised in these terms; instead, an assessment of the specific impacts of the proposal should be carried out against the 13 principles that are set out in paragraph 29 and the four outcomes to which SPP aspires. Additional assistance may be provided by considering the detailed assessment criteria for on-shore wind in paragraph 169 of SPP. I have addressed these issues in Chapter 8.

2.131 The SPP presumption applies to all forms of development that would contribute to sustainable development, regardless of the age or content of the development plan. However, the effect of paragraphs 32 and 33 of SPP is that the age and content of a development plan may affect the weighing of a proposal's positive and negative implications in the planning balance.

2.132 Paragraph 32 confirms that, where a development plan is up to date, its primacy will be maintained but the presumption will be a material consideration. As stated above, in an application for consent under the Electricity Act, the development plan is not given primacy. Therefore, in cases where the plan is up to date, both its relevant policies and the presumption need to be weighed in the planning balance

2.133 Paragraph 33 states that where relevant polices in a development plan are out of date or it does not contain policies relevant to the proposal, the presumption becomes a 'significant' material consideration. This is also to apply where a development plan is more than five years old. It goes on to require that, when weighing the benefits and disbenefits of a proposal in the planning balance, it will be necessary for any adverse impacts "significantly and demonstrably" to outweigh the benefits of the proposal. Therefore, in such circumstances, the planning balance is tilted in favour of the proposal.

2.134 Therefore, it is necessary to determine whether these provisions apply.

2.135 The applicant believes that first, because the LDP is more than five years old, and second, because it was prepared in conformity with SPP 2010 rather than the current SPP

(which fact is clear in the approach taken in Policy 67 to areas of search for wind energy, which were dropped in the 2014 SPP), it should be regarded as out of date. It contends that this is not changed by the later production of the on-shore wind energy supplementary guidance (in November 2016) because that depends for its existence upon the 'policy hook' provided by Policy 67 of the LDP. On that basis, the applicant argues that the approach required by paragraph 33 should be followed.

2.136 The council's view is that a broader and more pragmatic approach should be taken to the question of whether paragraph 33 is engaged. Its view is that the recent adoption of supplementary guidance that is consistent with SPP 2014 has effectively updated Policy 67 of the LDP such that it should not be regarded as out of date. It also argues that it would be illogical to regard all policies in a development plan as out of date simply because the plan was adopted more than five years ago. Instead, it suggests that individual policies of relevance to the proposal should be assessed for compliance with subsequent national policy and, if found to remain consistent, should not be regarded as out of date.

2.137 In response to that, the applicant points out that this could enable ageing development plans to be kept 'up to date' simply by adopting fresh supplementary guidance, which the applicant considers would not follow the spirit of SPP.

2.138 The on-shore wind energy supplementary guidance 2016 is part of the development plan and was prepared in accordance with the current SPP. Although it was not subject to examination, it has been approved by Ministers.

2.139 I understand the applicant's point that it would defeat the aims of SPP if all that was necessary to keep an out of date development plan policy alive was the publication of supplementary guidance. However, I believe it is necessary to consider the facts of each situation before deciding whether or not to accept the possibility of such updating.

2.140 In this instance, the effect of the supplementary guidance on Policy 67 (which would otherwise have been inconsistent with SPP 2014) has been to bring its operation into line with current national policy. The applicant accepted at the policy hearing session that, with the exception of the spatial strategy provisions that were superseded by the supplementary guidance, Policy 67 is consistent with SPP.

2.141 However, SPP paragraph 33 not only refers to policies being out of date as being a trigger for the tilted balance. It also separately applies it where a development plan is more than five years old (as is the case here). This suggests that a development plan that is less than five years old, but contains out of date policies may trigger the tilted balance, but that a plan that is more than five years old, conclusively will.

2.142 That being the case, I conclude that, if the proposed development is found to be that which would contribute to sustainable development, then, as a result of SPP paragraph 33, the planning balance should be tilted in its favour, such that any adverse impacts it would have must be shown significantly and demonstrably to outweigh its benefits.

2.143 I do not agree with the council that the wording of LDP Policy 67, which is supportive of renewable energy proposals unless they would be "significantly detrimental overall", is effectively equivalent to the requirement of SPP paragraph 33 for adverse effects to "significantly and demonstrably" outweigh a proposal's benefits. The Policy 67 test relates

to an assessment of the overall degree of harm arising from a proposal rather than to the balancing exercise of harm against benefit, as is the purpose of paragraph 33.

2.144 For these reasons, in Chapter 8 of this report, I consider whether the development should be regarded as that likely to contribute to sustainable development. If it should, then it will be necessary to apply SPP paragraph 33's tilted balance in favour of approval when weighing its positive and negative aspects.

Policy approach to National Scenic Areas and Wild Land Areas

2.145 When considering the policy approach that should be applied to the consideration of this proposal, it is important to differentiate between national designations and land that has recognised national value but does not have a national designation.

2.146 Paragraph 212 of SPP deals with development that affects national designations. In NPF3, these are referred to in paragraph 3.23 where it is confirmed that the Scottish Government does not wish to see wind farms within National Parks or National Scenic Areas. No reference is made to Wild Land Areas and this is consistent with Table 1 in SPP, where National Parks and National Scenic Areas are included within Group 1 '*Areas where wind farms will not be acceptable'* rather than Group 2, which includes Wild Land Areas. These require significant protection, but there is no absolute prohibition on such development.

2.147 In the case of this proposal, the parties agree that the Assynt-Coigach National Scenic Area (the NSA) is the only national designation that could potentially be affected. However, it was agreed that, in accordance with paragraph 4.4 of NPF3, wild land is a nationally important asset and that LDP paragraph 21.1.2, which describes "Wild Areas" as having local or regional importance, is now out of date.

2.148 In the policy hearing session there was a discussion of the extent to which there is tension between paragraph 200 of SPP and Table 1 in that document. Paragraph 200 confirms that "*Wild land character is displayed in some of Scotland's remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development*." In apparent contrast to that, Table 1 sets out SPP's spatial framework for on-shore wind farms and includes Wild Land Areas within Group 2 "*Areas of significant protection where "wind farms may be appropriate in some circumstances*."

2.149 The council contends that the reference to wind farms in Table 1 is not necessarily to commercial-scale wind farms like the Caplich proposal and that, when one considers the other types of location that are included within Group 2, such as Inventory Gardens and Designed Landscapes, Sites of Special Scientific Interest and Inventory Historic Battlefields, it is hard to imagine circumstances in which commercial-scale wind farm development would be appropriate. It is of the view therefore that the circumstances in which a wind farm would be appropriate within wild land should be very limited in number.

2.150 The applicant regards the contents of Table 1 as a clear indication that, provided that the test that is set out – that any significant effects on the qualities of the area can be substantially overcome by siting, design or other mitigation, commercial-scale wind farm development ought to be possible. It also points out that, unlike Table 1, SPP paragraph 200 falls under the Development Plans sub-heading, although, with regard to

that point, the council contends that the initial statement that wild land areas "*have little or no capacity to accept new development"* provides a general introduction to the subsequent text on development plans and should not be regarded as applying only to plan production.

2.151 Taking all of the submissions into account, I conclude, first of all, that the reference to "wind farms" in SPP Table 1 must be interpreted so as to include commercial-scale wind energy development. Paragraph 168, which directs planning authorities to base their on-shore wind spatial frameworks in their development plans on Table 1, requires them to include a minimum scale of development to which they will relate. There is no upper restriction on the scale. That being the case, there can be no doubt that Table 1 allows for the possibility of commercial-scale wind farms within wild land areas.

2.152 I do not consider it helpful to approach an assessment of the merits of this proposal with a pre-conceived impression of the level of support that Table 1 offers to such development. For that reason I give little weight to the council's argument that the types of land that are included within Group 2 in that table, are self-evidently unlikely to be suitable for wind energy development except in very rare circumstances. The approach I take in Chapter 8 of this report in drawing together my conclusions and in making a recommendation to Ministers, is simply to apply the test that is set out in the table, which is to consider whether it has been demonstrated that any significant effects on the qualities of the area can be substantially overcome by siting, design or other mitigation.

2.153 After the close of the inquiry, the Court of Session issued its judgement[27] in the case of *Wildland Ltd and The Welbeck Estates v Scottish Ministers [2017 CSOH 113].* This concerned an appeal against Scottish Ministers' decision to grant consent for the Creag Riabhach wind farm[28]. This proposes 22 turbines, of which five are within Wild Land Area 37 (Foinaven – Ben Hee).

2.154 SNH had objected to that proposal due to harm to two wild land areas. However, Ministers applied the test in SPP as I have set above and, ultimately, agreed with the council that the benefits of the proposal outweighed its adverse effect on wild land and its other disbenefits.

2.155 In rejecting the appeal, the court found, among other things, that commercial wind energy development within Wild Land Areas was not necessarily ruled out by policy and that Minsters had adopted the correct approach.

2.156 SPP paragraph 212 requires that the objectives of designation and the overall integrity of a nationally designated area are not compromised or that any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

2.157 LDP Policy 57 requires an assessment of a proposal's effects on natural, built and cultural heritage. It sets out different requirements for features of local/regional importance, national importance and international importance. I consider the requirements of this policy in the remainder of this report and set out my conclusions as to compliance with this policy, in Chapter 8.

[27] Court of Session judgement
[28] CD 8.01

2.158 Policy 55 requires proposals to avoid unnecessary disturbance, degradation or erosion of peat and soils. I refer to this in Chapter 8.

2.159 LDP Policy 61 requires development proposals to be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. This will include consideration of the appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue. I consider landscape character effects in Chapter 3.

2.160 Policy 63 offers support to proposals that would not compromise the objectives of the Water Framework Directive, aimed at the protection and improvement of Scotland's water environment. I consider this in Chapter 4.

2.161 LDP Policy 68 offers support in principle to renewable energy developments which are community owned or part-owned. I conclude in Chapter 8 that this is supportive of the proposal in principle.

Policy conclusions

2.162 The conclusions I have set out above feed into my assessment of the positive and negative aspects of the proposal in Chapter 8.

CHAPTER 3: LANDSCAPE AND VISUAL EFFECTS

3.1 Landscape and visual effects were considered at an inquiry session. Evidence was heard from the applicant, the council, SNH, the John Muir Trust, Mountaineering Scotland and Oykel Proprietors.

3.2 Visualisations for the proposed development are provided in Volume 2 of the ES Addendum[29].

3.3 Oykel Proprietors provided a series of aerial photographs to assist in the assessment of the proposal. The appellant does not regard these as helpful to the assessment of visual effects due to the viewpoints not being representative of users of the landscape. I agree with that submission. However, the photographs provide a useful overview of the ground-cover and topography that contribute to the character of the landscape in and around the site. They are no substitute for the applicant's visualisations but, in common with the photography in SNH's evidence, they provide additional background information.

The main points for the Highland Council

3.4 At the inquiry session into landscape and visual effects, the council's evidence focussed on visual effects, as the witness for SNH was leading on landscape effects. However, it confirmed that the concerns it expressed in its report of handling[30] over landscape character effects remain. Therefore, I have included these in my summary of its objections.

3.5 The council accepts the applicant's methodology for its landscape and visual impact assessment (LVIA). It regards the table of residual significant effects (Table 4.14) as appropriate but notes that this does not give a view as to the acceptability or otherwise of the affects. The council disagrees with the applicant's categorisation of significant landscape or visual effects as those identified as Major or Major / Moderate. The council considers effects identified as Moderate would also be a significant effect and "Moderate / Minor" effects could be considered significant.

Effects on landscape character areas

3.6 The landscape of the application site is mainly of the Moorland Hills and Slopes landscape character type (LCT), as defined in the Caithness and Sutherland Landscape Character Assessment (the LCA). The ES identifies that the effect on localised parts of this landscape, where the development is proposed, would be Major and Significant. However, the council accepts that, given the scale of this unit of the LCT, the overall effect would be negligible and not significant.

3.7 The LCA considers that the Moorland Slopes and Hills landscape type varies between different units of that LCT, but the contends there is an overall openness and a subtle mix of sloping land form and ground cover. Coniferous plantations are considered to "*form a key landscape characteristic within some areas of moorland slopes and hills*". It is considered that these characteristics are typical of the application site.

3.8 Although the council acknowledges that the LCA finds that "*This landscape may be*

[29] CD 1.11
[30] CD 1.14

favoured for wind farm development", it goes on to note that it is "*invariably difficult to locate numerous wind turbines within this landscape without creating a confusing visual image, on account of the variable nature of the sloping landform*." The council considers this to be the case with regard to the siting of the proposed Caplich Wind Farm due to the location of the development.

3.9 The council agrees with the finding of the ES that there would be moderate (significant) effects on the character of the Strath LCT to the west of the site as a result of the development, but no significant effects on the character of any other landscape type.

3.10 The ES suggests that the landscape character effects as a result of the presence of the turbines would be reversible but the council points out that, as is set out in SPP, wind farm sites should be suitable in perpetuity. On that basis, the council considers it reasonable to assess all landscape character effects as non-reversible.

The Assynt-Coigach NSA

3.11 With regard to effects on the special qualities and reason for designation of the Assynt-Coigach NSA, the council considers that, given the high sensitivity of the landscape designation, the development is likely to have an effect on the special qualities of the NSA. It accepts that impacts on the special qualities will not be across extensive areas of the NSA, but are likely to be found in some of the most sensitive parts of the NSA, including the views from the lone mountain tops to the west of the development.

3.12 The site is approximately 12 kilometres to the north of the Fannichs, Beinn Dearg and Glencalvie Special Landscape Area (SLA). There is some theoretical visibility towards the development from within the SLA, however the council accepts that clearer views are only found at higher elevations, such as from viewpoint (VP) 10 and VP 14. At these viewpoints, the operational developments of Achany, Rosehall and Lairg would be visible, albeit at a greater distance. While these developments mean that wind turbines are not unfamiliar in the views looking out from the SLA, the council believes the proposed development would reduce the clear horizontal panorama from within the SLA where a sense of isolation and wildness can be experienced. While unlikely to give rise to significantly adverse effects on the integrity of the SLA as a whole, the development is considered likely to have an adverse impact on the experience of views out from the elevated positions in the northern section of the SLA.

Effects on Wild Land Areas

3.13 The council accepts that SPP indicates that development may be appropriate in certain circumstances within Wild Land Areas. For that part of the site that is within WLA 34, it is considered that the policy test of Para 215 of SPP is engaged. This policy requires consideration of whether any significant effects on the wild land area can be overcome by siting, design or other mitigation. In considering this matter, the direct impacts on the Wild Land Area need to be considered. These are: the introduction of turbines and access tracks into part of the Wild Land Area; and the introduction of a dominant contemporary land use into part of that area.

3.14 The council accepts that the development would not be the only modern feature in this landscape, as immediately adjacent to the site are commercial forestry plantations.

However, it is considered that a wind farm would have a much greater impact, due to the scale and movement of turbine blades.

3.15 The council notes that the proposed development would be clearly visible from deeper into the WLA from prominent and popular viewpoints such as Ben More Assynt. As the landscape drops off fairly sharply to the north east into Glen Cassley there is a part of the wild land area in which the development would not be visible, albeit at higher points further east at the other side of Glen Cassley, the council believes the scheme might come back into view.

3.16 The council notes that the ES concludes that there would be a localised impact on the WLA (in the area where the development is sited) but does not consider that there would be a significant effect overall on the Reay-Cassley WLA. The applicant has proposed mitigation to reduce the visual impact of the development, this includes potentially colouring the turbines to camouflage them with the landscape. In response to SNH's concerns, the council notes that the applicant has suggested that the development would appear as part of a working landscape and the qualities of wildness are already somewhat degraded by the presence of modern infrastructure and development. However, the council accepts SNH's finding that the impact of the proposal on the WLA could not be substantially overcome by siting, design or other mitigation and its conclusion is that, on balance, the proposal does not meet the test set out in paragraph 215 of SPP.

3.17 The council does not accept that the wind farm would be entirely contained within the shallow bowl in the landscape. It argues that the lack of containment is clearly demonstrated when viewing the site from the north (VP 4 - Eagle Rock and VP 8 - Ben More Assynt) and the south (VP 6 - Beinn Ulbhaidh). In these views, it believes turbines 6, 7, 11, 12, 16 and 20 appear as a separate development due to their presence on more elevated ground, away from the more contained turbines within the shallow bowl.

3.18 The council accepts that the bowl provides a level of visual containment of the turbines when viewed from the north east, an area of wild land, as is demonstrated by the ZTV which shows limited visibility from beyond the ridge coming down from Beinn an Eòin.

3.19 The council believes that given the variations in topography across the site, there are aspects of the design which do not appear to relate to the scale of landscape. This is due to the scale of the turbines not being in proportion with the hills against which they would be back- clothed. In some instances the turbines would be seen against the hills but in others, would be skylined. In addition, as some proposed turbines would be in front of the hills and others (turbines 12, 16, and 20) would be predominantly behind a hill, this would create some visual confusion. The 'overflowing' of the bowl adds to the sense of being out of scale with the surrounding landscape and this suggests that the shallow bowl in which the turbines are set provides further design challenges and insufficient visual containment of the turbines.

3.20 The council believes that the development would be predominantly viewed from the north, south and west as a cluster of 20 turbines. It considers that the design of the development is best demonstrated by the applicant's visualisations for VP 3 - Meal an Fhuarain.

3.21 The council points out that the operational wind farms in closest proximity are Rosehall (10 kilometres) and Achany (12 kilometres). It is considered that the visual

relationship between Rosehall and Achany is such that they are viewed as one wind farm in the majority of views. In views from the hills within the Assynt - Coigach NSA, including Suilven, Canisp and Cul Mor, Caplich wind farm would sit in front of the operational wind farms of Rosehall and Achany. When one views the wind farms, proposed and operational, due to the scale of the Caplich turbines it is likely to foreshorten the depth of the landscape between Caplich, Rosehall and Achany and also between the receptor and Caplich Wind Farm. This situation would potentially be exacerbated if Braemore Wind Farm were consented. The council believes that smaller turbines would have reduced this effect and led to less of a distortion on the perception of scale and distance and would have been more in accordance with SNH's guidance, *Siting and Design of Wind Farms in the Landscape* Volume 2[31]. The council considers that insufficient weight has been given to the consideration of turbine height in the design of the development when considering the cumulative visual effects of the proposed wind farm.

Visual effects

3.22 In respect of visual effects, the council considers there to be three key receptors: recreational users of the outdoors; travellers (including tourists); and residential receptors. There are three main areas where the council has drawn different conclusions to the ES as to visual effect. These are: sensitivity of road-based receptors; the value of the journey to and from the viewpoint (in relation to recreational users of the outdoors and residents); and the scenic value of views towards the wind farm.

3.23 The council, referring to SNH's *Siting and Designing Wind Farms in the Landscape*, notes that turbines of the size proposed, can be visible at distances of up to 40 to 50 kilometres in some conditions. It believes the applicant has placed too much reliance on the effect of separation distance in its predictions of visual effects.

3.24 In assessing visual impacts in particular, the council considers it important to appreciate that a viewpoint is representative of the experience of particular people who would be at that point and experiencing that view of the landscape not just in that single view but in taking in their entire surroundings. This is argued to be particularly important for this development, as the impact of the development on receptors from this scheme is likely to be not just at their destination, but as they travel through the area to and from their destination. When traversing a hill, it is not just about the experience at the summit of the hill; the journey is equally as important. In addition, the council contends that walkers would usually stop and take in their surroundings at a number of points as they traverse the hill. The council notes that the assessment in the ES only considers the effect at the summit. However, the duration of the view of the wind farm is likely to be for longer than just at the summit. As a result, the visual impact is considered likely to be greater and it would likely leave a greater impression on one's mind. When descending Canisp and Cul Mor, walkers would be facing the proposed wind farm and the council notes that the applicant accepts that there could be significant visual effects at this range.

3.25 The council notes that the applicant's ZTV demonstrates that the scheme would be prominently visible from areas to the north, west and south of the development, with more limited visibility to the east. The development would extend the theoretical visibility of turbines beyond that already experienced as a result of the operational wind farms of Rosehall and Achany. The ES includes cumulative ZTVs with Sallachy and Glencassley

[31] CD 5.02b

wind farms. However since submission of the application, the council notes that these applications have been refused by Scottish Ministers.

3.26 The extension of theoretical visibility of wind energy development above that of operational wind farms is to the north west (up Glen Oykel and towards Assynt) and south west (down Strath Mulzie towards Inverlael Forest). This is described as expansive. The council recognises that much of this area is uninhabited, but notes that these are popular areas for hill walking.

3.27 The council notes that the applicant finds that visual receptors at Viewpoints 1-4, and 6-8 have the potential to be significantly affected by the proposed development. These viewpoints range in their proximity to the site and in most cases a new element is introduced into the view. The views from the remaining nine viewpoints have not been assessed as significant by the applicant.

3.28 The intervening distance between the viewpoint and the scheme is the most common reason for these viewpoints not being assessed by the applicant as significant. The significant effects identified in the LVIA are not disputed by the council. However it is considered that receptors at other viewpoints might also experience some more significant effects as a result of the development. Using the methodology set out in the ES it is considered that the effect on the following viewpoints could also be assessed as significant:

- VP 9 - Canisp - The viewpoint here is representative of hill walkers / mountaineers accessing a Corbett. At this viewpoint one would be 19.6 kilometres away from the nearest turbine. The sensitivity of the receptor is not disputed. However, it is considered that the magnitude of change is at least of medium scale. This is due to the location of the turbines, which would be clearly perceptible features in the landscape, more so than demonstrated in the visualisations, as the turbines would be spinning. It is accepted that there are other visual foci within the NSA to the north west and south west, such as Suilven and Stac Pollaidh which will draw the eye as one is at the viewpoint. However, in views towards the proposed development, which would in itself be a prominent visual focus, and in views due east and south the development would be in one's peripheral vision. Reaching a hilltop is also about the journey up and down the hill not just the experience at the summit. The turbines would be in view for a proportion of the descent from the hill, walking down towards Loch Awe, where the views would not be as open. The council considers that the scheme would take up a larger proportion of the available view as one descends the hill, becoming a more prominent feature which would indicate that the visual effect has been understated in the assessment.

- VP 11 - Cul Mor - The viewpoint here is representative of hill walkers / mountaineers accessing a Corbett. At this viewpoint, one would be 20.35 kilometres away from the nearest turbine. In common with VP 9, the sensitivity of the receptor is not disputed but again, the magnitude of change is contested. This is again due to the location of the turbines. Despite the intervening distance, the turbines would create a strong visual focus, drawing one's eye towards the turbines. It is again recognised and accepted that there are other visual foci, but the council does not believe this would reduce the visual impact of the proposed development. With the descent from this hill, there would be direct views of the proposed development which would become more prominent as one travelled towards the turbines and the proportion of the available view which the turbines occupy increased. The views

from this viewpoint toward the proposed development would also include Rosehall and Achany to the rear of the Caplich Wind Farm. The council believes this would likely have an adverse visual impact in that it would distort the perception of scale and distance of the landscape

3.29 A key consideration in the effects on receptors of wind energy development is considered to be the sequential effect as travelling through the area on the local road network, both by individuals who live and work in the area, and tourists. Those travelling scenic routes, whether designated as such or not, are considered to have a higher sensitivity to views. While a driver of a vehicle is likely to be concentrating on the view immediately in front, passengers have a greater scope for looking at their surroundings. As such, the council considers that road users are high-susceptibility receptors. The ES has set out that road users are of medium susceptibility if they are travelling on designated scenic routes and low susceptibility if travelling on non-designated tourist routes. This is disputed and is considered to underplay the impact on travellers, both during the construction period and during the operation of the wind farm.

3.30 The wind farm would be visible for approximately three kilometres of the A837 when travelling between Craggie and Lubcroy. This has been assessed as moderate (significant) in the ES. This section of the A837 crosses the threshold identified by SNH in their work '*The Landscapes of Scotland*'[32], between the Assynt and Sutherland landscapes. It also marks the transition between *Farmed Strath* and *Sweeping Moorland* (current LCA) or *Strath* and *Rounded Hills* (Draft Revised LCA), and lies close to the national east / west watershed. The council considers this makes the visual impact of development from this section of road all the more sensitive due to its nature as a transitional landscape. Any development in these transitional areas may reduce the diversity of the landscape and the views from therein.

3.31 The diversity of Scotland's landscapes is considered nationally important. Given the higher susceptibility of the receptor and the higher value which would be attributed to views from this route, the council considers that the visual impact on travellers on the A837 has been underplayed and would be more appropriately assessed as major (significant).

3.32 Walkers on long distance routes, such as the Cape Wrath Trail, part of Scotland's National Trail, are considered to be of high susceptibility and the views are considered to be of national importance. The ES states that Caplich would be theoretically visible for approximately 14 kilometres of the route. This is argued to be a fairly limited proportion of the route, which is over 300 kilometres in length. While the assessment of the impact on the route overall is accepted, the council considers that, at points in closer proximity to the wind farm, the impact would be much higher and would be considered as significant.

3.33 The development would theoretically be visible from a number of points along the River Oykel, but would be screened by plantation forestry from a selection of positions on the river. The council notes that it is likely, that this screening will be removed and views to the wind farm will be opened up. It points out that wind farm sites should be suitable in perpetuity. The ES addendum recognises that in some areas, there will be visibility of the turbines from the river and its banks. These would be largely limited to tips and hubs. However, in such close proximity (approximately 2 kilometres) these may have a dominating effect on the receptors. While an assessment of these effects has not been

[32] CD 5.24a

made in the ES Addendum as to the impact on those fishing the River Oykel, using the methodology set out in the ES it is considered that the effect would be moderate and therefore significant.

3.34 The council notes that the applicant is offering mitigation to compensate the impact on recreational receptors in the form of a Recreational Enhancement Fund. This would provide a financial sum to "enhance the overall visitor amenity and recreational facilities". This fund would allow for improvements and maintenance of existing paths and other walking infrastructure (bothies). The council considers that this may make the existing routes more accessible and easier to traverse but it is not considered that this would offset the visual impact of the development.

3.35 A small number of residential receptors are present in the area. These are represented by VP 1 (Craggie Cottage) and VP 2 (Caplich Cottage). The council agrees with the ES finding that effects on receptors at these viewpoints would be major (significant). However, it does not place the same weight upon the fact that the houses do not face directly onto the proposed turbines, as residents would be aware of the turbines and would see them as they used the external space around their properties and as they travelled to and from them. Although the two properties would not become unattractive places in which to live, this does not mean the effects would be acceptable. The council concludes that they would not be.

The main points for SNH

3.36 SNH considers that the proposal raises natural heritage issues of national importance in two areas: impacts on the Assynt-Coigach NSA; and impacts on three WLAs. It points out that it has maintained this stance since pre-application discussions with the applicant. It stresses that this is not a case where effects might be mitigated, but is a matter of fundamental concern over the development of this site for this form and scale of development.

The Assynt-Coigach NSA

3.37 In SNH's opinion, the Assynt-Coigach NSA presents a landscape unparalleled in Britain. Steep hills with idiosyncratic profiles rise from hummocky surroundings in some of the most rugged and spectacular scenery in Scotland. SNH describes NSA designation as recognising the very best of Scotland's natural beauty and amenity and of being at least of national importance. The proposal lies six kilometres to the south east of the NSA which is protected for its outstanding scenic value. The NSA is recognised in part for its spectacular scenery of lone mountains. SNH notes that the turbines would be visible from the majority of the mountain peaks across the NSA including Ben More Assynt, Canisp, Suilven, Cul Mor and Stac Pollaidh.

3.38 SNH refers to its Landscape Policy Framework[33] to provide further clarification of its understanding of the policy tests for NSAs that are now set out in SPP. This states:

"SNH interprets the objectives of designation as the safeguard, conservation and enhancement of the interests for which the area is designated (for NSAs this is their special qualities and character; for National Parks this is a broader range of natural and cultural

[33] CD 5.31

heritage interests). Overall integrity means the wholeness of the area, the unity or soundness of the whole being unimpaired, recognising that the entire area of the designation is valued and adverse effects to part of it is damage to the unity or soundness of the whole. The alternative policy test of social or economic national benefits clearly outweighing the designation's interest is for Scottish Ministers to determine."

3.39 An important area where SNH disagrees with the applicant is the extent to which the special qualities, as appreciated from within the NSA when looking out to the east beyond it, are influenced by existing features in the landscape. SNH accepts that views to the north, west and south are more arresting. However, views to the east are inspiring and make an important contribution to the overall experience and appreciation of this spectacular landscape.

3.40 Contrary to the applicant's conclusions, SNH contends that the current influence of wind farms on the experience of the mountain viewpoints within the NSA is negligible and does not affect the appreciation of the qualities.

3.41 The scale of the individual turbines (132 metres to blade tip) and the extent of the proposal (twenty turbines) is not considered to relate to any elements in the landscape and therefore would appear to diminish and detract from the current dominance of the surrounding mountains as illustrated for example from viewpoint 8 at Ben More Assynt. This would result in a significant effect on the current appreciation of the special qualities of '*Spectacular scenery of lone mountains'* and '*A landscape of vast open space and exposure'*.

3.42 SNH contends that the large scale of the proposal even outwith, and at distance from the NSA, would have a significant effect on the sense of openness and remoteness as turbines of this size would foreshorten these long views. The turbines would introduce obvious and moving new features which would have a disproportionately greater effect on long-range views than other elements in the landscape, as illustrated from viewpoint 9 at Canisp. In addition, the size, pale colour and rotation would disrupt the still landscape where, away from activity at the coast, there is generally very little movement. This would result in a significant effect on the appreciation of the special qualities of *'Significant tracts of wild land'* and *'A still, quiet landscape under a constantly changing sky'*.

3.43 SNH concludes that, individually and collectively, the impacts on the range of special qualities (four in total) experienced from the mountain summits and the routes to them within the NSA, as a result of the Caplich proposal, would be significant.

Wild land areas

3.44 SNH points out that the consultative draft technical guidance: *Assessing impacts on Wild Land Areas*[34] shifts the focus away from the generic wild land attributes and responses to a more tailored assessment of the qualities of the individual WLA, as they have been described within the individual descriptions[35]. Although the applicant has used these sources in its updated analysis of effects on wild land, SNH considers its methodology to be unclear. In addition the applicant's WLA assessment is considered to be heavily reliant on viewpoint assessments within the LVIA rather than considering the effect on how WLAs are actually experienced. For example, walking the promoted route from the road, just outside

[34] CD 5.10
[35] CD 5.12

of WLA 32, up to the summit of Canisp, the proposal would be in view from an elevation of approximately 300 metres (approximately 16.5 kilometres from the proposal) for the remaining 550 metres of the ascent and likewise on the decent. There is no apparent consideration given to impacts on the experience of moving through the landscape within the applicant's assessment

3.45 When seen from WLA 34, the proposed turbines, being tall and sited on elevated ground, would introduce visibility of very obvious human elements into views where other elements are far less visually prominent, or are not visible due to being hidden within the lower strath floor. The movement of the turbine blades would detract from the current sense of seclusion, solitude and resulting sense of sanctuary, a point which is recognised in part by the applicant. The proposal would also reinforce the limits of this wild land area.

3.46 SNH believes the turbines would be seen as a new and prominent feature appearing to extend further into WLA 29 than other human elements in this landscape, due to their size and eye-catching movement, thereby encroaching on the appreciation of open views across this WLA and into the adjacent WLA 34. These effects are considered to be significant for one of the qualities identified for WLA 29.

3.47 For WLA 32, there would be substantial effects on views from higher ground, which are currently valued for their prevailing absence of human artefacts, such as clearly visible large-scale wind farms. Although the range of wild land qualities within this WLA would continue to be experienced, the effects of the proposal on this WLA are considered by SNH to be significant due to the impacts being on the most sensitive and highly scenic locations where the qualities of this area are currently appreciated to a very high degree. These effects are considered to be significant for one of the qualities identified for WLA 32.

The main points for The John Muir Trust (JMT)

3.48 JMT considers that this proposal is a very large and visible industrial scale development which would dominate and overwhelm many of the special qualities which have resulted in this area being designated as part of WLA 34, and would impact on other nearby WLAs and on the Assynt - Coigach NSA.

3.49 It is argued that there would also be significant visual impact, including for users of the A837 and that the development would be a dominant and overwhelming feature in views from Craggie Cottage and Caplich Cottage.

3.50 JMT argues that, looking towards WLA 34, the character of the view would change from wild land to land which has a degree of wildness but which also has significant and unavoidably visible manmade structures.

3.51 From Viewpoint 7 Breabag (which is within the Assynt Coigach NSA and WLA 34) JMT concludes that the impact of Caplich would be dominant and overwhelming. It states that, for 360 degrees there are virtually no noticeable man-made influences other than one house to the north west, smallish areas of plantation and a hint of a wind farm beyond the Caplich 'bowl'. However, it finds that the visualisation clearly shows that the landscape would be dominated and overwhelmed by the scale of the proposed development.

3.52 Viewpoint 11 Cul Mor (which is within the Assynt – Coigach NSA) is not in the WLA but is clearly within sight of the WLA. JMT states that the visualisation shows that a new

and dominant feature would be introduced into a vista which has no other dominant or significant man-made features and would seriously impair people's enjoyment of the view.

3.53 Viewpoint 15 Stac Pollaidh (which is within the Assynt – Coigach NSA) is slightly further away than Cul Mor. However, JMT finds the likely effect of the proposal none the less very significant, bringing into the vista, major and dominant man-made features where none currently exists.

3.54 JMT believes that, if Caplich is approved, a significant amount of land would need to be removed from WLA 34 in line with the splitting of the Monadhliath Core Area of Wild Land (CAWL) into two WLAs and the removal of a significant area of land with the consenting of Stronelairg.

3.55 JMT challenges the applicant's assertion that wild land areas are not designated landscapes. In accordance with the Oxford English Dictionary definition of that term, JMT is of the view that WLAs are officially and grammatically designated. It regards a WLA as a designation in the "plain English" sense of that term. It notes that the Scottish Government included WLAs in SPP specifically for the purpose of assisting decision-making regarding on-shore wind farms, and that they are shown on a map with clear "hard" boundaries drawn around each area. It is clear, in JMT's opinion, that the whole of a WLA is to be regarded as being subject to significant protection.

3.56 The applicant has suggested that painting the turbines matte green / grey could make them appear less visible and reduce their visual impact (but not hide them). However JMT points out that the vegetation on the hills will vary significantly in colour with the seasons and therefore the 'green camouflage' would only be effective (if at all) for limited times during the year. It is also stated to be significant that for between 40 and 60 days of the year, there is snowing lying in the area.

3.57 Contrary to the expectations of Table 1 of SPP, JMT believes that the significant effects this proposal would have on the qualities of the NSA and WLA cannot be substantially overcome by siting, design or other mitigation.

3.58 It submits that, the cumulative impact of this proposal must also be viewed as a material consideration. SNH's guidance on cumulative impact (March 2012) states that two wind farms "*need not be intervisible"* to have an impact. JMT believes that the Caplich wind farm would have a significant and detrimental effect in terms of 'sequential impact' when added to the existing developments of Rosehall, Achany and Lairg.

The main points for Mountaineering Scotland (MScot)

3.59 MScot objects to the proposed wind farm because it believes it would have a significant adverse visual impact on the mountaineering experience locally. It points out that this objection is consistent with its history of objections in the area where it objected to Sallachy and Glencassley (both refused), but not to Rosehall and Achany (both consented and operational) or to Braemore (in planning). MScot's decisions are based upon the impact on the mountaineering resource and the experience of mountaineering, which in this area is largely hill-walking.

3.60 It states that hill-walkers come to the area for many reasons but for almost all, an important part of the distinct experience of Assynt is the spaciousness - the expansive

views punctuated by distinctive individual hills to west and north, and more extensive elevated skylines to east and south (though there too, distinctive hills can be identified). It believes that a visitor feels very small in a seemingly large, wild landscape.

3.61 MScot finds that wind farms have an adverse impact by changing the perception of distance and landscape scale. It contends that the average walker does not perceive wind turbines as being as large as they actually are, and so mentally shrinks the distance to the turbines, thereby perceiving the landscape as smaller and less grand.

3.62 It accepts that, in a world context, Scotland's mountains are mostly quite tame. But the UK is a highly urbanised society in a small, intensively developed country. That is argued to make the remaining places, such as Assynt, where one can experience the challenge, the beauty, the joy of remoteness, wildness, and seemingly limitless space, all the more valuable.

3.63 MScot recognises that hill-walkers are used to seeing evidence of man on their walks. But wind farms' vertical scale and kinetic distraction make them qualitatively different from most other types of man-made intrusion. It believes up-to-date research on turbine visibility is lacking, but what there is, suggests that conspicuity is typically higher than environmental assessments allow, although MScot accepts that this varies with context and weather.

3.64 MScot believes that notable adverse visual effects would extend beyond 15 kilometres and up to at least 21 kilometres (including viewpoints 9, 10 and 11) due to the size of the turbines and their setting on the threshold of Assynt, in a context where such structures are unexpected (and notably in line with descent routes from viewpoints 9 and 11) and also because they would be close enough to see blade movement when looking in their direction. These factors would combine to attract the viewer's attention. This is considered to differ from settings where wind farms are more common, such as the Southern Uplands, and where it is proximity of development rather than simple presence that is the critical threshold for adverse impact. In Assynt, presence alone is sufficient to damage the illusion of a wild expansive landscape.

The main points for the Oykel Proprietors

Landscape character effects

3.65 Oykel Proprietors note that the affected part of the unit of the Strath LCT (upper Oykel) is a separate area and is not contiguous with other parts of this LCT. As a consequence, it concludes that indirect landscape character effects on the Upper Oykel would be significant and adverse.

Assynt-Coigach NSA

3.66 Oykel Proprietors note that the applicant now appears to accept that the development has the potential to affect the following special qualities of the NSA: "significant tracts of wild land" and "still, quiet landscape under a constantly changing sky." Oykel Proprietors' conclusion is that effects on those two qualities of the NSA would be significant and adverse.

The SLA

3.67 In addition, the SLA's 'powerful sense of isolation and wildness' would be adversely affected where visibility on the northern edge of the SLA coincides with Wild Land Area 29.

Effects on wild land

3.68 The Allt Duine wind farm decision[36] demonstrates that the 'test' is not whether the WLA would be significantly affected 'as a whole'. It is whether 'significant effects remain that cannot be readily mitigated'. Oykel Proprietors identify two special qualities of WLA 34 that would be subject to significant effects. These are:

'A range of large, irregular, rocky mountains with steep, arresting slopes and a variety of lochs and lochans, possessing a strong sense of naturalness, remoteness and sanctuary'; and

'Extensive, elevated peatland slopes whose simplicity and openness contribute to a perception of awe, whilst highlighting the qualities of adjacent mountains'.

3.69 Oykel Proprietors also finds that there would be a significant effect on one of the qualities identified for Wild Land Area 29: Rhiddoroch–Beinn Dearg– Ben Wyvis:

'*A very large interior with a strong sense of remoteness and sanctuary that seems even more extensive where appearing to continue into neighbouring wild land areas'*.

3.70 In Oykel Proprietors' submission, these significant impacts on Wild Land qualities are not able to be mitigated. The Alt Duine 'test' has, therefore, not been met.

3.71 Oykel Proprietors contend that, in terms of their effects on wild land, there is no material difference between this proposal and those at Glencassley[37] and Sallachy[38], where Ministers concluded that such effects outweighed any benefits of those schemes. Therefore, Oykel Proprietors believe that it would be inconsistent with earlier decisions for Ministers to grant consent to this proposal.

Cumulative landscape effects

3.72 Oykel Proprietors believe that that the level of combined and additional cumulative landscape effects would be adverse and significant, taking into account existing, consented and planning application stage schemes within an area of LCT2 'Moorland Slopes and Hills' defined by Oykel Glen to the south / southwest and Glen Cassley to the northeast.

3.73 The proposed development would substantially increase the geographical extent of an existing 'landscape with wind farms' in the vicinity of the Achany and Rosehall wind farms.

3.74 The *'Reay–Cassley Wild Land Area Description'* [39]acknowledges that the defined extent of Wild Land Area 34: Reay-Cassley has taken account of, and has been constrained, by cumulative effects. Oykel Proprietors believe that the proposed

[36] CD 8.6
[37] CD 8.14
[38] CD 8.15
[39] CD 5.12

development would further erode wild land attributes and qualities, so that a substantial part of the WLA would no longer fulfil the criteria necessary for it to be considered wild land.

Visual effects

3.75 Oykel Proprietors believe the ES assessment of visual effects lacks clarity, as it does not state the level of receptor sensitivity or the magnitude of change. Their landscape witness agrees with the ES that at Viewpoints 1, 2, 3, 4, 6, 7 and 8 there would be significant visual effects, although Oykel Proprietors believe the level of effect would be generally more severe than the applicant has predicted.

3.76 Oykel Proprietors agree with the ES that there would be significant cumulative visual effects at Viewpoints 6 and 8.

3.77 They believe that residents at Craggie Cottage, Caplich Cottage, Lubcroy Farmhouse and Lubcroy Lodge would experience significant and adverse visual effects and not only during the construction period, as the applicant seems to suggest, but for the duration of the wind farm's existence.

3.78 With regard to hill walkers, Oykel Proprietors' viewpoint assessment finds that there would be significant adverse effects upon hill walkers at ES Viewpoints 3, 4, 6, 7 and 8. It is noted that the ES ZTV suggests that there would be significant visual effects on users of the Cape Wrath Trail / core paths at locations to the south and the north of the proposed development.

3.79 Oykel Proprietors believe the applicant has underestimated the effect on the visual amenity of those fishing in the River Oykel. They argue that there would be significant and adverse effects on parts of Upper Oykel Beat 2 and Beat 3, as well as parts of Upper Oykel Beat 1 (subject to future commercial forest felling). In addition, it predicts that those engaged in field sports within a radius of 15 kilometres of the site would experience significant visual effects.

3.80 For those travelling on the A837, Oykel Proprietors conclude that significant visual effects, exceeding the 'moderate' level predicted by the applicant, would be experienced.

The main points for the applicant

3.81 The applicant states that the appearance of the development from key viewpoint locations played an important role in the progression of the layout design. These key viewpoints included properties along the A837, mountain summits within the Assynt-Coigach NSA and wild land areas to the west and north.

3.82 The applicant considers the proposal to be appropriate to the receiving landscape, which has a large scale, few features of interest in the immediate locality and some detracting elements, such as the large commercial forestry plantations on either side of the site and areas of clear-felled forestry. It points out that the area is of notably less distinct character than the NSA.

3.83 It regards the bowl-like topography of the site as helping to reduce the effects the proposal would have on the most sensitive landscape and visual receptors within the NSA and the majority of WLA 34. Where closer-range views would be available – from Strath

Oykel, the A837 and the scattered properties along it, the applicant states that particular care was taken to ensure the turbines appeared as a coherent group without outliers or stacking. It acknowledges that some of the proposed turbines would not be within the 'bowl'. However, it argues that this does not represent a breach of a key design criterion. Instead, it argues that it was found that these turbines could be added to the scheme (following the resolution of a bird impact issue) without significantly adding to the proposal's landscape or visual impact.

Landscape character effects

3.84 Significant landscape character effects are expected to be confined to a radius of approximately five kilometres, affecting parts of two landscape character types – the Moorland Slopes and Hills LCT and the Strath LCT (Glen Oykel unit) including some of the coniferous forest within the former LCT (the latter as a result of the proposed access tracks and borrow pits). Such effects are to be expected of any commercial-scale wind energy scheme.

Designated landscapes and wild land

3.85 From the NSA, the applicant states that the development would be visible from limited locations and at a minimum distance of 10 kilometres. From most of the NSA, including from almost all of the A835, there would be no visibility of the proposal. There would be a limited number of significant visual effects (for example the view from Ben More Assynt – VP 8), but these would not result in significant effects upon the landscape character or the special qualities of the NSA such that its overall integrity would be compromised.

3.86 The applicant accepts that SNH's Landscape Policy Framework[40] represents a useful starting point in the application of SPP policy on development that would affect an NSA, but notes that it is guidance rather than Scottish Government policy.

3.87 The applicant predicts that there would be no significant visual amenity effect on any location within the Fannichs, Beinn Dearg and Glencalvie SLA due to the separation distance of over 12 kilometres and the presence of other wind farms and other modern development in any views from this area.

3.88 The applicant acknowledges that Wild Land Areas are nationally important assets that are of high value. However, they are not designated landscapes. The applicant accepts that there would be significant adverse landscape character effects within WLA 34 (Reay Cassley) and WLA 29 (Rhiddoroch-Beinn Dearg-Ben Wyvis) within a radius of five kilometres from the site. These effects would be localised and on the periphery of these extensive areas. None would translate into effects on the wild land characteristics of the WLAs as a whole. The applicant does not predict any effects on WLA 32.

3.89 It is accepted that there would be some significant visual effects at certain viewpoints within parts of the Wild Land Areas. However, the applicant predicts that these would affect limited extents of the often 360 degree views that are available from flanks and summits. It is concluded that, in no case would these lead to harm to the integrity of the wild land areas.

[40] CD 5.31

Visual effects

3.90 Significant visual effects are predicted for users of the A837 and the small number of properties that are on that road, and for walkers at certain hill summits. Generally, locations where significant visual effects are anticipated, would fall within 3.5 kilometres of the site. However, the applicant does accept that moderate (significant) effects could be expected in a few locations at a distance of up to 17 kilometres from elevated locations in clear weather. It stresses that not all views from this range would be significantly affected.

3.91 The applicant does not believe that effects on residential properties could reasonably be described as unacceptable, and states that the often-used test of whether the effect would be so severe as to make the properties undesirable places in which to live, would not be breached. It does not agree with Oykel Proprietors that it did not adequately assess effects on river users, referring to a study in the ES Addendum.

Cumulative effects

3.92 The applicant notes that the council did not raise cumulative impact concerns in its objections to the proposal. The applicant found no cumulative effects even including the potential for Salachy and Glencassley to go ahead (before those schemes were refused).

Reporter's conclusions on landscape and visual effects

3.93 It is common ground amongst the parties that the proposal would introduce a number of significant adverse effects on landscape character and visual amenity. Where professional opinion differs, is in the extent of such effects, their implications for designated and mapped areas, and wider effects including the potential for there to be unacceptable effects on residential properties, hill walkers and road users.

3.94 In this chapter, I first consider the proposal's likely landscape and visual effects (including cumulative effects) within the NSA and, from that, set out my conclusions as to whether there would be any significant adverse effects on the qualities for which the area has been designated and whether the proposal would compromise the objectives of designation and overall integrity of the NSA.

3.95 I then consider likely landscape and visual effects (including cumulative effects) on the SLA, paying attention to the key characteristics of the SLA, its special qualities and sensitivity to change. From this I reach a conclusion on whether the landscape character, scenic quality and overall integrity of the SLA would be maintained.

3.96 Next, I consider likely landscape and visual effects (including cumulative effects) within the three wild land areas, and assess whether any significant effects on the qualities of these areas could be substantially overcome by siting, design or other mitigation.

3.97 I then consider effects (including cumulative effects) on the character of the wider landscape (outwith any designated or mapped areas).

3.98 Finally, I deal with visual effects (including cumulative effects) on local residents, users of the A837, users of the River Oykel and those enjoying the countryside outwith designated or mapped areas.

3.99 The conclusions I reach in this chapter feed forward into my overall assessment and conclusions on the balance between the proposal's positive and negative aspects, which is set out in Chapter 8.

3.100 As part of my assessment of this proposal, I inspected almost all of the viewpoint locations for which visualisations were provided. I also used the Highland Council's panoramic viewer[41], which provides a very helpful simulation of how the turbines might appear within the landscape, although in doing so I had in mind the advice of the council that the prominence of turbines tends to be exaggerated by the viewer.

Effects on the Assynt-Coigach National Scenic Area

3.101 The NSA covers an extensive area along the western coast, from Ardmair in the south to Scourie in the north. Its southern extent lies entirely to the west of the A835, but from Ledmore, where that road joins the A837, it extends further inland to the east to include Ben More Assynt and Beinn Leoid.

3.102 There is no dispute amongst the parties that, for the vast majority of the land within the NSA, the proposed development would be invisible. This includes almost the entire extent of the A835, a popular tourist route, with the possible exception of a point just south of its junction with the A837, where the ZTV[42] predicts it could be visible.

3.103 The policy tests that are set out in paragraph 212 of SPP require that the objectives of designation and the overall integrity of the NSA are not compromised or that any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by other factors of national importance.

3.104 In accordance with those tests, my approach has been first to consider the extent to which the objectives of designation, special qualities and integrity of the NSA would be affected by the proposal. I recognise that this may be influenced by the limited extent of the NSA from where views of the development would be possible. However, I agree with SNH and the council that it should not be assumed that a geographically limited extent of visibility will necessarily limit the degree of effect on the NSA to an acceptable level.

3.105 In Chapter 8, I then consider the alternative SPP paragraph 212 test –whether any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by other factors of national importance.

3.106 Concerns about impacts on the NSA can be grouped into two geographical areas – effects on views from the Ben More Assynt massif, and effects on views from the lone mountains (Ben More Coigach, Stac Pollaidh, Cul Beag, Cul Mor, Suilven, Canisp and Quinag), which lie between the A835 and the coast. I have considered each I turn.

3.107 I agree with the parties that significant landscape character effects would not extend as far from the site as the NSA. I also agree with SNH that, due to the topography it is unlikely that there would be significant effects on views of the NSA from elsewhere. The one exception to that conclusion is at one point on the A837 where there could be an effect on a viewer's first impression of the NSA when approaching from the east. I address this later in this chapter in my consideration of wider visual effects. However, any effect at that

[41] Web link
[42] CD 1.26a and CD 1.26b

location would not be an effect on the NSA itself. Therefore, my analysis under this sub-heading focusses on effects on views from the NSA and on its special qualities, objectives of designation and integrity.

3.108 For each of the locations within the NSA where views of the proposal have been considered, I present my conclusion as to their significance and as to which, if any, of the NSA's special qualities would be affected. At the end of this assessment I then consider the sum total of these effects and what this would mean for the objectives of designation and the integrity of the NSA.

The Ben More Assynt massif

3.109 Ben More Assynt and the adjacent summits of Conival and Breabag provide popular walking routes to the east of Inchnadamph. This massif lies at the nearest edge of the NSA to the application site; the nearest proposed turbine to the summit of Ben More Assynt would be 13.6 kilometres away and the nearest to the summit of Breabag would be at a distance of 11.4 kilometres. Meall an Aonaich (Eagle Rock) is a lower summit on the eastern side of Ben More Assynt, which is 9.6 kilometres from the nearest proposed turbine.

3.110 The applicant prepared visualisations for Ben More Assynt (VP 8), Breabag (VP 7) and Eagle Rock (VP 4). The applicant's analysis of effects at these viewpoints is set out in Technical Appendix 4.2 of the ES[43] and (in explanation of any difference in effect as a result of changes to the layout) in Chapter A2 of the ES Addendum[44].

3.111 For VP 8, the applicant notes that Ben More Assynt is a popular Munro. From this viewpoint location, dramatic views are available across the scree-topped summit of Ben More Assynt and its neighbouring summits and ridges, including Conival and the Breabag ridge to the west and the Carn nan Conbhairean ridge which runs down to the south. There are several bowls containing lochans including Dubh Loch Mòr to the south, and Loch Ailsh is visible beyond the foot of the Breabag ridge. There are panoramic views of dramatic and rugged mountain scenery in all directions, particularly of the Assynt-Coigach NSA peaks to the west. It recognises that receptor susceptibility would be high and that the view from this location is of national value. I agree with these assessments and consequently, consider that receptor sensitivity here would be of the highest order.

3.112 When I visited these summits I noted a clear sense of being at the very eastern edge of the more dramatic scree and boulder-covered landscape of the NSA. Views to the east, although still very attractive were of a different landscape, still large in scale, but with a strikingly greener colouration and generally greater (although still not extensive) evidence of human activity, including distant wind farms. Such views were in strong contrast to the available views to the west, towards the lone mountains and the sea beyond.

3.113 The applicant notes that all of the proposed turbines would be visible in the middle distance, seen with a backcloth of moorland and commercial forest. Some of the access tracks would be visible and it accepts that, at this range, blade movement would be visible. However, taking account of the 360 degree panorama, in which views towards the application site are unlikely to be the most attractive, it concludes that the magnitude of

[43] CD 1.05
[44] CD 1.10

impact on views from this location would be medium, leading to a moderate (significant) effect.

3.114 The applicant points out, and I agree, that from this location, the proposed Glencassley and (particularly) Sallachy wind farms would have had a noticeably greater effect on views, due to their closer proximity and the more linear layout of those developments[45]. As such, I agree that one cannot give much weight to the decisions of Scottish Ministers to refuse consent to those schemes, which, in part, were due to effects on the Ben More Assynt massif.

3.115 Nevertheless, I agree with SNH that the applicant has underestimated the significance of the effect on views from this location. Although views to the east are undoubtedly less dramatic than those across nearby NSA summits and out to the west towards the sea, they do add significantly to the sense of landscape scale and the general feeling of being detached from obvious man-made influences. SNH's view, with which I concur, is that the appreciation of the NSA's special qualities is influenced by its wider setting.

3.116 In this instance, patches of forest plantation to the east and (in the clearest conditions) very long range (approximately 23 kilometres) views of the Rosehall and Achany wind farms, have a less obvious presence in eastward views than would the proposed turbines, which I conclude would draw the eye to a much greater degree. I conclude that their effect on this view would be of moderate to major significance.

3.117 I find that this significant adverse visual effect would have significant adverse implications for three of the ten special qualities of the NSA that are identified in the SNH commissioned report *The Special Qualities of the National Scenic Areas* 2010[46]. These are: '*a landscape of vast open space and exposure'*; '*significant tracts of wild land'*; *and 'a still, quiet landscape under a constantly changing sky'*.

3.118 Effects on views from VP 4 would be similar, although from that location, views to the west, towards the heart of the NSA are restricted by the rising land form of Ben More Assynt. VP 4 would provide a closer but lower-elevation view of the proposed turbines than from VP 8. There would be a greater degree of screening of those turbines that lie beyond the eastern edge of the landscape bowl in which the majority of machines would be accommodated. However, all 20 would remain visible and, because longer-range views in other directions are more restricted, those towards the development site are likely to have more significance.

3.119 VP 7 is situated to the south west of VP 4. As from VP 8, views of the dramatic shapes of the lone mountains are available to west, along with long-range views towards, and well beyond, the application site to the east. From this location, plantation forests are slightly more noticeable than from VP 8. However, it remains the case that the proposed turbines would introduce an eye-catching and incongruous feature into a view that, while not the most attractive available from this location, is a positive contributor to a visitor's experience.

3.120 The applicant again takes the view that effects on views from these locations would be moderate (significant), whereas I conclude (for the reasons given above) that the

[45] See Figure 4.6 in ES Volume 3 (CD1.4)
[46] CD 5.27

significance would be moderate / major. Again, I conclude that, as a result of this effect, there would be adverse implications for the same three special qualities of the NSA.

3.121 The Cape Wrath Trail, a long distance walking route across northern Scotland, also passes through this area. Views from the route that is typically taken would be far more restricted than from the applicant's viewpoints, due to the generally lower elevation of the route. This can be seen in the applicant's ZTV[47]. As such, the significance of effect on users of that route would be lower. Nevertheless, from time to time, the development is likely to become visible to such users and this is an additional effect of the development that requires to be taken into account.

The lone mountains

3.122 The lone mountains lie at the heart of the NSA, to the west and south west of the Ben More Assynt massif. The applicant provided viewpoint visualisations and accompanying analyses for four of the mountain summits. I am satisfied that these are sufficient for a full analysis of the likely effects on all of the lone mountains within the NSA. The viewpoints are: VP 9 Canisp; VP 12 Suilven; VP 11 Cul Mor; and VP 15 Stac Pollaidh. I have considered each in turn.

3.123 SNH believes (and I agree) that the interaction of the vertical elements of lone mountain peaks with the horizontal emphasis of the surrounding cnocan and lochans *"is the overriding dominant aspect of this NSA"*[48]. I also agree that this interaction is appreciated in two different ways; views towards the mountains where the distinctive profiles of the peaks are best expressed, and, in views from the mountains where the expanse of intricately patterned pooled cnocan is fully revealed.

3.124 VP 9, at the summit of Canisp is 19.6 kilometres from the nearest turbine. All 20 machines would theoretically be visible, although, at this distance, weather conditions are likely to have a significant influence over visibility. When I visited, I was unable to discern any detail beyond Ben More Assynt, which is only approximately half that distance away.

3.125 At the inquiry session, the witness for SNH explained that she has been able to discern blade movement at this sort of distance, a view supported by the Mountaineering Scotland witness. The applicant's witness considered that movement would be difficult to detect at this range and pointed out that the panoramic views of dramatic landscape features such as other lone mountains and the intricate pattern of lochans between them, as well as the coastline to the west, is likely to be a much greater visual focus for any visitor.

3.126 Bearing in mind the advice in SNH's *Siting and Designing Wind Farms in the Landscape* that turbines of this size are theoretically visible up to 50 kilometres away, I have approached my assessment on the basis that blade movement would be detectable at 19.6 kilometres, and that this would increase the visual impact of the development. The fact that the turbines would be seen from the elevated lone mountain viewpoints, backclothed against the terrain, would also tend to increase their visibility.

[47] CD 1.26b
[48] SNH 1

3.127 SNH, the council and MScot raised the issue of foreshortening of views to the east that the development could bring about. I agree that the introduction of such large structures into a landscape largely devoid of features with which a scale comparison could be made, has the potential to confuse the viewer into thinking the turbines are closer than they are, so reducing the apparent scale of the landscape in which they are seen. However, in my experience, the strength that effect depends greatly upon the visual prominence of the turbines.

3.128 Taking all of these factors into account, I conclude that only in the very clearest weather conditions is it likely that the development would be noticed by anyone who was not deliberately trying to locate it. The striking form of the other lone mountains and the abundance of other attractive landscape features in both short and longer-range views are likely, in my view, to occupy the attention of visitors to this summit. Therefore, I agree with the applicant that, despite the highest level of receptor sensitivity, the overall visual effect at this viewpoint would be minor and not significant.

3.129 SNH and MScot raised the point that it is not just at the summit that walkers would potentially experience the proposed wind farm. When ascending Canisp and, especially, when descending (when one would be facing the wind farm), there would also be the opportunity to see the turbines and for the visitor's experience of the NSA to be diminished. The applicant accepts this as a valid additional effect to take into account and I agree with that conclusion.

3.130 When I climbed Canisp, it was very apparent that no views of the development site would be possible for the first 45 minutes or so of any climb and the last 45 minutes or so of a descent, due to the screening effect of the hills to the immediate east of the A835. Once one is at a higher elevation and before the summit is reached, I agree with the parties that there would theoretically be the opportunity to see the development beyond those foreground hills. This is supported by the applicant's ZTV[49], which shows theoretical visibility to the south east of Canisp summit. However, at this stage in the climb or descent, while the dramatic panorama at the summit cannot be appreciated, there is still much in the near distance to occupy a visitor's attention. For example the impressively deep cutting of the burn that crosses the moor. Consequently, I find it unlikely that, even on a clear day, the sight of turbines, far beyond the relatively busy A835 and adjacent hills, one bearing a large communications mast, would have a significant visual effect.

3.131 I do not agree with MScot that <u>any</u> view of turbine development from the heart of the NSA would have an unacceptable visual effect because it would 'break the spell' of being in that unique environment. As one climbs or descends the hills, one can glimpse vehicles travelling on the A835. In my view, this does not materially detract from a visitor's enjoyment of the experience, but is, nevertheless, a reminder than human influence is, in fact, not far away. In this context, it would be unreasonable to prohibit any visibility of wind energy development at this location.

3.132 Of the ten identified special qualities of this NSA, I conclude that this location expresses eight. These include: '*spectacular scenery of lone mountains'; 'rocky topography of great variety'; 'extensive cnocan landscapes'; 'a coastline of endless drama'; 'an intricate multitude of lochs and lochans'; 'a landscape of vast open space and exposure'; 'significant tracts of wild land';* and *'a still, quiet landscape under a constantly changing sky'.* As I have

[49] CD 1.26a and CD 1.26b

concluded that the proposal would not lead to a significant effect on views from this location, it follows that there would not be a significant effect on any of these special qualities.

3.133 For the other three lone mountain summits for which visualisations have been provided (VP 12 Suilven; VP 11 Cul Mor; and VP 15 Stac Pollaidh), relevant issues and considerations are similar.

3.134 VP 12 Suilven (at which two viewpoints, a and b (covering the east and west summits) have been analysed) is over 22 kilometres from the nearest proposed turbine. The applicant accepts that, in clear weather, the turbines would be visible from these summits, but argues that in comparison with the dramatic panorama that is available, it would be a very minor and distant feature. As such, minor and non-significant visual effects are predicted. For similar reasons to those at Canisp, I agree that effects on this receptor would be insignificant.

3.135 Cul Mor is an easily accessible summit which offers particularly fine views of the surrounding cnocan landscape. As with the ascent / descent of Canisp, eastwards views from lower reaches of this hill extend only as far as the hills adjacent to the A835 (in this case the popular visitor attraction of Knockan Crag). Potential views of the development, (which again are likely only to be available in the clearest weather conditions, given the separation distance of 20 kilometres) are likely to open up sooner into the climb than at Canisp, as the obstructing topography is lower. However, from such locations and from the summit, I agree with the applicant that distant views of the turbines would not draw the eye when an observer is surrounded by such a dramatic and varied pattern of undulating terrain and a multitude of lochs and lochans.

3.136 Stac Pollaidh (VP 15) is one of the most popular walking routes in the area. SNH's people counter data records approximately 13,000 visitors per year[50]. However, the nearest proposed turbine to this summit would be over 25 kilometres away. For the reasons given above, I do not share SNH and MScot's view that such distant views of the development would significantly affect visual amenity or any of the special qualities of the NSA at this location.

3.137 SNH accepts that significant impacts upon five of the ten special qualities of the NSA can be scoped out of any assessment of this proposal. These are:

- Rocky topography of great variety;
- Settlements nestled within a wider landscape of mountain peaks, wild moorlands, and rocky seascapes;
- A coastline of endless drama;
- An intricate multitude of lochs and lochans; and
- Unexpected and extensive tract of native woodland

3.138 The special qualities that SNH contends would be significantly affected are:

- Spectacular scenery of lone mountains;
- A landscape of vast open space and exposure;

[50] SNH 1

- Significant tracts of wild land; and
- A still, quiet landscape under a constantly changing sky.

3.139 For the lone mountains, while I agree that all of those qualities (and others) are very clearly expressed, the very limited visual amenity effects I have identified lead me to conclude that there would not be significant effects on these (or any other) special quality at these locations as a result of this proposal. I do not agree with the council's view that closer detractors from the visitor experience such as traffic on the A835 and views of a quarry and forestry would not compare with the effect of the proposed turbines, which it describes as *"very tall, very prominent, moving and new detractors."*

3.140 The council regards the applicant's offer to provide a recreational enhancement fund, targeted at walkers on Canisp and Suilven, as evidence of there being effects on recreational routes within the lone mountains. However, I do not believe that one can reasonably make such an assumption. Indeed, in Chapter 4, my conclusion is that the offer to provide such funding would not be justified by the effects of the development, given my finding that it is not within the lone mountains that there would be significant effects.

3.141 When considering the acceptability of a proposal's effects on an NSA, SPP paragraph 212 offers two potential routes to consent. The first is if it can be demonstrated that the objectives of designation and the overall integrity of the NSA would not be compromised. The alternative is where significant effects on the qualities for which the NSA was designated would be clearly outweighed by benefits of the scheme.

3.142 SNH interprets the objectives of NSA designation as safeguarding, conserving and enhancing the special qualities and character of the designated area. In the absence of any alternative definition in Scottish Government policy, I see no reason to depart from that interpretation.

3.143 It defines 'overall integrity' as the wholeness of the area, the unity or soundness of the whole being unimpaired, recognising that the entire area of the designation is valued. Consequently, it contends that adverse effects to part of it, is damage to the unity or soundness of the whole. This is rather more strict that if one had interpreted 'overall integrity' as being breached only by development that would have effects across a wide area of the NSA. However, given the national importance of NSAs and the need for great care to be taken in their protection, it seems reasonable. In addition, it is clear that the two alternative routes to consent in paragraph 212 only make sense if the first applies to development that would cause little harm. If it permitted development that would cause significant harm to the special qualities of the NSA then there would have been no need for the second test, which deals with such development and requires it to be weight against the benefits of the proposal.

3.144 I note the advice in GLVIA 3[51] that "*every part of a designated area contributes to the whole in some way and care must be taken if considering areas in isolation*." This is not something to which I have given significant weight, as it is not statement of Government policy, but I note that is consistent with my thinking.

3.145 I have concluded that, for the Ben More Assynt massif, there would be significant adverse effects on visual amenity and, as a consequence, on three of the NSA's special

[51] CD 5.1

qualities. In every other part of the NSA however, I am satisfied that effects on visual amenity and on the special qualities of the NSA would not be significant.

3.146 The Ben More Assynt massif projects eastwards from the remainder of the NSA, which comprises the lone mountains and surrounding cnocan landscape. This brings it significantly closer to the application site than the remainder of the NSA, which is why it would experience the greatest effects from the proposed development.

3.147 Ben More Assynt and neighbouring peaks are not only geographically somewhat separate from the lone mountains, they are also of a very different landscape character. While they are undoubtedly of national importance and share some of the rugged character of the landscape to the west, the shape and scale of these mountains (both horizontally and vertically) is very different to the lone mountains. This accentuates the sense that they lie at the very edge of the NSA landscape, at a point of transition to a less dramatic, but still relatively wild landscape to the east.

3.148 Taking all factors into account, I find that the proposal would have a significant effect on visual amenity for only a relatively small proportion of the NSA, at its easternmost edge. This would significantly affect three of the NSA's 10 special qualities in that limited geographical area. For the remaining seven special qualities, I am satisfied that there would no significant effects at any point within the NSA. For the majority of the NSA landscape, the proposal would have no effect on the NSA's special qualities and, in the remaining areas (the summits and eastern slopes of most of the lone mountains), visual amenity effects would be minor and, as a result, would have a similarly limited effect on the NSA's special qualities.

3.149 Applying these findings to SPP paragraph 212, I find that the proposal would compromise the objectives of designation of the Assynt-Coigach NSA because it would cause significant harm to some of its special qualities. This would undermine the wholeness, unity, soundness and integrity of the NSA. The proposal does not satisfy the first paragraph 212 test, although, in weighing the significance of the harm that would be caused, in Chapter 8, I have had regard to the limited geographical extent of the harm.

3.150 Turning to the second paragraph 212 test, I consider in Chapter 8 whether the significant effects on the qualities for which the NSA was designated that I have outlined above, are clearly outweighed by nationally important benefits arising from the scheme.

3.151 LDP Policy 57 potentially supports development that can be shown not to compromise the natural environment, amenity and heritage resource of a nationally importance feature (such as an NSA). For the reasons set out above, I find that, contrary to this policy, the overall resource that is the Assynt-Coigach NSA would be compromised.

3.152 In common with the second test in SPP paragraph 212, Policy 57 requires any significant adverse effects to be clearly outweighed by social or economic benefits of national importance. It must also be demonstrated that the development would support communities in fragile areas who are having difficulties in keeping their population and services. I deal with these requirements in Chapter 8.

Effects on the Fannichs, Beinn Dearg and Glencalvie Special Landscape Area (the SLA)

3.153 The nearest edge of this SLA lies approximately 12 kilometres to the south of the site. The council believes that, when seen from elevated locations within the SLA, the proposal would detract from a visitor's sense of isolation and impression of wildness, although it accepts that this is unlikely to undermine the integrity of the SLA as a whole.

3.154 Viewpoints VP 10 and VP 14 demonstrate such effects.

3.155 VP 10 at the Munro summit of Seana Bhraigh is 19.5 kilometres from the nearest turbine. All twenty turbines would be visible from this location (at least in fine weather) within a vast panorama of rolling moorland. The applicant argues that the development would have a minor and insignificant effect on views from this location, due to the small proportion of the dramatic 360 degree panorama that is available, in which views to Beinn Dearg in the south and the lone mountains in the north west would hold the greatest attraction.

3.156 I agree that the proposal would have an insignificant visual amenity effect due to the separation from the viewpoint and the vast scale of the panorama that can be seen from this location. The sense of isolation and wildness at this location would not be materially affected.

3.157 VP 14 is from Carn Chuinneag. It is 24.6 kilometres to the south east of the nearest proposed turbine. The development would be positioned between the viewer and the mass of Ben More Assynt and Conival on the skyline. In clear weather conditions, the juxtaposition of the development with the outline of those Munros would tend to increase the visual impact.

3.158 The applicant points out that a number of existing wind farms can be seen from this location. It contends that this factor, in combination with the significant distance to the development and the small proportion of the view that would be affected mean that visual amenity effects would be insignificant.

3.159 Despite the proposed development aligning with views of Ben More Assynt, I agree with the applicant's reasons why visual effects at VP 14 would not be significant. Again, I find that the sense of isolation and wildness at this location would not be materially affected.

3.160 Overall, I am satisfied that the slight degree of effect on visual amenity means the integrity of the SLA would not be undermined. The proposal would therefore satisfy the requirement of LDP Policy 57, not to have an unacceptable impact on the natural environment, amenity and heritage resource.

Effects on Wild Land Areas

3.161 I do not regard a debate over the meaning of the term 'designated' as particularly helpful when seeking to interpret Scottish Government policy on Wild Land Areas. It is clear that there is a policy distinction in SPP between, on the one hand, National Parks and NSAs, and on the other, Wild Land Areas. Table 1 in SPP places the former within Group 1: *Areas where wind farms will not be acceptable*, whereas mapped areas of wild land are included within Group 2: *Areas of significant protection, where wind farms may be appropriate in some circumstances*.

3.162 That being said, the parties agree that Wild Land Areas are assets of national importance.

3.163 The John Muir Trust considers that wild land should have greater protection from wind farm development. However, my role is not to consider the adequacy of policy, but to consider the proposal in the light of that policy. That includes SPP Table 1 but also paragraph 200 of that document, which highlights the sensitivity of wild land to any form of intrusive human activity and confirms that they have little or no capacity to accept new development.

3.164 I agree with the parties that there is a degree of tension within SPP in regard to wild land. The applicant referred me to the decision of the Court of Session upholding Ministers' decision to grant consent for the Creag Riabhach wind farm. That development site, like Caplich, is partially within a Wild Land Area. Despite that similarity, the two proposals are clearly different. However, one can take from the decision of the court that there is no obstruction to wind farm development within wild land, provided that the overall benefits of the proposal would outweigh its overall disbenefits. It is also clear that conflict with paragraph 215 of SPP (which I discuss below) will not necessarily justify the refusal of consent.

3.165 In coming to my conclusions about the likely effect the development would have on the Wild Land Areas, I have borne in mind the clear statement in SPP paragraph 196 (albeit in a policy making context) that "*Buffer zones should not be established around areas designated for their natural heritage importance*." In addition, I have paid attention to the statement in the 2017 draft SNH technical guidance that "*The protection of wild land qualities, as set out in SPP, means that only in exceptional circumstances relating to scale, siting or design will development outwith WLAs have a significant effect."*

3.166 I have looked at effects on the three wild land areas in turn. I have relied upon the wild land area descriptions that were published by SNH in January 2017[52]. I have also considered both iterations of SNH's guidance on assessing impacts on wild land areas: interim guidance from 2007, which was updated in 2014[53]; and the draft technical guidance from January 2017[54], which has yet to be adopted. I note that the applicant considers the updated 2007 guidance to be more usable and the draft guidance to be less likely to lead to a robust and repeatable assessment. The witness for SNH accepted that many comments had been made about the draft guidance that will need to be considered prior to its adoption. However, she regards the 2017 draft guidance as the best starting point for those undertaking an assessment of effects on a Wild Land Area. That is also SNH's formal position on the matter.

3.167 The applicant addressed both versions in its submissions to the inquiry and I have taken both into account, noting that the 2017 guidance remains in draft. The main difference between the two is that the draft 2017 guidance requires an assessment to focus on the specific qualities of the wild land in question, with reference to the published Wild Land Area descriptions, rather than using the generic lists of physical attributes and perceptual responses of wild land that are set out in the 2007 version. In this regard, I believe the 2017 version is likely to prove more useful.

[52] CD 5.12
[53] CD 5.18
[54] CD 5.10

3.168 The applicant is not convinced that the qualities of a WLA can easily be divined from the WLA descriptions. However, the document which describes the methodology used in the preparation of the descriptions[55] makes it clear that, for each WLA, the 'qualities' are identified as specific combinations of 'wild land attributes'. When one reads the description for each WLA, it is arranged with a series of bullet points in bold text under which are several paragraphs of explanatory text included italicised phrases. Reading these descriptions in the light of what is explained in the methodology, there can be no doubt that the emboldened bullet point text describes the qualities of each NSA with the wild land attributes that combine to create those qualities being the italicised text.

3.169 This was how SNH presented its evidence and is how I have approached the issue.

WLA 34 Reay – Cassley

3.170 WLA 34 Reay – Cassley covers an area of nearly 56,000 hectares. SNH's description[56] notes that its character is strongly influenced by its geology – "*the stark contrast of cnocan comprising hard Lewisian gneiss, greener slopes over Durness limestone (that includes many caves), and high rocky mountains formed of Cambrian quartzite*". The description notes that "*From elevated locations, the area may seem to extend further into neighbouring WLAs where the intervening glens are screened. This includes to the Foinaven - Ben Hee WLA (37) to the north, and the Quinag WLA (33) and Inverpolly – Glencanisp WLA (32) to the west. In contrast, human elements create a more obvious edge to the south west, south and south east, meaning that the wild land qualities do not seem to extend so strongly in these directions."*

3.171 The proposal straddles the boundary of this wild land area: ten turbines and their ancillary development would be within the WLA and ten just outside. SNH accepts that paragraph 215 of SPP would apply only to development within the WLA and considered the effects each group of ten separately, in addition to the proposal in its entirety.

3.172 SNH accepts that the peatland slopes to the east of Glen Cassley and areas across the northern part of the WLA are unlikely to be affected by the proposal. In accordance with the draft technical guidance, it confined its assessment to those parts of the WLA where effects are likely to be found. The applicant is critical of that approach, because it believes that it is likely to overstate the significance of effects on wild land qualities because it is bound to give no weight to the absence of effects on such qualities elsewhere within the WLA (outside the area that has been studied).

3.173 I do not agree that an approach that relies on a study area that is smaller than the entire Wild Land Area is methodologically flawed. This is because I do not accept that an assessment of the significance of an effect on wild land qualities must always use the entire Wild Land Area as its focus. As I set out below, my view is that effects on wild land qualities that affect only a geographically limited part of a Wild Land Area are capable of being regarded as significant even though they do not affect a significant area of the Wild Land Area.

3.174 The test in paragraph 215 of SPP is whether significant effects on the qualities of Wild Land Areas can be substantially overcome by siting, design or other mitigation. It is not a test of whether the overall integrity of the Wild Land Area would be affected. Different

[55] CD 5.11
[56] CD 5.12

qualities of a Wild Land Area may be expressed to different degrees across the Wild Land Area; some may be entirely absent in certain parts of the Wild Land Area. For this reason, it may well be appropriate to define a study area that does not encompass the entire extent of the Wild Land Area. And it may be appropriate to use different study areas to consider effects on different qualities.

3.175 SNH predicts that there would be a medium adverse long-term effect on one of the four identified qualities of this wild land area: '*A variety of spaces created by irregular landforms in which there is perceived naturalness, as well as a strong sense of solitude'*; and a high adverse long-term effect on another quality: '*Extensive, elevated peatland slopes whose simplicity and openness contribute to a perception of awe, whilst highlighting the qualities of adjacent mountains'.*

3.176 With regard to the former, SNH is particularly concerned over effects on the experience of receptors within the lower-lying moorland interior of the WLA, particularly across the south western half of its southern flank. In notes that the development is likely to be clearly seen from such locations and that the presence of such large and prominent man-made development would be especially pronounced given the sense of seclusion and solitude that is currently experienced in this location.

3.177 The applicant contends that wild land qualities are not strongly expressed in the vicinity of the application site and that this is recognised in the extract from the SNH description that I referred to above. It accepts that there would be some diminution of wild land characteristics in the vicinity of the site, but argues that there would not be a significant effect on the characteristics of this extensive WLA as a whole.

3.178 This wild land area covers an extensive expanse of land covering Ben More Assynt, the upland area to the north of that massif and the lower-lying cnocan landscape further to the north west, as far as the coast, and also two limbs, which project in a south easterly direction to either side of Glen Cassley. The proposed development would lie partly within and partly adjacent to the limb which lies to the south west of Glen Cassley, which is centred on Beinn an Eòin. This is the area that SNH has referred to as "the southern flank".

3.179 I agree with the applicant (and indeed with SNH's own description of this Wild Land Area) that the existence of plantation forest and other man-made elements along, and visible from, the edge of this limb of the WLA, lessens the experience of wildness when compared with more central locations within it.

3.180 The applicant accepts (and I agree) that within and close to the site, the locally significant adverse visual effect of the development would affect a visitor's appreciation of some of the Wild Land Area's qualities. However, I agree with the applicant that in this location, as such qualities are already diminished, the significance of this adverse effect is reduced.

3.181 However, I agree with SNH that the turbines would also be visible from further into the interior of the western limb and as far as the point where the two limbs join at the head of Glen Cassley. In these locations, man-made influences are far less significant and the sense of solitude and seclusion is an important wild land quality. This is supported by the applicant's ZTV drawing[57], which shows areas of visibility, some over ten kilometres away.

[57] CD 1.26a and CD 1.26b

No visualisation for these locations was provided by the applicant, but a photograph taken from upper Glen Cassley, looking towards Beinn An Eòin and the site can be found in SNH's evidence[58].

3.182 Although visibility of the proposed turbines from such locations would be patchy, I agree with SNH that, from the perspective of an individual travelling through the WLA and experiencing its qualities of naturalness and solitude, the fact that turbines would be seen from what could reasonably be described as a central location within the WLA, on an intermittent rather than a continual basis, is unlikely in my view to have any ameliorating effect on the harm this would cause to their appreciation of its special qualities.

3.183 When seen from such locations, I predict that the adverse effect on naturalness and solitude would be significant.

3.184 With regard to effects on the elevated peatland slopes, I agree with SNH that, away from the immediate vicinity of the site, some views of the development would detract from the simplicity and openness of the currently bare and exposed elevated slopes. This would be likely to lead to a reduced sense of landscape scale and consequent perception of awe. A clear example of this would be from the Ben More Assynt massif, where the development would be seen clearly as an obvious man-made feature within a simple and open landscape.

3.185 Close to the site, despite the prominence of the proposed turbines, I predict that the appreciation of the qualities of adjacent mountains is unlikely to be significantly impaired as there is already clear visibility of plantation forestry and other man-made features at closer range. In such locations, the contribution made by views of the mountains to any sense of the grand scale of the landscape or to its awe-inspiring qualities is already diminished by the detracting effect of those man-made features. However, in more distant and secluded locations within the WLA, for example under the shadow of the Ben More Assynt massif, the mountains have a visually striking and awe-inspiring presence that far outweighs the presence of forest plantations. In such locations, such qualities would be diminished by visibility of the proposed development (albeit that views of the proposed turbines would be in a different direction and would also be likely to contain forestry).

3.186 I conclude that the proposal is likely to have a less significant effect on this quality of the WLA, but that it would, in such locations, remain significant.

3.187 At the inquiry session there was discussion as to whether the extent of significant adverse effects upon wild land qualities would be sufficient to render the western limb of the WLA no longer worthy of description as wild land. In the Glencassley decision[59], Ministers found that, despite careful consideration by the applicant of the position of those turbines, significant impacts on wild land would remain, such that the proposal would not be compatible with wild land policy. Ministers concluded that there would be a significant adverse impact on an area covering much of the south east of WLA 34, to the extent that this area of the WLA (which is the eastern limb rather than the western limb as would be affected by the current proposal) would no longer be considered to be wild land. As a result of this, Ministers found that the development would have had a significant effect on the WLA, when considered as a whole.

[58] Page 19 of SNH1
[59] CD 8.14

3.188 The eastern and western WLA 34 limbs are not identical in terms of landscape character or relative wildness (for example, the limb in which Glencassley would have been built is significantly closer to the operational Rosehall and Achany wind farms). There are also clear differences between the Glencassley and Caplich proposals. However, despite these differences, objectors to the Caplich proposal argue that it provides clear guidance on how to evaluate the significance of the effect the current proposal would have on this WLA.

3.189 In Glencassley, Ministers found that a significant effect upon one limb of the wild land area, such that that limb would no longer be considered wild, would result in significant effects upon the WLA as a whole.

3.190 In this instance, comparing the paired ZTV drawing in the ES[60], which shows predicted visibility for Glencassley with the updated ZTV for Caplich[61], provides a worst-case impression for both proposals of the extent of their visibility within each limb of WLA 34 and beyond. This suggests that Glencassley would have been visible from the great majority of the eastern limb of WLA 34 and from the north eastern facing slopes of the western limb, above Glen Cassley. It is predicted that visibility of the Caplich proposal would be less extensive, being shielded by the topography to the north east of Beinn an Eoin. Nevertheless, a significant proportion of the western limb of the Wild Land Area is likely to be affected by visibility of the proposal.

3.191 The ZTVs show that there would be limited theoretical visibility of either proposal from the remainder of WLA 34.

3.192 The draft SNH guidance adopts the methodology specified in the Guidelines for Landscape and Visual Impact Assessment (GLVIA), third edition, in its approach to assessing effects on wild land qualities. This requires an assessment of, among other things, the geographical extent of the area that would be influenced by the development.

3.193 The draft guidance requires that an overall judgement of significance should reflect the sensitivity of the wild land qualities within the WLA and the magnitude / extent of effect. It also states that where impacts affect the strength of wildness within a WLA to the degree that one or more of the qualities is substantially eroded, this is considered to be significant.

3.194 In my view, while the geographical extent of any adverse effects on wild land qualities is an important factor in assessing the significance of the effect, it is not necessary for there to be significant effects on the wild land area as a whole for the effect to be regarded as significant. In the case of Glencassley, Ministers found that the effect of that proposal would have been so significant that it would have significantly affected the Wild Land Area as a whole. However, there is nothing in that decision to suggest that an effect on a Wild Land Area that had a more localised effect could not also be regarded as significant.

3.195 In this instance, the significant adverse effects on wild land qualities I have identified would be experienced only within a limited radius of the site (generally between three to five kilometres, but exceeding 10 kilometres in respect of certain viewpoints on the Ben More Assynt massif and at the head of Glen Cassley). The remainder of the WLA would either be unaffected (the majority) or only affected to an insignificant degree. However, within that

[60] Figure 4.11 in CD 1.04
[61] CD 1.26a and CD 1.26b

limited geographical area, there would be significant adverse effects on two of the qualities of WLA 34:

- *A variety of spaces created by irregular landforms in which there is perceived naturalness, as well as a strong sense of solitude*; and

- *Extensive, elevated peatland slopes whose simplicity and openness contribute to a perception of awe, whilst highlighting the qualities of adjacent mountains.*

3.196 I think it is unlikely that the effect of the proposal on the south western limb of the NSA would be so extensive that the limb ceased to be wild land. However, that does not undermine the relevance of my finding of more localised significant effects, in terms of the policy tests that must be applied.

3.197 Paragraph 215 of SPP (which applies to 10 of the proposed turbines that lie within WLA 34) requires consideration of whether any significant effects on the qualities of Wild Land Areas can be substantially overcome by siting, design or other mitigation. It is not specified that significant effects must be found across the entire wild land area or that the basis for making an assessment of significance should be the entire WLA. As stated above, my view is that such an approach would have been illogical when different wild land qualities can be found at different levels across different parts of a Wild Land Area.

3.198 The witness for SNH used the numbering of the turbines provided by the applicant in its visualisations, to determine which effects could be attributed only to those that would be situated within the WLA (to which SPP paragraph 215 applies). I agree that, if one were to ignore the effect of those turbines that are not within the WLA, the level of effect the proposal would have on its wild land qualities (as identified above) would remain significantly adverse.

3.199 In accordance with paragraph 215, it is necessary to determine whether the significant effects I have outlined above could be substantially overcome by siting, design or other mitigation.

3.200 I agree with the applicant that the proposal has in-built mitigation on account of the various siting and design iterations that were carried out in order to minimise any adverse effects. However, given that I have concluded above that, despite those changes, there are two wild land qualities that would be significantly affected, it must be concluded that such mitigation was not entirely successful.

3.201 The only other form of potential mitigation that has been put forward is to use a darker (probably green) colouration for the turbines, so that when seen from elevated and distant viewpoints against the land, their prominence would be reduced. The disadvantage of such an approach (which is recognised by the applicant) is that from locations where the development would be seen against the sky (which would include locations within WLA 34 where I have predicted significant harm to wild land qualities), darker turbines are likely to be more prominent than if they had a conventional pale grey colour.

3.202 I conclude that, contrary to paragraph 215, the significant effects on wild land qualities that can be attributed to the turbines within the WLA, could not be substantially overcome by siting, design or other mitigation. This is a negative consequence of the

proposal to which I have regard in Chapter 8. However, I have borne in mind the limited geographical extent of the effects that have led to this policy conflict.

3.203 I also have regard to the similar significant adverse effects on the qualities of this WLA (as identified above) that would be caused by the turbines that are outwith, but immediately adjacent to, its boundary.

3.204 LDP Policy 57 potentially supports development that can be shown not to compromise the natural environment, amenity and heritage resource of a feature (such as a Wild Land Area) that is of national importance. However, for the reasons set out above, I find that the overall resource that is WLA 34 would be compromised.

3.205 Policy 57 also requires it to be demonstrated that any significant adverse effects are clearly outweighed by social or economic benefits of national importance and that it be shown that the proposal would support communities in fragile areas who are having difficulties in keeping their population and services. I address these issues in Chapter 8.

WLA 29 Rhiddoroch – Beinn Dearg – Ben Wyvis

3.206 WLA 29 Rhiddoroch – Beinn Dearg – Ben Wyvis covers an area of 90,467 hectares. It lies to the south of the application site and the A837, and to the east of the A835.

3.207 SNH's description of this wild land area[62] notes that there is a sense of visual connection with WLA 28 to the west and WLA 32 to the north west, whereas, due to extensive conifer plantations and settlement, in an arc from the north to the east and south, there is a more defined edge to the WLA in these directions. The proposed development would lie to the north / north east of this WLA and would appear visually separated from it by the aforementioned landscape features.

3.208 The applicant's ZTV shows that there would be patchy theoretical visibility of the blade tips of the proposed turbines from within this Wild Land Area. From most of the area, no part of the development would be visible. However, within a radius of approximately 15 kilometres of the site, there are upland locations from where parts of the majority of turbines are predicted to be visible.

3.209 SNH predicts that the proposal would have medium to high long-term adverse effects on two of the qualities of this WLA:

- *A range of awe-inspiring massive, high rounded hills and plateaux, as well as steep rocky peaks and ridges, offering elevated panoramas*; and

- *A very large interior with a strong sense of remoteness and sanctuary that seems even more extensive where appearing to continue into neighbouring wild land areas*;

3.210 It is satisfied that effects on three other qualities of this WLA would be negligible. Overall, it concludes that the effect would be significant, primarily because of the prominence of the proposed turbines in views across this WLA and into WLA 34 to the north.

[62] CD 5.12

3.211 Two viewpoint visualisations lie within this Wild Land Area: VP 3 Meall an Fhuarain; and VP 10 Seana Bhraigh.

3.212 From VP 3, the A837, development within Strath Oykel and much of the extensive plantation forestry on lower slopes, is shielded by the topography. Consequently, there is a clearer visual link with WLA 34 to the north than SNH's description confirms is typically the case. This means that, in views to the north, as well as towards WLA 28 and WLA 32, the open, uninhabited landscape appears to extend away to the horizon with little evidence of human intervention or features that would assist in appreciating its scale.

3.213 It is in this northern view that the proposed turbines would be built. A vast panorama is visible from this viewpoint, in which the proposed turbines would occupy only a narrow arc at a distance of approximately 8.6 kilometres. However, because they would form a clearly visible, man-made, middle-distance focal point in a view that adds to the sense of landscape scale and solitude, I find that they would significantly and adversely affect the following key attributes and qualities of this WLA, as defined in SNH's description:

- A range of awe-inspiring massive, high rounded hills and plateaux, as well as steep rocky peaks and ridges, offering elevated panoramas;

- A very large interior with a strong sense of remoteness and sanctuary that seems even more extensive where appearing to continue into neighbouring wild land areas;

3.214 For the same reasons as I set out in respect of WLA 34, I conclude that the proposal would compromise the natural environment, amenity and heritage resource of this nationally important feature, contrary to LDP Policy 57. As before, in Chapter 8 I consider whether the significant adverse effect I have identified would be clearly outweighed by social or economic benefits of national importance and whether it has been shown that the proposal would support communities in fragile areas who are having difficulties in keeping their population and services.

3.215 The ZTV suggests that locations where similarly significant effects on WLA 29 are likely to be experienced would be limited to higher ground within approximately six kilometres of its north-eastern edge. The geographical extent of such effects is therefore likely to be limited.

3.216 VP 10 is from a Munro summit further to the south, approximately 19.6 kilometres from the nearest turbine. In clear weather, views from this location are likely to extend vast distances in all directions. Because of the height of the viewpoint (910 metres) it is possible to see over the top of the lower terrain to the north to reveal more of the man-made influences that separate this wild land area from WLA 34. Large blocks of plantation forestry are particularly apparent. I agree with SNH that the sense of these being unnatural features in the landscape diminishes with distance, as they can have a similar appearance to cloud shadows. However, on days that were sufficiently clear for the proposed turbines to be seen, I believe the forest plantations, many of which are closer to the viewer, would be seen for what they are – clearly man-made landscape features that detract from the sense of wildness.

3.217 Due to visibility of these existing detractors from wildness and (especially) due to the significant separation distance from the proposed turbines, I find that the proposal would not

have a significant effect on any of the key attributes or qualities of WLA 29 when seen from this location.

3.218 In Chapter 8, when I consider the implications of the effects on WLA 29 (and the consequent conflict with Policy 57), I have regard to the limited locations within WLA 29 where significant adverse effects are likely to be experienced and the fact that the majority of this extensive area would be entirely unaffected.

WLA 32 Inverpolly – Glen Canisp

3.219 WLA 32 Inverpolly – Glen Canisp extends to 20,544 hectares. It lies to the north west of the site; its closest boundary being approximately 15 kilometres away. This Wild Land Area includes Canisp, Suilven and Cul Mor and lies entirely within the NSA. The applicant's ZTV predicts visibility from this WLA from only the highest summits.

3.220 SNH identifies a long-term low level of adverse effect on one of the qualities of this WLA and negligible effects on the other two. Nevertheless, it concludes that this should be regarded as a significant effect. This because the location of the effect would be where sensitivity is highest (the summits of the lone mountains) where the qualities of the NSA are most easily appreciated.

3.221 The applicant contends that one finding of a low-level effect and two that would be negligible cannot reasonably amount to a significant effect. It is concerned that the basis for this conclusion is insufficiently clear. However, as is recognised in the GLVIA, a judgement on the significance of an effect is a matter of professional opinion and need not (and should not) be derived from an overly numerical or formulaic assessment of the significance of each factor that has led to the overall conclusion.

3.222 Nevertheless, as I explained in my consideration of effects on the NSA, I am satisfied that visual effects on receptors at such locations would not be significant. From that, I conclude that there is no likelihood of the proposal having a significant effect on any of the key attributes or qualities of this Wild Land Area.

Other landscape character effects

3.223 Significant effects on the character of the wider landscape (outwith any designated or mapped areas) would be confined to Strath Oykel, which is of the "Strath" (CSL9) landscape character type, areas of coniferous plantation where the access track would be constructed, which is identified as "Coniferous Woodland Plantation" (CSL 16), and areas of the "Moorland Slopes and Hills" (CSL 3) type.

3.224 For most of CLS 9, visibility of the proposed development would be very limited and where it would be seen, other, closer, man-made features already have sufficient influence over landscape character that significant effects from this proposal are unlikely.

3.225 For CSL 16 there would be changes to the fabric as well as to the character of the landscape due to the formation of the access road and associated development. However, the character of this landscape is very clearly man-made and the proposed changes to its fabric, and the character changes that would arise from close-range views of the turbines would not significantly affect this.

3.226 Some of the landscape within the extensive CSL 3 would also experience fabric as well as character changes due to the proposed construction works. I do not regard changes to the fabric to be significant due to their limited scale. However, localised significant and adverse effects on the character of this landscape would arise due to the dominant and character-changing effect of building large and locally very visible man-made objects within a landscape where such development is not presently found.

3.227 LDP Policy 61 expects all development proposals to be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. For the reasons I have set out above, the proposal would not satisfy these requirements. However, the fact that it would be difficult for any commercial-scale wind energy proposal to do so, must be borne in mind when considering the significance of this policy conflict.

3.228 Due to the separation of the proposed development from other wind farms, and the screening effect of intervening topography, I am satisfied that there is no likelihood of significant cumulative landscape character effects.

Other visual effects

3.229 In addition to the visual effects (including cumulative effects) I have already discussed in relation to designated and mapped areas. It is necessary to consider effects on views from local houses, from the A837, from the River Oykel and how the proposal might affect those enjoying the countryside outwith the aforementioned designated or mapped areas.

3.230 There are few residential properties that would have views of the proposed turbines. This reflects the remarkably low population density in this area. Effects on the two of the four properties that are predicted to be most affected, are provided in the applicant's visualisations for VP 1 Craggie Cottage and VP 2 Caplich Cottage, both of which are just off the A837. The locations of the other two properties likely to affected – Lubcroy Lodge and Lubcroy Farmhouse are such that I am satisfied that the two selected viewpoint locations provide a worst-case impression of effects on residential receptors.

3.231 VP 1 is approximately three kilometres to the west / south west of the site. It represents the view from the A837 at its junction with the access track serving the cottage, which is approximately 300 metres closer to the application site. At 157 metres AOD, the viewpoint is at a much lower elevation than the proposed turbines, which accentuates their visual amenity impact when seen from this location.

3.232 All 20 turbines would be seen clearly on the hillside above the cottage, beyond a forestry plantation. The applicant accepts (and I agree) that this would lead to an adverse effect on visual amenity of major significance.

3.233 From VP 2, which is further along the A837 to the south east and approximately 3.5 kilometres south of the site, the proposed turbines would be slightly better screened by the topography. However, the majority would remain clearly visible and incongruous additions to the view. Again, the applicant accepts this would cause an adverse effect on visual amenity of major significance.

3.234 According to the ZTV, the properties at Lubcroy are at the very south eastern edge of the area where the majority of the proposed turbines would be visible. I have assumed that effects on visual amenity at those properties would be similar to those described above, although it is possible that the magnitude of impact might be lower.

3.235 Despite the significant adverse visual amenity effects that the applicant recognises, it argues that none of the properties would be affected to such a degree that they would become undesirable places in which to live. I do not agree that such a conclusion inevitably means that effects on residential properties must be accepted. However, I do agree that the separation distance between the closest properties and the proposed turbines would ensure that, although clearly visible, the turbines did not have an overbearing or unacceptably dominant presence.

3.236 Ultimately, the adverse effect on the visual amenity of these properties is a disbenefit of the scheme that requires to be weighed in the planning balance. However, it needs to be borne in mind that, due to the scale of commercial wind energy schemes, such effects are unlikely ever to be entirely avoidable. I have therefore had regard to the very small number of properties that would be affected by this proposal when considering this disbenefit of the scheme.

3.237 Turning to the A837, the council contends that, as a scenic route (despite not being designated as such), road users should be considered to have a high susceptibility to adverse visual effects. In contrast, the applicant contends that road users are of medium susceptibility if they are travelling on designated scenic routes and low susceptibility if travelling on non-designated tourist routes.

3.238 I travelled this route on numerous occasions when undertaking site inspections. The level of traffic and in particular of what could confidently be identified as tourist traffic (for example, camper vans, groups of motorcyclists and foreign-registered cars) was noticeably lower than on the A835, which runs through the NSA to the west and is part of the promoted North Coast 500 route.

3.239 Most of the traffic I observed was single occupancy cars and delivery vehicles. However, there were occasional users who were clearly not using the route for commuting or as part of their job, but as part of a visit to the area from elsewhere. I agree with the council that such users should be regarded as highly susceptible to adverse visual effects.

3.240 Nevertheless, in the absence of any evidence to suggest that visitors make up a higher proportion of A837 users than the low numbers I saw, I conclude that it is reasonable to assign an overall medium level of receptor sensitivity to this route.

3.241 The council considers that the sensitivity of users of the A837 who are travelling west, towards the NSA, is increased at a point, close to Loch Craggie, where the lone mountains first become visible. I agree that, at this point, the view to the west is dramatically affected by the first glimpse of Suilven. However, westbound travellers would have passed the application site by this point and would be moving out of the landscape in which the development had an obvious presence and into the more dramatic landscape of the NSA in which, from road level, it would not be visible. The first glimpse of the lone mountains would be likely to be a strong visual focus from this point onwards, and views of the proposed turbines would only be possible if one turned around.

3.242 The council suggested that the site's location coincides with the point of transition in *The Landscapes of Scotland* between the Assynt and Sutherland landscapes. However, the witness or SNH accepted in the inquiry session that this point actually lies further to the west of the site.

3.243 Taking all matters into account, I do not consider that receptor sensitivity at this point would be materially greater as a result of there being a sense of landscape transition.

3.244 The parties agree that the wind farm would be visible for approximately three kilometres of the A837 between Craggie and Lubcroy. The visualisations for VP 1 and VP 2, discussed above are representative of the views road users would have of the development when travelling along this part of the route. Even accounting for the lower receptor sensitivity of road users when compared with residents, my view is that there would be a significantly adverse effect on visual amenity for this limited part of the route. However, for the remainder of the route, the turbines would be substantially or completely screened from view.

3.245 Existing wind farm development at Achany, Lairg and Rosehall is occasionally glimpsed from this route, but is not sufficiently visually intrusive for there to be any risk of cumulative visual effects with what is now proposed.

3.246 For recreational users in and around Strath Oykel, there would be variable visibility of the development. Updated blade tip ZTVs were provided in the ES Addendum for the upper[63] and lower[64] Oykel fishing beats. These show the worst-case extent of visibility for the revised turbine layout. The ZTVs confirm that it is unlikely that there would any visibility of the turbines from anywhere in the lower Oykel or from the Camus beat in the upper Oykel. From about 30% the Lubcroy beat there could be visibility and it is predicted that at least some of the blade tips would be visible from all of the Salachy and Alt Rugaidh beats, although at present, extensive plantation forestry would have a significant screening effect. For those shooting and stalking on higher slopes, the development would be visible to varying degrees.

3.247 I agree with Oykel Proprietors that the landscape context within which such sports are undertaken is an important contributor to the overall experience and that such receptors should be regarded as highly sensitive.

3.248 My conclusion for both categories of outdoor recreational receptor is that visual effects would be variable, but would, in limited places, be significantly adverse. This is a disbenefit of the scheme that I account for in Chapter 8.

[63] CD 1.11 Figure A2.11b
[64] CD 1.11 Figure A2.11a

CHAPTER 4: SOCIO-ECONOMIC AND TOURISM EFFECTS

4.1 Socio-economic effects were considered in a hearing session. Participants in this session included the applicant, The John Muir Trust, Mountaineering Scotland, Oykel Proprietors and a local resident, Ms Betty Wright.

The main points for The John Muir Trust

4.2 The John Muir Trust referred to a critical appraisal it undertook[65] of the 2016 Biggar Economics report entitled "*Wind Farms and Tourism Trends in Scotland*"[66]. This report is referred to in the applicant's evidence.

4.3 The Trust's concerns are with what it believes to be flaws in the methodology used to investigate socio-economic effects and also the adverse socio-economic consequences that will flow from what the Trust believes will be significantly adverse landscape and visual effects, including effects on the most sensitive and valuable landscapes, upon which many activities rely.

4.4 The Trust does not believe the Biggar Economics' study to be independent and believes that it also lacks geographical sensitivity in that it seeks to model socio-economic effects at too broad a scale.

4.5 The Trust believes that the applicant's use of Office for National Statistics (ONS) data, which were prepared for other purposes, is inappropriate. It identifies a number of methodological flaws from which it concludes that the analyses of socio-economic issues and the conclusions drawn therefrom cannot be relied upon.

4.6 The Trust also contends that no reliance should be placed on the work commissioned in 2008 by the Scottish Government (known as the Moffat report[67]), as much has changed since then. It states that, as the number of turbines increases, public opposition to them, from residents and visitors, also increases. It refers to a YouGov poll, commissioned by the John Muir Trust in September 2012, of 2269 people throughout the UK, where 43% of respondents would be less likely to visit a scenic area which has a large concentration of wind turbines whilst only 2% would be more likely to visit such an area.

4.7 A YouGov poll of 1119 Scots adults for the John Muir Trust in June 2013 found that 51% of people in Scotland would be 'less likely to visit a scenic area which contains large scale developments (e.g. commercial wind farms, quarries, pylons). A UK Government Department for Energy and Climate Change (DECC) survey at the end of 2014 found that 68% of people supported on-shore wind. The Trust concludes that this means that 32% do not. It points out that a 32% reduction in visitors to this area would be catastrophic.

4.8 The Trust notes that a 2015 YouGov survey for Scottish Renewables found that 62% of Scots generally support large-scale wind. However, it concludes that this means that 38% do not support such development.

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[65] CD 6.17
[66] CD 6.03
[67] CD 6.01

4.9 The Trust suggests that an indication of the public's view of this proposal can be found in the 800 letters of objection compared with only 70 in support.

4.10 The Trust supports much of the work undertaken by Dr David Gordon on behalf of the Mountaineering Council of Scotland.

The main points for Mountaineering Scotland (MScot)

4.11 MScot accepts that wind farms bring some socio-economic benefits. However, it finds that these benefits are delivered at a national or regional level and could be secured using other forms of technology such as off-shore wind. It points out that there is no pressing need for this development in this location.

4.12 Its approach to this proposal is to focus on its potential adverse effects.

4.13 MScot believes there is much misinformation about the socio-economic effects of wind farm development. It contends that the individual circumstances of each proposal must be considered, including the characteristics of the proposed development, the nature of the local tourism offer and market (and that of competing areas), and the characteristics of local tourists.

4.14 It states that around 12 to 16% of all tourism spend depends directly on visits involving mountaineering (mostly hill-walking), with around 25% in total dependent on the quality of upland and other natural landscapes. For another 25%, scenic landscapes are a less important, but not insignificant, backdrop to other activities.

4.15 MScot has undertaken surveys of expected and actual behaviour of mountain users in response to wind farm development. The first in 2013-14[68] and the second in 2016[69].

4.16 The first survey (of expected behaviour change) predicted a 56% discouragement to visiting hills where wind farms were visible. The 2016 survey revealed this to be an actual 23% discouragement.

4.17 From these results, MScot calculates that between 1 and 5% of tourism spend is being displaced within Scotland – up to £250 million annually. It predicts that such effects will be concentrated on locations where there is a conflict between visitor expectations of wild, unspoiled landscapes and the effect of wind farm development.

4.18 MScot advises that mountaineering interest in this location is particularly to the south through to the north west of the appeal site. It believes that, given the prevailing wind, elevated views from the south and west will often be of full rotors, potentially front-lit, backclothed by darker vegetation. At distances of 20 to 25 kilometres, it predicts that the turbines and their movement would be clearly visible and intrusive in a landscape where the general expectation is that turbines are an 'eastern' phenomenon and that they recede as one moves to the west. It concludes that Caplich would be a significant jump to the west, lying almost equidistant between the west and east coasts, around 10 kilometres further west than Rosehall.

[68] CD 6.05
[69] CD 6.06

4.19 MScot believes that areas that rely upon forms of tourism and recreation that are landscape-dependent, such as the Assynt area, should be protected from harmful development. This is an area of high perceived wildness where visitors are attracted by the dramatic landscape rather than by tourism attractions or facilities. The proposed turbines would be much closer to Ben More Assynt than any other existing or consented scheme. From Seana Bhraigh, 20 kilometres to the south, there would be an impression of a substantial encroachment of wind farm development westwards. These effects would displace an unpredicted proportion of visitors to locations where such effects were not experienced.

4.20 MScot notes that the ES found that almost one third of local employment is in accommodation and food services. Even this may understate its significance since the ES' source data excludes businesses below the VAT threshold and with no PAYE employees, which therefore excludes most, if not all, seasonal bed and breakfast premises and other small accommodation enterprises. In addition, visitors walking in the affected area may well stay further afield, meaning any displacement of visitors could have a wider effect.

4.21 MScot believes the applicant has not sufficiently accounted for the importance of the aesthetic qualities in the landscape for walkers on the Scottish National Trail, suggesting that the sense of achievement in completing the challenge would be unaffected.

4.22 It also believes that what visitors expect to find in the Assynt area is so incompatible with wind farm development at a distance of less than 20 km, that the applicant has underestimated the discouragement to visitors, many of whom would need to undertake a significant journey to access the area. While hill-bagging visits may continue, other hill walkers may well go elsewhere in the north west highlands to the detriment of the local economy.

4.23 MScot does not believe that offering a recreational enhancement fund would encourage hill walkers to continue to visit, so it is assumed that it is hoped that it would attract alternative visitors to the area. It believes there is no reason to assume that this would be successful, given the remoteness of the location.

4.24 Given the absence of adequate research, MScot believes that a precautionary approach should be taken.

4.25 MScot believes that the national and regional interest is best served by retaining the distinctive landscape of southwest Sutherland and Wester Ross as a location to which visitors who do not wish to experience wind farms, can be directed.

The main points for Oykel Proprietors

4.26 Oykel Proprietors do not regard as relevant, the focus in the ES on large-scale acceptability studies that, it contends, are not representative of an area which has a low population with a significant proportion of older residents and a narrow employment focus.

4.27 Oykel Proprietors' focus is on local effects. The principal source of employment in the locality of the site is the River Oykel itself. Although the applicant recognises the importance of the river, it contends that, because the wind farm would not affect the ability of visitors to take part in fishing or stalking, it would have no adverse effect. Oykel Proprietors regard this as a misleading over-simplification that fails to consider the effect on

qualitative issues such as the attractiveness of the environment and the willingness of visitors to return or to recommend the area to others.

4.28 Oykel Proprietors describe the proposed wind farm's presence on a hillside which drains to the River Oykel as having a threatening quality and as being obviously incompatible with long-established river activities.

4.29 Oykel Proprietors advise that the Oykel itself employs a steady number of local people, with increases in season. Numbers overall may be small if measured in an urban context, but in this locality they are highly significant. Angling on the River Oykel is also a long established interest, safeguarding important natural resources in the salmon and sea trout breeding populations, as well as the extraordinary freshwater pearl mussel. Employment in accommodation providers further afield such as at Lairg, Rosehall, Bonar-Bridge and Ardgay, and to the west, Ullapool and Lochinver would also be affected by any reduction in visitor numbers to the river.

4.30 Oykel Proprietors notes that Ministers' decision on this application must be made in the public interest. In judging this issue, the full public value of the river to the local economy and community must be taken into account. Any economic benefits of the development in terms of construction contracts and professional services would require to be tendered nationally and are unlikely to benefit the local area.

The main points for Ms Betty Wright

4.31 Ms Wright believes that the offer of community benefit payments by a wind farm operator to a local community should not be seen as a form of blackmail. It should not even be characterised as a form of compensation for community impacts, because there are no real impacts. She believes that tourism is not reduced by wind farm development, as evidenced by the huge success of the North Coast 500 over the last 2 years. She notes that hill walkers and cyclists still come in numbers and that the board of the North West Highlands UNESCO Global Geopark has raised no objection to this proposal.

4.32 In Ms Wight's experience, the real things that local people talk about in these rural communities are the lack of broadband connection, poor public transport, cuts to council services, lack of job opportunities particularly for young people so they move away, and of course the weather & midges.

4.33 At present, the Achany and Rosehall community benefit funds deliver over £130,000 per annum across the three local community council areas. The single award that has made the biggest impact on the locality has been the funding of a Development Officer for the Kyle of Sutherland Development Trust – funded jointly from the Creich & Ardgay share of the Achany / Rosehall fund. The first major project that the Trust undertook was the purchase of the Post Office & adjoining house in Bonar Bridge in May 2014, which is one of the few post offices in the north of Scotland continuing to function as a stand-alone. The purchase was funded by Scottish Land Fund & the refurbishment of the house – which is now rented out by the Trust - by an award from SSE regional fund.

4.34 The trust has also obtained funds for such projects as Greening Kyle, Cosy Homes East Sutherland, East Sutherland Energy Advice service, Keep Active Together and Community Food Stop. All of these projects provide local employment and bring money

into the community, for example via local hall rentals, energy improvement grants, and also improve community cohesion. These projects currently employ a further seven individuals.

4.35 The Ardgay and District Community Council quarterly newsletter is also funded in this way. This provides details of a number of new development projects that are underway or have recently been completed in the locality and describes a project to encourage more visitors to the area by attracting North Coast 500 travellers. Many of the projects detailed and many of the community groups mentioned have benefitted from community benefit fund money.

4.36 Ms Wright argues that it should not be assumed that past success means there is no need for further community benefit money, or interest in shared ownership. There are other significant projects that the community would like to pursue.

4.37 She argues that, in the future, there will also be socio-economic benefits from having a more decentralised energy system in which wind turbines could play a key role – reducing fuel poverty, CO_2 emissions and grid constraints.

The main points for the applicant

4.38 The applicant predicts that construction-stage socio-economic benefits of the proposal could contribute £39.4 million to the Scottish economy, including £17.2 million to the Highland economy. The estimated employment impact could be 334 job years in Scotland, including 126 job years in Highland. Annual operation-stage benefits could amount to £3.5 million annually for Scotland, of which £1.9 million could be in Highland. The associated estimated employment impact is 31 jobs supported in Scotland, of which 16 are expected to be in Highland.

4.39 These estimates are based on studies that the applicant's consultant has undertaken of the socio-economic effects of completed wind farm schemes.

4.40 The Applicant has invited the five community council areas closest to the development to invest in a share of the ownership of the wind farm of up to 10% of the company. It argues that this would provide a long-term source of income for the communities. At present, agreement has been reached through a memorandum of understanding with two community groups at Ardgay and Ullapool to invest in up to 3.5% of the development, should it receive detailed planning consent and an agreed grid connection offer. A number of other community groups in the wider area have expressed an interest in becoming shareholders of the development. However the applicant has chosen to restrict participation to those five community council areas in closest proximity. It states that shared ownership may be offered to communities in the wider area.

4.41 Over the 25 year operational period, the applicant predicts that this could generate net revenue for local communities of at least £20 million (depending on the term and the interest rate of the loan taken to invest in the development). This revenue would be available for investment in community development in the local area.

4.42 It states that, in accordance with SPP and the Scottish Government Chief Planner's letter of 11 November 2015[70], the net economic benefit of this should be a material consideration.

4.43 The developer is proposing an annual payment of £34,000, amounting to £850,000 in total, as a Recreational Enhancement Fund. This would allow for the employment of local labour for initiatives such as improvements to walking paths, maintenance of public bothies and improvements to the accessibility of walking routes. The fund should also lead to improvements to walking amenities in the Assynt Coigach NSA and so generate a net improvement in local tourism amenity.

4.44 The applicant estimates that the proposed development would generate business rates of almost £698,000 per annum and £17.5 million over the operational life of the proposed development.

4.45 Turning to the evidence of wind farms and tourism, the applicant regards the 2008 Moffat study as the most comprehensive study undertaken of this issue. This concluded that the policy objectives of growing both the tourism sector and renewable energy in Scotland could be compatible. Although it is now nearly 10 years old, this remains relevant and, importantly, as wind farms have become a more established feature of the countryside in Scotland, the UK and beyond, the applicant believes they are no longer unexpected elements in tourists' expectations.

4.46 The VisitScotland survey of 2012[71] found that, for most respondents (80 to 83%) their decision to stay in the UK for a short holiday would not be affected by the presence of a wind farm. In general, the respondents did not feel that wind farms ruined the tourism experience. Indeed, the applicant points out that the official position of VisitScotland is that wind farms have only limited impact on visitors' decisions to holiday in Scotland, and that renewable energy brings visitors in its own right[72].

4.47 It notes that, in 2012, the Scottish Parliament's Economy, Energy and Tourism Committee[73] found that "*no witness has provided the Committee with robust, empirical evidence, as opposed to anecdotal comment and opinion, that tourism is being negatively affected by the development of renewable projects*."

4.48 The applicant is critical of the 2014 MScot survey for biased questioning and for sampling the views of a minority of hill walkers rather than a representative sample of such users or of tourists more generally.

4.49 It notes that a 2016 MScot survey of its members asked more neutral questions. In response, the majority of respondents (75%) answered that wind farms have no effect on their plans to walk and climb in the mountains, with 2% indicating they would visit more often.

4.50 In 2016, the applicant's consultant carried out a study[74] into the effects of the development of the wind farm sector, during a period of sustained growth in capacity

[70] CD 3.13
[71] CD 6.02
[72] CD 6.15
[73] CD 6.14
[74] CD 6.03

between 2009 and 2013. The report noted that while the installed capacity of wind farms in Scotland more than doubled over this period, employment in tourism related sectors also increased, by more than 10%.

4.51 Furthermore, the applicant notes that the analysis found that tourism employment at the local authority level was not strongly correlated with growth in wind farms. Over the four year period considered, almost all local authorities increased the number of wind farms, while employment in sustainable tourism also grew significantly. The analysis found no correlation between employment and the number of turbines at the local authority level.

4.52 The applicant points out that the report also considered the impact on employment at a much more local level, in data zones up to 15 kilometres from a development. The sites considered were built between 2011 and 2012, becoming operational by 2013. As these sites did not exist in 2009, it is argued that comparing employment in 2009 and 2013 was an effective measure of the effect of wind farms on local employment, before and after. In these smaller areas, there was found to be no link between the development of a wind farm and tourism-related employment. In 15 out of the 18 areas considered, employment in this sector grew and in 12 it grew faster than the rate for the relevant local authority as a whole.

4.53 Mr Wynne's recent assessment for The John Muir Trust[75] is argued to be purely a critique, which offers no new data or further research. None of the criticisms raised by Mr Wynne is considered to undermine the conclusions of the 2016 report.

4.54 In relation to the River Oykel, the applicant accepts that angling interests make an important contribution to the local tourism economy. However, it notes that the most important angling resource is in the lower Oykel, from where the wind farm would not be visible.

Reporter's conclusions on socio-economic effects

4.55 Socio-economic effects were assessed in chapter 5 of the ES[76]. This looked at predicted effects on a local study area, comprising four data zones for which statistics are available from National Statistics, Highland-wide effects, and national (Scotland-wide) effects. Further analysis was carried out in chapter A3 of the ES Addendum[77].

4.56 There is disagreement amongst the parties over the nature and extent of both positive and negative effects that could be attributable to the proposed development. I have considered the evidence of potential positive effects first, before turning to potential negative effects. I then consider what the net socio-economic effect is likely to be, both locally and more widely. This feeds into my overall weighing of the proposal's positive and negative aspects in Chapter 8.

4.57 It is worth stating at this point that, until a development has been constructed, has completed its operational lifespan and has been decommissioned, a precise analysis of its socio-economic effects on local and wider receptors is impossible. At this stage, it is possible merely to predict what are likely to be the effects, having regard to the sum total of research on this topic, coupled with careful consideration of the particular circumstances of the proposal and the local circumstances.

[75] CD 6.17
[76] CD 1.03
[77] CD 1.10

Potential positive socio-economic effects

4.58 One of the considerations to which SPP paragraph 169 expects attention to be paid in the management of development, is net economic impact - including local and community socio-economic benefits such as employment and associated business and supply chain opportunities.

4.59 For this proposal, two potential sources of socio-economic benefit have been identified:

- direct, indirect and induced effects as a result of potential job creation and increased economic activity during the construction, operation and decommissioning stages; and

- community benefits as a result of the applicant's offer to share ownership of the scheme and to provide a recreational enhancement fund.

4.60 The applicant estimates that the total development and construction cost for this project would be in the order of £82 million[78].

4.61 Although the point has been made by some who are opposed to the proposal that contracts for turbine and tower manufacture are often awarded internationally, there is general acceptance that, when considered at a Scotland-wide level, it is likely that the development would have positive socio-economic effects, due to job creation and spending within the domestic economy. Where there is disagreement amongst the parties is with the likelihood of there being positive socio-economic effects at a regional and / or local level.

4.62 Concern has been expressed that, across the Highland Council area and, especially within the locality of the site, the existing socio-economic profile is such that there might be few businesses who would be in a position to bid for work on the construction, maintenance or decommissioning of the wind farm and that, as a result, there might be fewer local benefits than have been predicted.

4.63 It is clearly the case that contracts associated with the proposed development would be awarded on a competitive basis and that it cannot be assumed that local businesses would be beneficiaries of that process. However, the applicant's unchallenged evidence is that across the Highland region, the onshore wind energy supply chain is, in fact, well developed and that the remoteness of the area tends to give Highland contractors cost advantages over competitors from further afield. Overall, it predicts that Highland region could secure 20% of the total development and construction cost (£16.7 million) and 113 job years of employment. Adding the indirect effects of spending by employees, the totals would rise to £17.2 million and 126 job years.

4.64 During the operational phase, the applicant estimates that 14 job years of employment would be supported in Highland, which would support a further two Highland jobs as a result of employee expenditure.

[78] CD 1.03, paragraph 5.5.1

4.65 In addition, Oykel Proprietors accepted in the hearing session that there are businesses within the very local area who could bid for ground works contracts and other work. There is no reason to conclude that their chances of success in bidding for such work would inevitably be dissimilar to those of other businesses in other parts of the country, where smaller, locally-owned firms have been successful. My view, therefore, is that the applicant's predictions of local socio-economic benefits are not unreasonable and that this benefit of the proposal is a matter to which positive weight should be given in the planning balance.

4.66 The applicant accepts that no weight should be given to its offer of grant funding for community projects. This is consistent with *Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments* 2015[79], which confirms that the provision of such benefits is not a material planning consideration. However, in accordance with *Scottish Government Good Practice Principles for Shared-Ownership of Onshore Renewable Energy Developments* 2015[80], it is necessary to have regard to the applicant's offer to the community of a share in the ownership of the proposed development.

4.67 Paragraph 83 of SPP recognises that in remote rural areas, community-owned energy can help to support and sustain fragile and dispersed communities and should generally be supported. NPF 3 states that local and community ownership can have a lasting impact on rural Scotland, building business and community resilience and providing alternative sources of income . The Scottish Government Chief Planner's letter of November 2015[81] confirms that, despite the 500 megawatt target for community and locally-owned renewables having been met, Scottish Government support for community ownership remains undiminished.

4.68 The applicant's offer to provide a share of up to 10% of the development appears to have attracted interest from two community groups so far, and there is the potential for this to be extended.

4.69 My conclusion is that the potential for the community to take a share in the development is a positive aspect of the proposal, which is supported by national policy and by LDP Policy 68. Therefore, it should be given positive weight in the planning balance.

4.70 If the applicant's offer to provide a recreational enhancement fund is to be given any weight in the consideration of this proposal, it must have sufficient connection with the development to be acceptable as a matter of law and policy.

4.71 The aim of the fund is described by the applicant as the improvement of recreational and tourism amenities within part of the Assynt Coigach NSA, specifically key hill walking routes at Suilven and Canisp. The applicant explains that it could provide £34,000 annually to fund the employment of local labour for initiatives such as improvements to walking paths, maintenance of public bothies and improvements to the accessibility of walking routes.

4.72 The applicant points out that there are precedents for such developer funding including Ministers' decision in 2013 in respect of the Kilgallioch wind farm in Dumfries and

[79] CD 4.10
[80] CD 4.11
[81] CD 3.13

Galloway, to obtain developer funding for two countryside rangers in order to protect the interests of the Southern Upland Way. A second example provided was Burnfoot Hill wind farm in Clackmannanshire, where the nearest turbine was 1.5 kilometres from what was described by Walkhighlands as "*one of the most popular hill walks in Central Scotland*." The fund on that occasion was to enhance access to the hill range.

4.73 I have had regard to these earlier cases. However, from the information I have of them, there is nothing to suggest that they are directly comparable to the current proposal in terms of the likely degree of impact upon the matter for which funding was sought. Their location (much closer to large centres of population) is also a reason why care should be exercised before regarding them as a helpful precedent.

4.74 In the case of this proposal, I have set out in Chapter 3, my finding that there would be only limited effects on the lone mountains within the NSA (a point which the applicant accepts). That being the case, I agree with the applicant that – *"In this context, there is no requirement for the Developer to mitigate effects, since no significant effects were identified*"[82]. Therefore, I do not accept that the proposal to provide funding for the improvement of recreational tourism amenities within that part of the NSA has sufficient connection to the proposed development for it to be acceptable in law or policy. In particular, I find that it would not satisfy the requirement of Circular 3/2012 *Planning Obligations and Good Neighbour Agreements* to be necessary to make the development acceptable in planning terms, or to relate to the proposed development. My view, therefore, is that the offer of this fund should be given no weight in the assessment of this proposal and that, if Ministers are minded to grant consent, it should not be conditional upon the provision of the proposed recreational enhancement fund.

Potential negative socio-economic effects

4.75 The parties agree that, if visitors were discouraged from visiting or re-visiting the area, this could have a negative socio-economic effect on the local economy.

4.76 No other sources of potential negative socio-economic effect have been identified. In particular, it has not been suggested that overall visitor numbers to Scotland or to the Highlands would be likely to decline as a result of the proposal - it was generally thought by those who expressed concern over the potential for wind farms to deter tourists that the effect was one of displacement from one location (with turbines) to another (without).

4.77 Although it is nearly ten years old, the applicant regards the Moffat study as by far the most robust and comprehensive piece of research on the effects of wind farms on tourism. This looked at completed wind farm developments across the UK and abroad and found no evidence that any of those developments had caused a serious negative impact on tourism. A worst-case prediction of a 3.5% reduction in tourism employment by 2015 (as a result of visibility from tourist routes and from visitor accommodation) was not considered by the study to be a reason to regard tourism and wind farm development as incompatible.

4.78 Those opposed to this development point out that the wind farm landscape has changed significantly since the Moffat study was carried out. It is argued that, as coverage of the country with wind energy development has increased, the potential for this to have become a stronger disincentive to vising an area where such development is found, is likely

[82] CD 1.10 Chapter A3 paragraph 1.6.2

also to have increased. It is also argued that, as more of the country has visibility of such development, the importance of preserving some areas as turbine-free locations, is amplified. The applicant's counter-argument is that, as wind farms are no longer unexpected features in the landscape, they are now less likely to induce such a strong response where they are seen.

4.79 I agree with the applicant that the Moffat report of 2008 provided a comprehensive and reliable overview of the issue at that time, and that its conclusions should be regarded as an important element in the overall evidence base. However, I also accept that the coverage of Scotland with wind farm development has increased significantly since 2008. Therefore, I can see the logic in arguments that it should not be assumed that the findings of the Moffat report remain relevant today. And, in respect of those for whom wind turbines are an unwelcome feature in the landscape, I consider it unlikely that their more common appearance across Scotland has made them any less objectionable. Consequently, I am not convinced by the applicant's counter-argument.

4.80 Accordingly, I have considered the findings of studies that have been carried out since the Moffat report, in order to determine whether there is evidence to support a different conclusion.

4.81 VisitScotland published a consumer-research study in 2012[83]. This was based on research into public attitudes within a sample of 2000 UK and 1000 Scottish respondents. It found that, for respondents in the Scottish sample, 83% stated their decision on where to visit would not be affected by the presence of a wind farm, with 17% claiming that it would affect their choices over which area to visit or where to stay whilst on a Scottish break. The study also found that the majority of respondents did not agree that wind farms spoil the look of the Scottish countryside and that 46% would be interested in visiting a wind farm visitor centre compared with 27% who said they would not. Approximately 56% of Scottish respondents said they would not avoid an area of the countryside if they knew there was a wind farm there, compared with 16.6% who said they would. My conclusion is that nothing in this study suggests that the findings of the Moffat report should no longer be relied upon.

4.82 Also in 2012, the Scottish Parliament's Economy, Energy and Tourism Committee considered the achievability of the Scottish Government's renewable energy targets[84]. One aspect that was considered was the likely effect on tourism. The committee concluded that there was no robust empirical evidence that tourism was negatively affected by renewable energy development, although, in view of the importance of tourism, VisitScotland and the Scottish Government were recommended to continue to gather and take account of evidence from visitors to Scotland. Again, there is nothing in this report to suggest that visitor attitudes had significantly changed by 2012.

4.83 The applicant referred to surveys commissioned by DECC between 2012 and 2014 which found that 66% of those interviewed supported the use of onshore wind. I was not provided with copies of those surveys, but no party has questioned the applicant's description of their findings. My view is that they are of limited assistance to an investigation into potential effects on tourism, as one could have a generally positive view of onshore wind and yet still prefer not to see turbines when visiting a scenic area on holiday or for recreation.

[83] CD 6.02
[84] CD 6.14

4.84 Of more assistance is a poll carried out in 2013 by Scottish Renewables. This found that 62% of Scots would be generally in favour of large scale wind projects in their local council area and that 69% said that their decision to visit an area would not be affected by the presence of a wind farm. Again, no party has challenged the applicant's summary of this research, which I agree offers some support to the applicant's position that there is no convincing evidence that potential visitors to an area would be dissuaded by the presence of wind turbines.

4.85 It is of course necessary to remember that, although a clear majority of those respondents indicated their decision on whether to visit an area would not be influenced by the presence of a wind farm, a significant minority did not share that view. As the John Muir Trust points out, in an area that is highly dependent of tourism and recreation (data in the ES indicate that 32.5% of the local working population are employed in accommodation and food services), a drop in visitor numbers in the order of 30% could cause significant socio-economic harm at the local level. In that context, the survey work carried out by MScot is interesting. This found a marked difference between expected and actual behaviour-change in response to turbine development, even among MScot members who might be considered to be particularly susceptible to its effects. The proportion indicating that they had altered their behaviour being less than half that who said that they would.

4.86 The applicant is critical of the MScot surveys for using questioning that would tend to encourage a more negative response. However, it accepts that MScot addressed that issue in its later (2016) survey

4.87 In 2016, Biggar Economics (who appeared for the applicant at this inquiry) produced a report entitled *Wind Farms and Tourism Trends in Scotland*[85]. This found no correlation between wind farm capacity and tourism employment trends.

4.88 MScot criticise the Biggar Economics report for seeking to draw a conclusion from too wide a geographical area, on any correlation between wind farms and tourism employment levels. It argues that, across an area as large as Highland, increasing visitor numbers could occur simultaneously with increasing turbine numbers, due to visitors being displaced within the Highland area from areas with turbines to areas without. That might not have a net adverse effect across Highland, but could have a significant adverse effect on a fragile rural community from where visitors were displaced.

4.89 However, the applicant has provided more local evidence in support of its position[86]. Looking at the Lairg and Rosehall areas, it points out that three wind farms became operational between 2010 and 2013: Achany, Lairg and Rosehall (a total of 41 turbines). However, between 2009 and 2013, tourism employment in the immediate locality of Lairg and Rosehall increased by 30% (compared with 15% growth across Highland and 9% for Scotland).

4.90 I agree with MScot and others that, when seeking to predict the likelihood of adverse consequences for tourism and / or recreation from a particular development, it is essential to have regard to the particular characteristics of the proposal in question, and the environment and visitor economy into which it would be introduced.

[85] CD 6.03
[86] CD 1.10 Chapter A3 page 10

4.91 That being the case, it cannot be assumed that a failure to find a correlation between wind farms and visitor number reductions elsewhere, necessarily rules out the possibility of that happening with this development.

4.92 I agree with MScot that the particular characteristics of the NSA, including not only its outstanding landscape qualities but also its relative remoteness, are likely to make it particularly susceptible to visitor dissuasion. Those who select the NSA as a visitor destination are likely to have a higher expectation of an unspoiled and relatively wild landscape than would typically be the case. And the location of the NSA is such that visitors are likely to have made a significant journey (passing other attractive parts of the country) in order to get there. However, because I am satisfied that adverse effects on the NSA in terms of landscape character and visual amenity would not be extensive and that for the lone mountains (which it is generally accepted hold a particular attraction for visitors) would be insignificant, I am satisfied that this is not a reason to predict significant visitor dissuasion in this instance.

4.93 For recreational users in and around Strath Oykel there would be variable visibility of the development. For much of the river itself, the ZTV suggests that the development is unlikely to be seen at all and where it would be visible, it is unlikely to be intrusive. For those shooting and stalking on higher slopes, it would be visible to varying degrees.

4.94 The River Oykel is described by the Oykel Proprietors as one of the most important and prolific salmon fisheries in the Highlands[87]. It could therefore be argued that it would retain its attractiveness to anglers even if the fishing experience or the wider visitor experience were adversely affected by views of turbines. The counter-argument is that participants in such outdoor pursuits have a wide choice of attractive locations across Scotland and that anything that decreased the quality of the experience in this location could encourage visitors to go elsewhere.

4.95 If the environmental controls the applicant proposes to implement during any construction work proved to be successful, and bearing in mind the limited visibility of the development for those fishing within the river, it is reasonable to conclude that significant effects on the fishing activity itself are unlikely. However, those visiting the area to fish could potentially experience the proposed development at other times, for example when travelling on the A837 (as I discuss below) which could potentially detract from their overall experience to the extent that they were less inclined to return or to recommend the area to others.

4.96 It has been estimated that angling in the Kyle of Sutherland region attracts £6 million of expenditure locally and supports 86 full time equivalent jobs[88]. The geographical spread of that area considerably exceeds the proposed development's zone of theoretical visibility. Nevertheless, it is reasonable to describe angling in the River Oykel as an important contributor to the local economy. The applicant accepts that this is so, but contends that there is no reason to assume that this activity and the proposed development are incompatible. It contends that the main drivers for activity tourism such as angling are the availability and quality of the activity[89].

[87] OP-001
[88] Quoted in OP-001
[89] CD 1.10 Chapter A3

4.97 The applicant accepts that there would be clear views of the development from sections of the A837, which might discourage use by what it describes as the very small proportion of the population who are particularly averse to wind farms. However, it argues that this route is not promoted as a tourist route and that alternatives (some of which are so promoted) are available.

4.98 What I saw on my numerous journeys along this route suggests that it is used by visitors, but that the great majority of users appeared to be local people and delivery drivers, whose use of the route may rely more on convenience than on the quality of views that are available. What I saw may not fully reflect the overall composition of users of this road, which could only really be obtained by interviewing users to determine the purpose of their trip. However, it was very apparent from my visits to the area that there was a marked difference in both overall traffic levels and in the proportion of those who were obviously visitors to the area, between the A837 and the A835, which lies to the west, within the NSA, and which is on the North West 500 route – the latter carrying a remarkable quantity of recreational / tourism traffic including numerous touring cyclists.

4.99 Taking all factors into account, I find that it is reasonable to conclude that significant dissuasion of visitors due to visibility of the proposed development from the A837 is unlikely.

4.100 As I have confirmed in Chapter 3, the proposal would have some significant effects on the visual amenity of those walking in the hills within a radius of up to 15 kilometres of the site. This includes the popular Munros of Ben More Assynt and Conival. Turbines would also be seen from very limited sections of the Cape Wrath Trail. When assessing the likely socio-economic consequences of this, it is necessary to consider whether such effects are likely to discourage walkers to visit or revisit the area.

4.101 I believe there is force in the applicant's argument that many walkers will continue to complete the Cape Wrath trail and to ascend these Munros simply for the achievement of completing the challenge. For such individuals the presence of the proposed development, even if they found it undesirable, would be unlikely to dissuade them. However, for others, including those for whom bagging as many Munros as possible is part of the attraction, it is conceivable that a decision on where to walk (and particularly on whether to return to this area) could be influenced by the presence of the proposed turbines.

4.102 As MScot points out, it is essential to consider local circumstances when evaluating the potential significance of any adverse socio-economic effect. However, that does not mean one can ignore the findings of studies that have taken a broader perspective. Rather, one should consider the likelihood of there being significant effects in the particular circumstances of this proposal and its location, against the background that is set out in those earlier studies.

4.103 That background suggests strongly that the majority of the general public give little, if any, weight to the presence of wind turbines when choosing locations for holidays or recreation. And there is some evidence that suggests that some of those who thought they would alter their travel plans on account of wind farm development, did not in fact do so.

4.104 It is also necessary to bear in mind that not all visitors to the area will be walkers. The applicant quotes visitor research (not disputed by others) that "only 41% went on a "long walk" whilst visiting the area". And, referring to a VisitScotland study in 2006, which

found that under a quarter of walking tourists were in the “committed explorer” category (hill walkers and mountaineers), the applicant predicts that only 10% of visitors to the Highlands are likely to undertake hill walking or mountaineering.

4.105 Most of the more significant visual amenity effects are predicted to affect mountain summits. As there is no evidence before me that would call into question the basis for the applicant’s prediction that only 10% of visitors would be likely to visit those locations, it is reasonable to have regard to this matter when attempting to quantify the extent to which the proposal might affect visitor behaviour.

4.106 Taking all of the submissions and evidence into account (including the conclusions I have reached in Chapter 3 in relation to landscape, visual and wild land effects), my conclusion is that the sum total of any adverse socio-economic effects is unlikely to be significant.

4.107 Having concluded it likely that there would be some positive socio-economic benefits, and having found no evidence to support the fears expressed by some inquiry participants of adverse effects on tourism, my conclusion is that it is likely that the net socio-economic effect of this proposal, whether assessed at a local, regional or national level, would be positive.

4.108 In accordance with paragraph 169 of SPP, this is a matter to which positive weight should be given in the planning balance.

CHAPTER 5: EFFECTS ON THE WATER ENVIRONMENT

5.1 The application site lies upslope of the River Oykel. Four burns and an extensive network of drainage ditches provide a potential hydrological link between the site and the river, which provides an important habitat for Atlantic Salmon and Freshwater pearl mussel.

5.2 It is a requirement of paragraph 3(3) of Schedule 9 the Electricity Act 1989, to avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

5.3 Effects on the water environment were discussed in a hearing session. The applicant and Oykel Proprietors participated in that session with a contribution also from the Kyle of Sutherland District Salmon Fisheries Board.

The main points for the Oykel Proprietors

5.4 Oykel Proprietors' submissions are set out separately for salmon and mussel, although there are relationships between the two. In both cases, concerns are with sediment deposition and watercourse pollution.

5.5 In respect of salmon, the River Oykel contains a variety of diverse habitats, some suitable for spawning fish, while other habitats are more suited to the various juvenile fish stages. Importantly, almost the entire river, and the majority of the tributaries and watercourses, are used by salmon.

5.6 Water quality is critical to the success of salmon, not only for the adults but also for the invertebrate populations that make up the essential food web for juvenile salmon during the time they live, feed and grow in the river.

5.7 Within the Water Framework Directive (WFD), the River Oykel SAC is currently in good ecological status. However land drainage schemes in the 1960s – 1970s and forestry in some reaches resulted in changes in the hydrology and increased sediment inputs. These had the effect of depressing the Oykel salmon population for many years.

5.8 The River Oykel is regarded as one of most important and prolific salmon fisheries in the Highlands, if not all of Scotland. It has operated for at least 100 years.

5.9 Oykel Proprietors state that changes in the hydrology and increased sediment inputs due to the proposed wind farm would likely have the effect of gradually and persistently depressing the salmon population, leading to a decline in the fishery and damage to the local and regional economic model, which is reliant on visiting anglers.

5.10 With regard to pearl mussel, Oykel Proprietors commissioned an expert critique of the work the applicant carried out in its ES and other documents.

5.11 The freshwater pearl mussel is fully protected under the Wildlife and Countryside Act 1981 and the EC Habitats Directive. It is listed under the UK Biodiversity Action Plan (BAP) as a 'Priority Species' requiring the implementation of a Species Action Plan dedicated to its survival. It also features on the Scottish Biodiversity List. Scottish rivers are of particular importance to this globally endangered species and the River Oykel is considered to be of particular importance.

5.12 Pearl mussel have specific habitat requirements and, as they have a short parasitic larval phase on the gills of suitable native host salmonid fish, their success is also linked with that of those fish.

5.13 There are two potential pearl mussel receptors: those in the site itself and in the immediately adjacent watercourses, and those in the River Oykel. The ES contains no information on the findings of studies into pearl mussels. There is no apparent reason for this omission, as data could have been presented in a confidential appendix. Without survey data to establish baseline conditions, Oykel Proprietors do not consider it possible to carry out an appropriate assessment of effects on the SAC or an assessment of the environmental impact more generally.

5.14 Only two watercourses were surveyed on-site for pearl mussels (a section of the River Oykel immediately downstream of the confluence with the Allt Rugaidh Bheag and the lower reaches of the Allt Rugaidh Bheag), whereas Oykel Proprietors believe that the full length of at least nine should have been surveyed. This amounts to approximately 12 kilometres of potential pearl mussel habitat that has not been surveyed. Surveys of other locations in the northern Highlands of previously unsurveyed tributaries have found previously unknown populations in about 10 percent of cases. In the case of the River Oykel, Oykel Proprietors are dissatisfied with the decision not to undertake surveys for pearl mussel where the Allt Badhair Dhonnadh and Tutim Burn enter the river.

5.15 It is also pointed out that pearl mussels can and do naturally occur upstream of currently impassable barriers to migratory host fish. For example, there are pearl mussel populations upstream of large waterfalls in Scottish rivers, including within Natura 2000 sites in Sutherland. Consequently, the large and currently impassable waterfall at the top of fish transect ARB2 on the Allt Rugaidh Bheag does not mean that pearl mussel cannot be present in the upper catchment where brown trout are known to be present, as these could act as hosts.

5.16 For the two locations where surveys were undertaken, Oykel Proprietors believe there is wholly insufficient information on how the work was carried out. It cannot be concluded from the applicant's submissions that the work accorded with SNH's methodology for either deep or shallow water surveys. No surveys for mussel were undertaken at any of the proposed five watercourse crossings, at which locations, pearl mussel could experience direct effects.

5.17 Oykel Proprietors point out that a summary of the status of the River Oykel's pearl mussel population in a 2007 report[90] confirms that the pearl mussel population was in unfavourable status (or condition), with key pressures being identified as forestry, dredging, deepening and poor bank management, with adverse levels of suspended solids specifically highlighted. Oykel Proprietors believe the proposed construction works would add to these potential threats. It points out that the mussel population in this location has been ageing since the 1970s. It believes this is attributable to sediment input from forestry operations near upstream tributaries, to which juvenile mussels are particularly susceptible. It notes that the applicant's hydrologist points out that watercourse catchments in this area will respond rapidly to rainfall, and flood conditions could potentially occur with very little or no warning.

[90] CD 7.22

5.18 In addition to 12 watercourses providing pathways, the site is criss-crossed by numerous linear moorland drains (or 'grips')[91]. It appears to Oykel Proprietors that the applicant's ecologists were unable to quantify the number of these (and therefore the number of drain crossings). How therefore can they have accurately assessed the risk of pollution and run-off for downstream receptors? Oykel Proprietors estimate that there are over 100 kilometres of such drains crossing the application site.

5.19 Oykel Proprietors accepts the accuracy of the modelling work used to predict likely dilution effects from surface water flows. However, because the quality of such analysis depends entirely on the quality of inputs that are fed into the model, it has little confidence that proper regard has been had to the true severity of the implications of any increase in sediment load on mussel populations.

5.20 Numerous studies have shown that construction work such as pipe laying, road / track and bridge construction, channel realignment, fishery management and dam construction within or close to pearl mussel rivers have had serious adverse impacts on downstream pearl mussel populations varying in scale from losses of tens of metres of pearl mussel habitat (and associated pearl mussels) to the total loss of one entire river's population in Wales by dredging. River engineering activities in 26 Scottish pearl mussel rivers had been directly implicated in their pearl mussel decline. Most recently, siltation associated with the construction of hydro-electric schemes in tributary watercourses, affected downstream pearl mussels in an SAC and led to the first successful prosecution for damaging pearl mussel in Scotland.

5.21 There is a hierarchy of approaches set out in PAN 1/2013 with avoidance of negative ecological impacts being the most preferable approach. In this instance, the applicant has concluded that the generation of silt-laden run-off close to the proposed works cannot be avoided.

5.22 In order to mitigate the effects of such run-off, the applicant proposes to a construction management system. However, the basis for the applicant's conclusion that this will result in no detectable increase in silt release is not sufficiently explained. Oykel Proprietors fear that the applicant's confidence in periods of high potential sediment run-off coinciding with times of high rainfall (and therefore greater dilution) ignores the possibility of heavy rainfall being very localised, which is a phenomenon that has been seen locally. In such a scenario, the predicted dilution of sediment might be less significant than predicted.

5.23 Oykel Proprietors believe that a number of source / pathway / receptor factors suggest that significant effects on the SAC are likely, including the scale of the proposed works (and the amount of ground disturbance this would entail), the 12 watercourses that flow from the site to the SAC, the 35 proposed water crossings, the unknown but very significant number of drainage ditches which flow into tributaries of the SAC, the wet climate and flashy nature of the watercourses, the currently unfavourable condition of pearl mussel in the River Oykel and the location of important pearl mussel beds close to where natural watercourses flow into the river. Based on these factors, Oykel Proprietors reject the applicant's prediction that, without mitigation, there would be a 5% risk of effects likely to affect the integrity of the SAC. Oykel Proprietors predict that, without mitigation, such significant effects are highly likely (in excess of 90% probability).

[91] CD 1.21

5.24 Hydrocarbon and cement-based pollutants could both pose potential threats to fish and mussel. The likely severity of any incident would depend on a number of factors including the proximity of the incident to sensitive receptors. As the applicant did not undertake adequate survey work, the significance of any such effect cannot be predicted. If, for example, there are important pearl mussel beds in the lower Tutim Burn or at its confluence with the River Oykel, the storage and transfer of such materials at and around the bellmouth junction greatly increases the chances of an accident and associated pollution incident, as pollution would affect the mussel very quickly.

5.25 Simply stating that such an incident is unlikely to occur and that management systems are likely to be effective, is, in Oykel Proprietors' submission, inadequate. As adequate data on the location of mussel are absent, it has been impossible for the applicant to design the scheme so that unavoidable effects of construction activity are reduced by keeping working areas away from the more sensitive parts of the site.

5.26 Proposed ditch blocking works should be detailed in advance. And only by putting in the dams well in advance of construction works commencing could it be determined that they would be effective in protecting downstream receptors from peat run-off. It is possible that 10,000 such dams would be required, the implications of which have not been properly documented. The applicant appears to assume that far fewer dams would be required.

5.27 The proposed peat hag restoration element of the mitigation strategy would require control over deer, which may prove difficult, especially in the case of Sika deer that hide within the forest plantation.

5.28 Oykel Proprietors submit that the draft habitat management plan is vague and makes no reference to pearl mussel despite these being more susceptible to harm from the development than Atlantic salmon.

The main points for the applicant

5.29 The applicant recognises that the River Oykel, a European designated Special Area of Conservation (SAC) for spawning habitat for the qualifying species: Atlantic Salmon and Freshwater pearl mussel, is a very high sensitivity receptor, being of international importance. Watercourses upstream of the SAC (and the aquatic species using them) are accepted to be high sensitivity receptors.

5.30 The River Oykel catchment is also designated under the Fresh Water Fish Directive as a salmonid water.

5.31 The applicant recognises that there is an indirect hydrological connection between the site and the SAC via four burns within the site. The River Oykel SAC is 0.25 kilometres from the existing forestry track entrance to the A837 where the access bellmouth would be located. The River Oykel is 1.0 kilometre downstream of the nearest infrastructure (a borrow pit area of search) and 1.5 kilometres downstream of the main wind farm site. It is 1.6 kilometres from the nearest turbine.

5.32 The principal pressures affecting the River Oykel catchment and specifically its fresh water pearl mussel and Atlantic salmon populations, are argued to be :

- the impact of forestry on morphology and riparian habitat with potential for diffuse pollution from suspended solids during forestry operations;

- a land drainage scheme put in at Caplich between the late 1960s and early 1980s. These drains have been mapped using high resolution aerial photography. The drains currently offer fast-track pathways for areas of exposed soils, currently the extensive areas of peat hag, where sediment-laden runoff is generated, to rapidly enter the surface watercourses and from there, travel to the River Oykel;

- in the past few years the fishing syndicates have constructed a number of new access tracks very close to, and within the active floodplain of, the River Oykel in this area. In addition it is understood that bridges across the Allt Rugaidh Bheag and Allt Rugaidh Mhor have been constructed, also within the active floodplain.

5.33 The applicant notes that some improvement works have already been carried out by Kyle Fisheries and Forestry Commission Scotland to block drainage ditches so as to restore wetland areas, reduce sediment deposition into the SAC and slow down water run-off during heavy rainfall. Improvements to the riparian habitat have also been made by fencing and native tree planting. The applicant's intention is to build upon this work to offer a net benefit to the water environment.

5.34 The applicant states that its approach to the water environment has, from the outset, been to protect water quality in all watercourses that are hydrologically connected to the site, and to avoid adverse flood risk implications.

5.35 A series of design iterations has ensured that mitigation is built into the proposal. These sought to keep development outwith a 50 metre buffer from watercourses wherever possible. The applicant has also committed to following best practice in terms of site design and construction. The design of all watercourse crossings would accommodate 1 in 200 year flows plus climate change as required by SEPA.

5.36 Analysing flow rates in the River Oykel and its tributaries reveals that dilution by the River Oykel is greater during the times of high flow which also correspond to the times of high rainfall and therefore highest likelihood of sediment-laden water entering the Allt Rugaidh Bheag watercourse. The lowest dilution occurs during dry periods, which are when there is the least likelihood of sediment-laden water entering the Allt Rugaidh Bheag due to the lack of rainfall.

5.37 The applicant predicts that infrequent short-duration releases of very fine particle size silt during period of high flow would have an undetectable effect on pearl mussels or salmon.

5.38 It argues that best-practice design and management techniques in accordance with the Construction Industry Research and Information Association (CIRIA) guidance for control of water pollution from construction sites would ensure that the effects of erosion and sediment loading would be minimised.

5.39 However, without additional mitigation (going beyond best-practice), the applicant accepts that some significant erosion and sedimentation effects are possible . These would

involve, three turbine locations, seven watercourse crossings, two borrow pit areas of search, the construction compound, substation and substation compound and several section of access track

5.40 The applicant believes that effects on flow alteration and flood risk are likely to be low due to the small proportion of the catchment that would be developed (less than 1.5% of each watercourse catchment). In addition, best-practice measures would be put in place to minimise such effects.

5.41 However, without additional mitigation (going beyond best-practice), the applicant accepts that significant alteration of natural drainage patterns, runoff volumes and rates could occur at four turbine locations, a number of track sections, four borrow pit areas of search and at the construction compound, substation, substation compound and met mast.

5.42 The applicant proposes a range of additional mitigation measures in order to reduce the significance of effects. These could be secured by conditions. SNH is satisfied that such control would ensure that significant effects on the SAC were unlikely. Appropriate assessment would not therefore be required.

5.43 The applicant's view is that, with the proposed mitigation and compensation (which has been agreed by all relevant agencies), it is unlikely that there would be significant effects and that there could be a net benefit to hydrological and ecological conditions in the river.

5.44 The applicant offers to undertake a programme of ditch-blocking to eliminate many of the fast-track pathways between the site and the river. This would also have the benefit of raising groundwater levels to improve peat habitats and reduce problems of erosion during periods of high rainfall.

5.45 A water quality monitoring plan would be put in place including turbidity monitors during the construction process that could quickly identify high sediment levels and trigger an emergency response. This system has proven to be very effective in other locations and the technology is now far more affordable than it was.

5.46 A detailed flood risk assessment and drainage impact assessment for the development would be submitted for the approval of the relevant agencies.

5.47 The applicant accepts that it could have undertaken a greater level of survey work on salmon and mussel populations to establish the baseline against which the significance of effects could be assessed. However, it believes that its approach, which was to assume that both mussels and salmon were present (and in the case of the SAC, abundant) ensures that a robust and reliable approach to minimising any risks was adopted. Had additional surveys been undertaken, the applicant argues that this would not have offered any greater level of protection to the qualifying interests of the SAC.

5.48 Additional survey work on fish, pearl mussel and other protected species populations would be undertaken prior to development commencing. This would establish baseline conditions prior to construction commencing. A construction environmental management document would then set out how potential sources of pollution during the construction process would be minimised and would incorporate monitoring by an ecological clerk of works to ensure that best practice was followed.

5.49 Minimal dewatering is predicted due to the low permeability of both the bedrock and drift deposits found at the site. Around excavations, surface water would be directed away from excavations by drainage ditches and any that did enter excavations would be discharged to silt traps and settlement ponds.

5.50 Only 9.4 hectares of forest felling is proposed and almost all is remote from watercourses. The applicant contends that this is unlikely to have a significant effect on the water environment.

5.51 The development, with the exception of the one Allt Rugaidh Bheag watercourse crossing, downstream of Loch na Claise Moire, is all located outwith the SEPA flood risk areas. Other than this crossing, no development or land raising within the predicted flood plain would occur as part of the proposed development.

5.52 The applicant regards it as notable that SEPA, SNH, Marine Scotland and Scottish Water have all indicated that in hydrological terms, they are content for the development to proceed, subject to the attachment of suitable conditions.

5.53 Given the nature of the construction works undertaken immediately adjacent to the River Oykel by the fishing companies, the Applicant questions the legitimacy of their concerns on pollution grounds to a wind farm which is proposed a significant distance from the Oykel, given that they were presumably content that these, much closer, works would pose no threat to the river.

Reporter's conclusions on effects on the water environment

5.54 The main issues for consideration are the likely effects of the proposal on the two features of greatest importance: freshwater pearl mussel and Atlantic salmon. Such effects could arise from pollutants such as hydrocarbons or cement entering the watercourses and drainage channels that cross the site, and also from the disturbance and release of sediment such as peat into those watercourses. It is during the construction and decommissioning phases that such works would pose the greatest risk. However, it is possible that significant effects could also arise at other times, for example during turbine maintenance operations.

5.55 The applicant accepts that the risk of pollution from the proposed wind farm site would not be confined to watercourses within the site or its immediate surroundings and that pollution or sediment could be carried down into the River Oykel. It did not disagree with the evidence of Oykel Proprietors that siltation problems from forestry and other operations have been experienced a considerable distance from where those works were carried out. Therefore, it acknowledges that effects on salmon and mussel populations within the tributaries and the river itself are possible.

5.56 However, the applicant is confident that any risk of significant effects would be minimised by appropriate construction and decommissioning techniques. It points out that all of the examples given by Oykel Proprietors of situations where problems had arisen involved schemes of a very different nature and scale to what it proposes, which it suggests is more akin to works the fishing interests have themselves recently carried out, without any apparent adverse consequences.

5.57 When evaluating the adequacy of the applicant's intended approach, it is relevant to take account of the absence of any objection from SNH, SEPA, Marine Scotland or Scottish Water, either to the methodology used by the applicant to assess the likelihood of significant effects, or to the conclusions that are drawn from it. These are agencies with particular responsibility for hydrological and ecological issues. The planning authority has also raised no objections in these terms. However, the Scottish Wildlife Trust has concerns over potential adverse effects from siltation and it is also essential to give appropriate weight to the views of Oykel Proprietors, which the applicant accepts to be based upon expert opinion and, in the case of freshwater pearl mussel, that of a recognised world authority.

5.58 I agree with Oykel Proprietors that it is generally considered to be best practice to carry out protected species surveys prior to the determination of an application for consent. Undertaking surveys at that stage can achieve the preferred form of mitigation that is set out in PAN 1/2013, which is the avoidance of negative ecological impacts, by ensuring that the presence of protected species is incorporated into the proposal from the outset. Carrying out pre-development (but post-consent) surveys should ensure that any potential significant adverse effects can be mitigated. However, if these had been carried out prior to the scheme design being finalised, that design might have been amended in order to avoid the need for mitigation.

5.59 The applicant's view is that, by assuming a high level of sensitivity in all tributary watercourses and a very high sensitivity level within the River Oykel SAC, it has designed its proposals around a 'worst-case' scenario. This approach effectively sets the baseline conditions at a level that requires great care in the design of the scheme and in the planning of the construction process.

5.60 The second stage in the applicant's approach would be the carrying out of detailed pre-commencement surveys of all locations where Atlantic Salmon and / or freshwater pearl mussel could be present, in order to obtain an accurate and up-to-date picture of the distribution of protected species within the SAC and its tributary watercourses. This would then inform the approach to the construction process – ensuring that particular care was taken in locations with the greatest risk of ecological harm.

5.61 I asked Oykel Proprietors if there was any risk that, by following the applicant's approach, the legal protection that is given to protected species could be undermined. For example, as a result of consent providing a derogation from any legal protection that would otherwise benefit those species. It provided no evidence that this would be a risk.

5.62 In terms of the site selection process and the consideration of alternative site layouts, it would have been better to have had an up-to-date survey of the watercourses within and around the site so that, for example, the location of any pearl mussel beds could have been factored into the proposal from the outset and construction works in areas with the highest levels of peat and closest proximity to watercourses (where the risk of silt-laden run off would be greatest) could have been avoided. However, I agree with the appellant that, by assuming that mussel are present within all of the tributaries and, as a result, keeping development (with the exception of watercourse crossings) at least 50 metres away, the absence of pre-determination surveys to inform the layout is unlikely to have increased the risk of harm to the qualifying interests of the SAC or to sensitive ecological receptors more widely.

5.63 I am also satisfied that carrying out pre-commencement surveys of all potentially affected watercourses where there could be Atlantic salmon and / or mussel present would provide an adequate baseline, which if necessary, could influence the construction and decommissioning processes so as to further minimise the potential for there to be significant adverse effects.

5.64 Oykel Proprietors believe that, as it cannot be denied that the proposal has the potential to have a significant adverse effect on the protected interests of both salmon and freshwater pearl mussel, any decision potentially favouring consent will require an appropriate assessment. It further contends that, in accordance with the precautionary principle, there is a clear legal requirement for the applicant to prove that the proposal will not create any negative effect on the protected interest before a project can be consented. Oykel Proprietors contend that it would not be possible for Ministers to conclude that there would not be a negative effect on the River Oykel SAC due to the paucity of the applicant's survey data.

5.65 The Conservation (Natural Habitats &c.) Regulations 1994[92] require that, where a competent authority (in this case Scottish Ministers) concludes that a development proposal unconnected with the nature conservation management of a European site (in this case, the River Oykel SAC), is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the conservation interests for which the site has been designated. Following appropriate assessment, consent may only be given if it has been ascertained that the project would not adversely affect the integrity of the site.

5.66 This means there are two stages to a Habitats Regulations Assessment (HRA): consideration of whether significant effects on the European site are likely; and (if they are) assessment of whether the integrity of the site would be adversely affected by those effects.

5.67 I do not agree with Oykel Proprietors that the first stage of this process should rely upon a finding that the proposal has "the potential to have a significant adverse effect". The wording of the regulations is that it must be found to be "likely to have a significant effect", which requires a greater level of certainty than Oykel Proprietors suggest.

5.68 SNH considered this issue and came to the conclusion that significant effects could be avoided if strict control were exerted over the construction process: *"We consider that there could be a likely significant effect to the Atlantic salmon and freshwater pearl mussel interests through the release of sediment and pollutants into the various watercourses that traverse the development site and connected with the River Oykel. As a consequence, the Scottish Government is required to undertake an appropriate assessment in view of the site's conservation objectives for its qualifying interests. If, however, the proposal was undertaken in accordance with the following advice it would no longer be likely to have a significant effect and an appropriate assessment would not be required."*[93]

5.69 The advice referred to was that a condition should be imposed requiring a detailed and effective Construction Environmental Management Plan and specific Construction Method Statement. The applicant is agreeable to such a condition and to other conditions dealing with drain blocking and the appointment of an ecological clerk of works.

[92] CD 7.08
[93] CD 2.01z

5.70 I have carefully considered Oykel Proprietors' concerns that such controls might be less than 100% effective. The applicant does not dispute that there have been significant pollution incidents caused by construction sites close to watercourses, including very significant effects to freshwater pearl mussel within the UK. However, it argues that such problems are not an inevitable risk with such development, but a consequence of failures to manage the construction process adequately. It is also of the view that there are very few source-pathway-receptor links between the application site and the SAC and its tributaries. The applicant is confident that adherence to the highest standards and working practices (going beyond what would typically be considered best practice) would minimise the likelihood of significant siltation or other forms of pollution entering any watercourse. That confidence is shared by SNH.

5.71 The applicant also points out that, with regard to sediment being carried off the site, the development has the potential to offer a net improvement over existing conditions. The parties agree that water quality within the SAC and in adjoining watercourses has been, and continues to be, adversely affected by suspended solids carried down from the moorland above the river by the extensive network of drainage channels. The applicant proposes to carry out a programme of drain blocking to disrupt this transmission pathway.

5.72 Oykel Proprietors accept the potential value of such works, but express concern that the scale of drain blocking that the applicant would be willing to undertake might be insufficient even to address the risk of pollution / sediment transmission attributable only to the proposed development. If that were the case then the development would worsen rather than improve the existing unsatisfactory situation.

5.73 Oykel Proprietors refer to earlier statements from the applicant that appear to suggest that ditch blocking would be limited in extent and aimed at improving blanket bog habitats. However, the applicant confirmed at the hearing session that it is willing to undertake a programme of drain blocking that would not only seek to increase ground water levels within the blanket bog, but would also deliberately target drains that have connectivity with watercourses where salmon and / or mussel might be present and / or which have hydrological connectivity with the River Oykel.

5.74 The applicant has obtained aerial photography of the site[94] onto which it has plotted the location of all of the drains as well as the watercourses that cross the site. I am satisfied that this addresses Oykel Proprietors' fear that the applicant does not appreciate the scale of the issue.

5.75 Oykel Proprietors is concerned that the success of any ditch blocking programme would depend upon the details of how and where it is carried out, of which no details have been provided to date. In accordance with the precautionary approach, it argues that consent should not be granted when such details are unknown. It also points out that in its experience, between a quarter and a third of ditch blocking dams will fail within the short term. And it is especially concerned with the Caplich site, due to the steepness of the land and the sensitivity of the receptors that could be affected in the event of any dam failure. It argues that there could be a 'domino effect' where failure of a dam at a higher elevation leads to other failures lower down.

[94] CD 1.21

5.76 The applicant does not dispute the basis for Oykel Proprietors' concerns, and agrees that drain blocking will need to take place prior to construction works (perhaps on a phased basis) so that the effectiveness of the dams and their stability can be assessed before there is any risk of increased sediment loading or pollution. It does not believe that such works require to be put in place 18 months prior to construction of the development (as Oykel Proprietors have suggested), but would be prepared to do so, if specified from the outset as a requirement.

5.77 I conclude that a comprehensive programme of drain blocking could be secured by a condition requiring the details of the drain blocking scheme to be agreed in advance of their installation and obliging the developer to carry out the works and assess their effectiveness prior to commencing development. Provisions could also be secured by a condition to deal with any requirement to maintain, repair or replace the dams.

5.78 The conservation objectives of the River Oykel SAC are to avoid deterioration of the habitats of the qualifying species or significant disturbance to them, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features.

5.79 Taking all factors into account, including the undoubted international importance of the River Oykel for both Atlantic salmon and freshwater pearl mussel, I conclude that the absence of adequate pre-determination protected species surveys is a negative aspect of the scheme, but that appropriate conditions could ensure that there was no likelihood of there being significant effects on the SAC or on the wider water environment.

CHAPTER 6: OTHER RELEVANT ISSUES

6.1 Schedule 9 of the Electricity Act 1989 sets out the range of considerations that require to be taken into account when considering an application for consent under that Act. These include: natural beauty, flora, fauna and geological or physiographical features of special interest and sites, buildings and objects of architectural, historic or archaeological interest.

6.2 Natural beauty, geological and physiographical features of special interest are addressed in Chapter 3.

6.3 Effects on flora and fauna are considered in Chapter 5. This concentrates on effects on the water environment, as it is that regard that concerns have been raised. Based on the written responses that have been made by consultees, I am satisfied that it is only water environment effects that require further detailed discussion in this report.

6.4 Concern was also expressed by a number of objectors to the proposal over the potential for the proposal to adversely affect birds.

6.5 Effects on ornithology were considered in Chapter 7 of the ES and in Chapter A6 of the ES Addendum[95], where effects on a range of species including golden eagle and black throated diver were assessed. In all cases, subject to appropriate control of the construction programme it was concluded that residual effects would not be significant.

6.6 I note that the RSPB is in agreement with the applicant and, bearing that and the findings of the ES in mind, I conclude that there are no outstanding ornithology issues of concern with this case.

6.7 This report does not address sites, buildings and objects of architectural, historic or archaeological interest, as I agree with the responses from statutory consultees, which indicate the proposal raises no concerns over any such issue.

[95] CD 1.10

CHAPTER 7: PROPOSED CONDITIONS

7.1 Conditions to be applied in the event that Ministers resolve to grant section 36 consent and deemed planning permission were discussed at a hearing session. The council and applicant prepared separate schedules of conditions and any differences between these were discussed. Contributions were also made by Oykel Proprietors.

7.2 At Appendix 8 to this report is a list of conditions that I would recommend be applied, should Ministers be minded to grant consent and deemed planning permission. This is based upon the discussion that took place at the hearing session, which secured a good level of agreement amongst the parties.

7.3 I have explained below the areas of residual disagreement and how I have addressed these in my suggested conditions.

7.4 Oykel Proprietors would prefer the micrositing condition specifically to preclude relocation of turbines to a position where peat depth would be greater. The applicant contends that such an absolute restriction would be too blunt a tool, which might prevent relocation to a position where peat depth was only marginally deeper but which offered other environmental benefits. The council's position is that a condition could be worded to require its prior approval for any such relocation and that this would allow a balancing of the issues. Although the Oykel Proprietors are not entirely satisfied with that solution, as any such approval process is not typically one in which third parties can be involved, the applicant was agreeable to it and I conclude it to offer an appropriate solution to the issue.

7.5 Oykel Proprietors request that a bond is put in place to compensate riparian owners in the event that a pollution incident at the site caused damage to the river and its associated fishing and tourism interests. The applicant contends that, in the unlikely event that its works caused such effects, it would be liable under common law. It also argues that there is little precedent for putting in place a bond that would benefit a third party rather than the council.

7.6 I recognise that the evidence suggests that the likelihood of a significant pollution incident occurring is very small. However, it also points to the potentially catastrophic effects that could arise if one were to happen. Bonds that would benefit a third party are occasionally required – for example where there could be an adverse effect on television reception. However, for it to be reasonable to require this, there needs to be genuine risk to the affected party. In view of the evidence that pollution events would be extremely unlikely to occur, my conclusion is that the level of risk is too low for a bond to be reasonable.

7.7 The council proposed a condition to address any interference with television reception, noting that unexpected interference problems have arisen in the past. However, the evidence provided by the applicant, which the council does not dispute, is that such interference could not happen at this site, as there is no television transmitter within five kilometres, and the nearest residential property is 2.5 kilometres away. For those reasons, I agree with the applicant that a condition is unnecessary.

7.8 Similar considerations apply to the council's requested private water supply condition. The applicant's evidence is that there could no effect on private water supplies due to their location. The council has not challenged this evidence and I find that the condition is unnecessary.

7.9 Conditions that proposed to deal separately with a range of matters including water quality monitoring, Black Throated Diver and sustainable drainage are all addressed in the Construction Environment Management Document so do not need to addressed separately.

7.10 The parties agree that if Ministers were minded to seek the proposed Recreational Enhancement Fund, a suspensive condition could be used to secure a scheme to provide this. However, as stated in Chapter 4, I do not believe that such a fund would be justified and I have not included wording for such a condition in Appendix 8.

7.11 The parties agree that, if Ministers were minded to grant consent, there would be no need for this to await the completion of a planning obligation.

CHAPTER 8: OVERALL CONCLUSIONS AND RECOMMENDATIONS

8.1 The proposed development would have both positive and negative effects on a wide range of interests. This is to be expected of a commercial-scale wind energy proposal. I summarise below the findings I have reached for each of the topics that the report has considered and then come to a final recommendation to Ministers as to whether Electricity Act consent and deemed planning permission should be granted.

8.2 Schedule 9 of the Electricity Act 1989 requires regard to be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. The applicant must also undertake reasonable mitigation of any effect which the proposal would have on the natural beauty of the countryside or on any flora, fauna, features, sites, buildings or objects. These requirements provide the basis for the decision Ministers must take on this proposal.

8.3 In assessing the proposal against these requirements, it is necessary to balance its positive and negative attributes in order to determine whether the balance lies in favour of granting or refusing consent.

8.4 As part of that process, regard must be had to relevant international, UK and Scottish policy.

8.5 International agreements on renewable energy delivery and greenhouse gas emissions to which the UK is a signatory, some of which will remain binding irrespective of European Union membership, will pose a significant challenge going forward.

8.6 The UK government's apparent lack of enthusiasm for onshore wind – certainly towards its subsidy, does not amount to a moratorium on that form of generation. And in any event, the Scottish Government has adopted its own targets and policies in relation to renewable energy and greenhouse gas emissions that are more challenging than in the remainder of the UK, and are supportive of the principle of on-shore wind. It is the Scottish Government that is responsible for the consideration of individual development proposals within Scotland. Therefore, greater weight should be given to Scottish Government policy.

8.7 That being the case, the contribution this proposal would make to these targets is a factor in its favour, to which significant weight should be attached.

8.8 Progress towards achieving those targets has been good, but the withdrawal of subsidy has the potential to impede the delivery of some schemes which have consent, and to discourage new proposals from coming forward. It is also reasonable to assume that, as there is greater coverage of wind energy development across Scotland, it will become increasingly difficult to find suitable sites.

8.9 In any event, there can be no doubt that the targets are minimum levels to be achieved rather than caps that must not be exceeded. The Scottish Government has made it clear that it will continue to support the principle of on-shore wind, even if or when current targets are met.

8.10 National planning policy in NPF3 and SPP confirms the commitment to making Scotland a low-carbon place and a world leader in low-carbon energy generation including

on-shore. The proposal's contribution to such commitments is a factor in its favour that must be taken into account.

8.11 SPP also sets out a spatial framework identifying where such development should not occur (national parks and national scenic areas) and where greater care may need to be taken. The proposal is consistent with the spatial framework, but requires to be assessed against SPP criteria that aim to ensure that the right types of renewable energy development are built in the right locations. I discuss these later in this chapter.

8.12 In addition, SPP introduces a presumption in favour of development that contributes to sustainable development. If a proposal can be categorised as such, then this is a significant factor in its favour.

8.13 Paragraph 29 sets out 13 principles of sustainable development. In order to determine whether the SPP presumption should apply to this proposal, I consider each of these below.

8.14 The first principle requires due weight to be given to net economic benefit. As I concluded in Chapter 4 and as I set out below, I predict that there would be a net positive socio-economic effect.

8.15 In accordance with the second principle, I am satisfied that the proposal would respond to economic issues, challenges and opportunities, as outlined in local economic strategies. This conclusion is based on the applicant's unchallenged summary of the Sutherland Development and Action Plan (updated 2013)[96] which recognises the importance of building on the area's natural wind resource and of increasing employment opportunities in order to encourage young people to remain in the area.

8.16 The requirement to support good design and the six qualities of successful places has little relevance to a wind farm proposal. However, I am satisfied that the design and layout of the site (as opposed to the landscape and visual effects this would have) is acceptable.

8.17 The fourth and fifth principles relate to town centre and regeneration priorities and delivering accessible housing, business, retail and leisure development. These are not relevant to this proposal.

8.18 The requirement to support the delivery of infrastructure, for example transport, education, energy, digital and water has little relevance to this proposal, although it is relevant that there is no suggestion that the construction of the proposal would lead to infrastructure deficiencies, which might have been a reason to doubt its 'sustainable development' credentials.

8.19 The proposal would help to support climate change mitigation by replacing fossil fuel energy generation, thereby reducing emissions of climate changing gases.

8.20 It is unlikely that the proposal would improve health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation, but my conclusion is that it would not be likely to discourage such activity.

[96] See 5.2.6.3 in CD 1.03

8.21 The next sustainable development principle is demonstrated by having regard to the principles for sustainable land use set out in the Land Use Strategy. This seeks to ensure that land use decisions in Scotland recognise, understand and value the importance of the country's land resources, and deliver improved and enduring benefits, enhancing the wellbeing of the nation. The proposal would contribute positively to climate change and would be likely to secure the protection of biodiversity (subject to careful control through conditions). However, for the reasons I set out later in this chapter, it would not fully satisfy the expectation of the Land Use Strategy to demonstrate care for the landscape. In this respect therefore, this sustainable development principle would not be satisfied.

8.22 I am satisfied that the proposal would have a neutral effect when assessed against the principle of protecting, enhancing and promoting access to cultural heritage, including the historic environment.

8.23 The eleventh principle requires natural heritage, including green infrastructure, landscape and the wider environment to be protected and enhanced and for access to it to be promoted. For the reasons set out in Chapter 3 and below, I am not satisfied that the proposal would fully achieve this expectation.

8.24 The requirements of the twelfth principle are largely inapplicable to this proposal, as they deal with waste minimisation, waste management and resource recovery.

8.25 The final guiding principle seeks to avoid over-development, protecting existing amenity and considering implications for water, soil and air quality. I am satisfied that there is no conflict with this principle.

8.26 Taking all of these principles into account, my conclusion is that the proposal satisfies most, but not all – the exception being in its failure (as I explain in Chapter 3 and below) to protect and care for the landscape.

8.27 In considering whether the proposal should benefit from SPP's presumption in favour of sustainable development, it is helpful also to assess the extent to which it would contribute to the achievement of the four planning outcomes that are set out there.

8.28 The first outcome is *a successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well designed, sustainable places*. SPP explains that this is about (among other things) locating the right development in the right place and promoting strong, resilient and inclusive communities. To the extent (as I explain below) that I do not believe this to be the right location for this development, the proposal would not contribute to the delivery of this outcome, although its predicted socio-economic benefits would assist in community reliance and economic growth.

8.29 The second outcome is *a low carbon place – reducing our carbon emissions and adapting to climate change.* The proposal would contribute to the achievement of this outcome.

8.30 The third outcome is *a natural, resilient place – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use.* SPP explains that this is about living within environmental limits by protecting and making efficient use of existing resources and environmental assets. The conclusion I set out below is that the natural

environmental assets that are the Assynt-Coigach NSA and two Wild Land Areas would not be adequately protected by the proposal. For this reason, the proposal would not respect environmental limits and would not contribute to the achievement of this SPP outcome.

8.31 The final outcome, *a more connected place – supporting better transport and digital connectivity* is not relevant to this proposal.

8.32 I agree with the applicant that the objective of any analysis of compliance with the above factors should be to see whether there is a 'broad fit' with the themes and objectives of the various outcomes and principles, rather than to test the proposal against each issue as though it were a specific policy test. I have therefore considered the overall aims and objectives of these SPP requirements when deciding whether the development should be categorised as that which would contribute to sustainable development.

8.33 Taking all of these conclusions into account, I find, for the reasons set out above, that the proposal should not benefit from the SPP presumption in favour of development that contributes to sustainable development.

8.34 Turning to the 19 assessment criteria that are set out in paragraph 169 of SPP, I have set out separately, those criteria where my conclusions indicate the proposal is in accordance with SPP and those where it is not.

8.35 On the positive side, the proposal would be likely to have a positive net economic impact, including local and community socio-economic benefits such as employment and associated business and supply chain opportunities. It would make a valuable contribution to renewable energy generation targets and have a consequent beneficial effect on greenhouse gas emissions.

8.36 I am satisfied that it would have no significant cumulative effect with any other existing or proposed development. Impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker would not be so severe as to justify refusal of consent.

8.37 The proposal would have no significant effects on the natural heritage, including birds. Its impact on carbon rich soils has been assessed using the carbon calculator and would not be unacceptable. I am satisfied it would have no significant effect on public access, including impact on long distance walking and cycling routes and scenic routes identified in NPF3. There would be no adverse impacts on the historic environment, including scheduled monuments, listed buildings and their settings, no significant impacts on tourism and recreation, aviation and defence interests and seismological recording, telecommunications and broadcasting installations.

8.38 Effects on road traffic could be minimised by conditions and there would be no impacts on any trunk road. Conditions could also regulate effects on hydrology, the water environment and flood risk and could secure the decommissioning of the development, including ancillary infrastructure, and site restoration.

8.39 On-site energy storage is not proposed in this instance, This is a matter to which positive weight can be attached, but its absence is not a reason for the proposal to be considered contrary to paragraph 169.

8.40 On the negative side of an analysis against paragraph 169 are the proposal's landscape and visual impacts, including within an NSA, and its effects on the qualities of two Wild Land Areas.

8.41 I agree with the applicant that almost all of the paragraph 169 considerations give rise to no concern. However, where I have found there to be conflict with its requirements, these are matters of great importance.

8.42 The council has conceded that, with the exception of the turbines that are proposed to be sited within WLA 34, the site could be regarded as falling within Group 3 of SPP's spatial framework – being an area with potential for wind farm development. This is because it accepts that there are no concerns over carbon-rich soils. However, the location of those turbines immediately adjacent to a Wild Land Area (and the consequent effects they would have upon the WLA) means there is little practical significance in that concession.

8.43 Although sites that are proposed for turbine development are required by SPP paragraph 170 to be suitable in perpetuity, it remains a relevant consideration that the adverse effects I have described are only proposed to endure for a maximum of 30 years and that after that time, the site would be restored.

8.44 In Chapter 3, I concluded that the proposal would, in respect of the Ben More Assynt massif, compromise some of the objectives behind the designation of the Assynt-Coigach NSA, and that, although geographically limited in extent, this would undermine the integrity of the designated area.

8.45 I concluded that, in that same geographical area, there would be significant adverse effects on some of the qualities for which the area has been designated. The second part of SPP Paragraph 212 is supportive of development that would have such effects if it can be demonstrated that they are clearly outweighed by social, environmental or economic benefits of national importance. That is part of the test that I carry out at the conclusion of this chapter.

8.46 As I confirmed in Chapter 2, there is no policy presumption against commercial-scale wind farm development within a Wild Land Area. However, SPP paragraph 215 requires a particularly careful assessment of any proposal to site turbines within such an area. The test is whether it has been demonstrated that any significant effects on the qualities of the wild land area can be substantially overcome by siting, design or other mitigation. My conclusion in Chapter 3 was that, in respect of some effects upon WLA 34, this has not been demonstrated. The proposal is therefore in conflict with paragraph 215 and, in view of the national importance of wild land, this is matter I give significant weight.

8.47 I concluded in Chapter 3 that views of the proposal would also compromise the natural environment, amenity and heritage resource of certain geographically limited areas of WLA 29. Again, the national importance of this wild land resource means this issue must be given significant weight.

8.48 Relevant policies of the development plan are also material considerations. The most relevant policies are Policies 57 and 67 of the LDP, along with accompanying supplementary guidance.

8.49 Policy 57 requires an assessment of effects on natural, built and cultural heritage. Its expectations differ depending on whether the asset being affected has local / regional importance, national importance or international importance. As I set out in Chapters 3 and 4, I am satisfied that, in the majority of cases, effects would be acceptable and would accord with Policy 57. This includes likely effects on the River Oykel SAC, which is of international importance. However, in respect of effects on a part of the Assynt-Coigach NSA and parts of WLA 34 and WLA 29, my conclusion is that the proposal would conflict with this policy because it would compromise the natural environment leading to significant adverse effects (albeit over geographically limited areas). I consider whether these would be clearly outweighed by social, environmental or economic benefits of national importance at the end of this chapter.

8.50 The applicant has suggested that, when considering whether harm to a nationally important asset is clearly outweighed by social, environmental or economic benefits of national importance (as is required in respect of the NSA by SPP paragraph 212 and for both the NSA and the WLAs by LDP Policy 57), one should not only take into account the benefits that can be directly attributed to the proposal itself, but should also have regard to its place within the broader development of renewable energy provision and the undeniable national importance that this has. In the applicant's view, because a renewable energy proposal would provide a benefit that is nationally important (the provision of low-carbon renewable energy) it should not have to demonstrate that the scale of the benefit delivered by the proposal is of national importance. The applicant's view is that it would be illogical if larger (and presumably therefore more obtrusive) developments could draw support from this balancing provision whereas smaller proposals (on the basis that the scale of the benefits they would deliver was not nationally important) could not.

8.51 The applicant also argues that the socio-economic benefits of a proposed wind farm could be regarded as benefits of national importance.

8.52 I agree that one should not underestimate the importance of the benefits that can be delivered by even a modestly-sized renewable energy development. However, to give additional positive weight to a proposal due to the fact of, rather than the scale of, the social, environmental and economic benefits it would actually deliver, risks the 'double-counting' of the benefits of renewable energy that is of concern to the council, the John Muir Trust and Oykel Proprietors.

8.53 The policy framework is already strongly supportive of the principle of renewable energy including on-shore wind, in recognition of the nationally important role that the technology plays in delivering a sustainable future for Scotland. However, that same policy framework recognises that certain locations are of such importance that, if they are significantly affected by such development, this must be exceptionally justified. My view is that such justification must be on the basis of what the individual scheme would actually deliver, balanced against the level of harm it would cause to the nationally important resource. This does not amount to an effective embargo on such development where nationally important assets would be adversely affected to a significant degree, merely that such effects (on a nationally-important asset) have to outweighed by benefits that are of a nationally important scale.

8.54 As I confirmed in Chapter 3, the proposal would not comply with LDP Policy 61 because it would not reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which it is proposed. However, I give

this little weight in my assessment, as it would be difficult for any commercial-scale wind energy proposal to comply with this requirement.

8.55 Policy 67 is a wide-ranging policy that deals with the assessment of renewable energy developments. The matters that the policy requires to be taken into account are similar to the considerations set out in paragraph 169 of SPP. The overall thrust of the policy is that proposals will be supported where "*they will not be significantly detrimental overall*". Although the proposal would satisfy most of the requirements of the policy, due to the adverse landscape and visual effects I have I identified, I find that it would be significantly detrimental overall, in conflict with this policy.

8.56 Policy 68 confirms that community ownership of a renewable energy proposal is a material consideration to which positive weight should be attached. Although no agreement appears to have been finalised in respect of this scheme, I find it reasonable for the proposal to draw additional support from this policy, on the basis that such an agreement seems possible.

8.57 Section 4 of the *Onshore Wind Energy* supplementary guidance[97] is relevant to the consideration of this proposal. It contains 10 criteria that set out key landscape and visual aspects that will be used in the assessment of proposals. These are stated not to set absolute requirements, but are designed to identify key constraints to development. Some are incapable of being applied until the council has defined certain terms (such as "landscape gateways" and "cultural landmarks") that the criteria refer to. It is possible that these may be part of landscape capacity study that is currently in preparation.

8.58 The 10 criteria have not simply been imported from Policy 67. They are slightly different in some respects and generally more detailed. However, I agree with the applicant that, in accordance with Regulation 27 of the Town & Country Planning (Development Planning) (Scotland) Regulations 2013, they should be read in a way that is consistent with the LDP policy to which they provide further guidance. On that basis, I find that where an assessment can be made against the supplementary guidance, the proposal can draw no support from it, for the same reasons it does not satisfy Policy 67.

8.59 Drawing all considerations together, I conclude that matters favouring the grant of consent include the favourable policy position towards the principle of this form of development, at both national and local level, the contribution the proposal would make to renewable energy and greenhouse gas reduction targets and the positive effect it is likely to have on the local economy including through community ownership of some of the development.

8.60 Factors indicating that consent should not be granted include the harm the proposal would cause to the character of the landscape and (particularly) its adverse effects on visual amenity, which would extend beyond a radius within which such effects would normally be considered inevitable with a proposal of this scale, and would include locations that are of recognised national importance. In addition, the proposal would harm (albeit over a limited geographical area) some of the qualities of the Assynt Coigach NSA and some of the objectives of its designation such that its overall integrity would be compromised. It would also (again over a geographically limited area) significantly affect

[97] CD 3.04

some of the qualities of Wild Land Areas 34 and 29 in a manner that could not be substantially overcome.

8.61 Further adverse consequences of the proposal (although not in my view having a significant influence over the balancing exercise) include significant adverse effects to a small number of residential properties, to those participating in field sports close to the site and to users of a short section of the A837.

8.62 I note that the council agrees with the applicant that when one takes away from the land mass of northern Scotland, land that is either designated as an NSA or National Park or is mapped wild land, and that which has ecological designations such as SPAs and SACs or is subject to aviation or similar constraints, opportunities for on-shore wind energy development are limited. I agree that this is the case and that the potential for unacceptable cumulative effects with existing development (which is not a concern with this proposal) often imposes a further constraint. If continued progress is to made in the delivery of on-shore wind energy, this situation must be borne in mind when weighing up the benefits and disbenefits of any proposal.

8.63 Nevertheless, having had regard to the requirements of Schedule 9 of the Electricity Act 1989, I conclude that the proposal would not preserve natural beauty and that the applicant has not undertaken reasonable mitigation of all of the effects the proposal would have on the natural beauty of the countryside. Weighing up all of the material considerations, my conclusion is that, on balance, the adverse consequences of the proposal are too significant to be outweighed by its benefits.

8.64 Therefore, my recommendation is that section 36 consent and deemed planning permission should be refused. Should Ministers disagree, Appendix 8 contains a list of conditions that I would recommend be attached to any consent and permission.

David Buylla
Principal Reporter

Appendix 1: Note of pre-examination meeting

PEM note

Appendix 2: Schedule of documents

All published documents for this case can be found on the DPEA website.

Appendix 3: Appearances

For the applicant

Mr Marcus Trinick QC
Mr Graeme Blackett (socio-economics)
Mr John Ferry (effects on the water environment)
Ms Sam Oxley (landscape, visual, NSA and wild land effects)

For the council and Scottish Natural Heritage

Mr James Findlay QC
Mr Simon Hindson (policy, conditions and visual effects)
Ms Catherine Harry (landscape effects, NSA and wild land)

For the Oykel Proprietors

Mr John Campbell QC
Mr Ian Kelly (policy matters)
Mr Mark Steele (landscape and visual effects)
Dr Peter Cosgrove (effects on the water environment)
Mr Richard Sankey (effects on the water environment)

For The John Muir Trust

Mr Ian Kelly (advocacy and policy matters)
Mr John Low (policy, landscape and visual and wild land effects)
Mr Douglas Wynn (soci-economics)

For Mountaineering Scotland

Dr Dave Gordon

Individuals

Ms Betty Wight
Mr Peter Batten (written submissions only)

Appendix 4: Statement of common ground

None

Appendix 5: Inquiry session on landscape and visual effects

a. inquiry statements

The applicant
The council and SNH
The John Muir Trust
The Oykel Proprietors and Mountaineering Scotland

b. precognitions

Ms Sam Oxley (the applicant)
Mr Simon Hindson (the council)
Ms Catherine Harry (SNH)
Mr John Low (JMT)
Mr Mark Steele (Oykel Proprietors)
Dr Dave Gordon (Mountaineering Scotland)

Appendix 6: Hearing session on policy matters

a. hearing statements

The applicant
The Highland Council
The John Muir Trust
The Oykel Proprietors
Mr Peter Batten

Appendix 7: Hearing session on socio-economic and tourism effects

a. hearing statements

The applicant
The John Muir Trust
The Oykel Proprietors
Mountaineering Scotland
Ms Betty Wright

Appendix 8: Hearing session on conditions

Conditions to be imposed should Ministers grant consent and deemed planning permission

Section 36 consent

1. Duration of Consent
This consent / planning permission shall expire after a period of 30 years from the date of final commissioning. Upon the expiration of a period of 25 years from final commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 18 of the deemed planning permission. Confirmation of the date of first commissioning and final commissioning shall be submitted in writing to the planning authority no later than one calendar month after each 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 / removed. The 30 year cessation date allows for a 5 year period to complete decommissioning and site restoration works.)

2. Commencement of Development
The commencement of the development shall be no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of commencement of development shall be provided to the planning authority and Scottish Ministers no later than one calendar month before that date.
(Reason: in accordance with s58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.)

3. Non assignation
This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The applicant / developer shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.
(Reason: to safeguard the obligations of the consent if transferred to another company.)

4. **Serious Incident Reporting**
In the event of any breach of health and safety or environmental obligations relating to the development during the period of this consent, the developer will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.
(Reason: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.)

Deemed planning permission

1. Design and operation of turbines
No turbines shall be erected until details of the external colour and/or finish of the turbines to be used (including towers, nacelles and blades) which should be non-reflective pale grey semi-matt, have been submitted to, and approved in writing by, the planning authority. The turbines must have internal transformers.

Thereafter, development shall progress in accordance with these approved details and, the turbines shall be maintained in the approved colour, free from significant external rust, staining or discolouration, until such time as the wind farm is decommissioned.
(Reason: to ensure that only the turbines as approved are used in the development and are acceptable in terms of visual and landscape impact considerations.)

2. Advertisement on Infrastructure
None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings / enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority
(Reason: in the interests of the visual amenity of the area and in compliance with Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.)

3. Design of sub-station and ancillary development
No development shall commence on the control building, substation and or ancillary infrastructure until final details of the location, layout, external appearance, dimensions and surface materials of all buildings, compounds, parking areas, as well as any external lighting, fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the planning authority. Thereafter, development shall progress in accordance with these approved details. For the avoidance of doubt, details relating to the control building and substation buildings shall include additional architectural design, landscape and visual impact assessment 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.)

4. Micro-siting
All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference 2.1 in the Environmental Statement save for the turbines, which shall be in the positions shown in plan reference A 1.1, titled Revised Site Layout, dated 25.06.15 produced by Muirhall Energy. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the planning authority, micro-siting is subject to the following restrictions:

a. no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (AOD), than the position shown on plan reference A 1.1, titled Revised Site Layout, dated 25.06.15 produced by Muirhall Energy;

b. no wind turbine, building, mast or hardstanding shall be moved more than 50 metres from the position shown on the original approved plans;

c. no access track shall be moved more than 50 metres from the position shown on the original approved plans;

d. no micro-siting shall take place within areas of peat of greater depth than the original location;

e. no micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;

f. no element of the proposed development should be located closer than 50 metres of any watercourse; and

g. all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

No later than one month after the date of first commissioning, an updated site plan must be submitted to the planning authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority's approval, as applicable.
(Reason: to control environmental impacts while taking account of local ground conditions.)

5. Planning Monitoring Officer (PMO)
No development shall commence until the planning authority has approved in writing the terms of appointment by the developer of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent.

The terms of appointment shall:

a. impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;

b. require the PMO to submit a monthly report to the planning authority summarising works undertaken on site; and

c. require the PMO to report to the planning authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works.
(Reason: to enable the development to be suitably monitored to ensure compliance with the consent issued.)

6. Ecological Clerk of Works
There shall be no commencement of development unless the planning authority has approved in writing the terms of appointment by the developer of a full time, independent Ecological Clerk of Works (ECoW). The terms of appointment shall:

a. impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction and Environmental Management Document, and other plans approved in terms of condition 11 (“the ECoW works”);

b. require the ECoW to report to the developer’s nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;

c. require the ECoW to submit a monthly report to the planning authority summarising works undertaken on site;

d. have power to stop to the job / activities being undertaken within the development site when ecological interests dictate and / or when a breach or potential breach of environmental legislation occurs, to allow for a briefing of the concern to the developer’s nominated construction project manager; and

e. require the ECoW to report to the planning authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms throughout the period from commencement of development, throughout any period of construction activity and during any period of post construction restoration works. No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the developer shall submit details of the terms of appointment by the developer of an independent ECoW throughout the decommissioning and restoration phases of the development to the planning authority for approval. The ECoW shall be appointed on the approved terms throughout the decommissioning and restoration phases of the development.
(Reason: to secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development.)

7. Construction Environment Management Document
No development shall commence until a finalised Construction Environmental Management Document (CEMD) has been submitted to and agreed in writing by the planning authority.

The document shall include provision for:

a. an updated Schedule of Mitigation (SM);

b. processes to control / action changes from the agreed Schedule of Mitigation;

c. the following specific Construction and Environmental Management Plans (CEMPs):

I. details of the construction works, construction methods and surface treatment for all hard surfaces and tracks;

II. method of construction of the crane pads;

III. method of construction of the turbine foundations;

IV. method of working cable trenches;

V. method of construction and erection of the wind turbines and meteorological masts;

VI. details of watercourse crossings designed to 1 in 200 year flood risk event plus 20% for climate change;

VII. details of the temporary site compounds, for the storage of materials and machinery, including the areas designated for offices, welfare facilities; fuel storage and car parking;

VIII. Peat Management Plan – to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and SNH. This should also highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle causing inadvertent damage.

IX. Water Quality Management Plan - highlighting drainage provisions including monitoring / maintenance regimes, water crossings, surface water drainage management and development and storage of material buffers (50 metres minimum) from water features, unless otherwise agreed in writing by the planning authority;

X. Public and Private Water Supply Protection Measures Plan;

XI. Pollution Prevention Plan;

XII. Site Waste Management Plan;

XIII. Construction Noise Mitigation Plan;

XIV. Species Protection Plan(s): -

The pre-construction survey for legally protected species shall be carried out at an appropriate time of year for the species, at a maximum of 12 months preceding commencement of construction, and a watching brief shall then be implemented by the Ecological Clerk of Works (ECOW) during construction. The species that should be surveyed for shall be agreed in writing by the planning authority. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micrositing needs.

Provision of a communication plan to ensure all contractors are aware of the possible presence of protected species frequenting the site and the laws relating to their protection.

The notification and a stop the job commitment must follow the requirements set out below:

Should an otter holt be found during construction, all works within 250 metres of the holt shall stop immediately and the SNH Dingwall office be notified and asked for advice. Should a wild cat den be found during construction, all works within 200 metres of the den shall stop immediately and the SNH Dingwall office be notified and asked for advice. Should any water vole activity be found during construction, all works within 10 metres of the nearest burrow shall stop. Work may progress if it is in excess of 10 metres of the

nearest burrow, otherwise work shall stop immediately and the SNH Dingwall office be notified and asked for advice.

XV. Site Construction Decommissioning Method Statement highlighting restoration/ reinstatement of the working areas not required during the operation of the development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;

XVI. Construction Method Statement for the approval of the planning incorporating the mitigation measures set out in Technical Appendix 8.1 and Section 8.9.10 of the Peat Landslide Risk Assessment;

XVII. Construction Environment Management Plan incorporating the mitigation contained in Table 6 of the Ground Water Dependent Terrestrial Ecosystem Assessment.

Unless otherwise agreed in writing by the planning authority the development shall then proceed in accordance with the approved CEMD.
(Reason: to secure the final detailed information on the delivery of all on-site mitigation projects and to protect the environment from the construction and operation of the development.)

8. Traffic Management Plan
No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the planning authority. The CTMP, which shall be implemented as approved during all periods of construction and decommissioning, must include:

i. a description of all measures to be implemented by the developer in order to manage traffic during the construction phase (including routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised suitably qualified traffic management consultant;

ii. the identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the A837 to make it suitable for construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the planning authority, including:

an initial route assessment report for abnormal loads and construction traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary;

an assessment of the capacity of existing bridges and other structures along the construction access routes to cater for all construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;

a videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks' notice of this trial run must be made to the planning authority who must be in attendance or be represented.

No deliveries by abnormal indivisible loads shall take place until a final assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the planning authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the planning authority, thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

iii. a risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;

iv. a contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the planning authority. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted.

v. a procedure for the regular monitoring of road conditions and the implementation of any remedial works required during construction / decommissioning periods;

vi. a detailed protocol for the delivery of abnormal loads / vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and / or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. All such movements on council maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events;

vii. a detailed delivery programme for abnormal load movements, which shall be made available to the planning authority and community representatives;

viii. details of any upgrading works required at the junction of the site access and the public road. Such works may include suitable drainage measures, improved geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays;

ix. details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of the planning authority;

x. wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road;

xi. appropriate reinstatement works shall be carried out, as required by the planning authority, at the end of the turbine delivery and erection period;

xii. measures to ensure that construction traffic adheres to agreed routes;

xiii. a concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the developer, to the satisfaction of the planning authority. It will also require the submission of an appropriate financial bond acceptable to the planning authority in respect of the risk of any road reconstruction works.

(Reason : to maintain safety for road traffic and the traffic moving to and from the development, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the road network.)

9. Community Liaison Group
No development shall commence until a community liaison group is established by the developer, in collaboration with planning authority and affected local Community Councils. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components. This should also ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the wind farm construction has been completed and is fully operational.
(Reason: to assist project implementation, ensuring community dialogue and the delivery of appropriate mitigation measures for example to minimise potential hazards to road users, including pedestrians, travelling on the road networks.)

10. Outdoor Access Management Plan
No development shall commence until an Access Management Plan, has been submitted to, and agreed in writing by, the planning authority. The plan should ensure that public access is retained within Caplich Wind Farm during construction, and thereafter that suitable public access is provided during the operational phase of the wind farm. The plan as agreed shall be implemented in full, unless otherwise approved in writing with the planning authority.
(Reason: in the interests of securing and enhancing public access rights.)

11. Habitat Management Plan
There shall be no commencement of development unless a habitat management plan has been submitted to and approved in writing by the planning authority. The habitat management plan shall set out proposed habitat management of the wind farm site during the period of construction, operation and decommissioning of the site, and shall provide for the maintenance, monitoring and reporting of habitat on site. For the avoidance of doubt, the habitat management plan shall include details of drain blocking works

The approved habitat management plan will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of final commissioning and submitted to the planning authority for written approval.

Unless otherwise agreed in advance in writing with the planning authority, the approved habitat management plan shall be implemented in full.
(Reason: In the interests of good land management and the protection of habitats.)

12. Deer Management Statement
No development shall commence until a deer management statement has been submitted to and approved in writing by the planning authority. The deer management statement shall set out proposed long-term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from commencement of development until the date of completion of restoration. The approved deer management statement shall thereafter be implemented in full.
(Reason: in the interests of good land management and the management of deer.)

13. Programme of Archaeological Works
No development shall commence until the planning authority has approved the terms of a programme of archaeological works to be observed during construction of the development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved. The approved scheme of archaeological works shall thereafter be implemented in full.
(Reason: to ensure the protection or recording of archaeological features on the site.)

14. Peat Landslide Management
No development shall commence until a detailed peat landslide risk assessment, addressing the construction phase of the development and post-construction monitoring, has been approved in writing by the planning authority.

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

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

Prior to commencement of development, the developer shall appoint and pay for an independent and suitably qualified geotechnical engineer acceptable to the planning authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the planning authority.

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

analysis reports to be submitted to the planning authority on a quarterly basis during the construction and deforestation phases of the development.
(Reason: to minimise the risk of peat failure arising from the development.)

15. Redundant turbines
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 the site as a whole and electricity generated by each individual 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 unless otherwise agreed in writing by the planning authority, 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; 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 a direction under this condition, the planning authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the 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, THC Ref: 15/00197/S36 Page 21 22.05.2017 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.)

16. Aviation Safety
No development shall commence until the developer has provided the planning authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the planning authority of having done so:

a) the date of the expected commencement of each stage of construction;
b) the height above ground level of the tallest structure forming part of the development;
c) the maximum extension height of any construction equipment; and
d) the position of the turbines and masts in latitude and longitude.

(Reason: in the interests of aviation safety.)

17. Aviation Lighting

No development shall commence until the developer has submitted a scheme for aviation lighting for the wind farm to the planning authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority. No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme. (Reason: in the interests of aviation safety.)

18. Site Decommissioning and restoration

No development or works (excluding preliminary ground investigation which shall be permitted) shall commence until an Interim Decommissioning and Restoration Plan (IDRP) for the site has been submitted to, and approved in writing by, the planning authority. Thereafter:

i. not later than 3 years prior to the decommissioning of the development, the IDRP shall be reviewed by the developer, to ensure that the IDRP reflects best practice in decommissioning prevailing at the time and ensures that site specific conditions, identified during construction of the site, and subsequent operation and monitoring of the development are given due consideration. A copy shall be submitted to the planning authority for its written approval; and

ii. not later than 12 months prior to the decommissioning of the development, a detailed Decommissioning and Restoration Plan (DRP), based upon the principles of the approved interim plan, shall be submitted to, and approved in writing by, the planning authority. The IDRP and subsequent DRP shall include, unless otherwise agreed in writing with the planning authority and in accordance with legislative requirements and published best practice at time of decommissioning details about the removal of all elements of the development, relevant access tracks and all cabling, including where necessary details of:

a) justification for retention of any relevant elements of the development;

b) the treatment of disturbed ground surfaces;

c) management and timing of the works;

d) environmental management provisions; and

e) a traffic management plan to address any traffic impact issues during the decommissioning period.

The DRP shall be implemented as approved. In the event that the final DPR is not approved by the planning authority in advance of the decommissioning, unless otherwise agreed by the planning authority the Interim IDRP shall be implemented.

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

19. Financial Guarantee

No development shall commence until:

i. full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under condition 18 of this permission have been submitted to, and approved in writing by, the planning authority; and

ii. confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part i above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the planning authority; and

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

Thereafter, the 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 its reasonable satisfaction.

Where a review approved under part c) above recommends that the amount of the bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, the 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 to the satisfaction of the planning authority.)

20. Noise

Noise from the operation of all the turbines, including the application of any tonal penalty specified in ETSU-R-97 at pages 99-109, shall not exceed 35 dB LA90,10min at any dwelling at wind speeds up to 10 metres per second measured or calculated using the methods described in “Prediction and Assessment of Wind Turbine Noise” (published in

IOA Bulletin March/April 2009).

(A) Prior to the first export date, the wind farm operator shall submit to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

(B) Within 21 days from receipt of a written request of the planning authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the planning authority to assess the rating level of noise immissions from the wind farm at the complainant's property in accordance with this condition. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

The independent consultant's assessment must relate to the range of conditions which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the planning authority and such other conditions as the independent consultant considers necessary to fully assess the noise at the complainant's property.

(C) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the planning authority, unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on request. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

(D) Where a further assessment of the rating level of noise immissions from the wind farm is required to assess the complaint, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment to the planning authority unless the time limit for the submission of the further assessment has been extended in writing by the planning authority.

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

Note: For the purposes of this condition, a "dwelling" is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

(Reason: to ensure that the effect of the property in noise terms is acceptable.)

21. Construction hours
Construction work shall only take place on the site between the hours of 07:00 to 19:00 on Mondays to Fridays inclusive and 07:00 to 16:00 on Saturdays, with no construction work taking place on Sundays or on national public holidays. Outwith these hours development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.
(Reason: in the interests of the amenity of the local area.)

Guidance notes for condition 20 on noise

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

Guidance Note 1

(a) Values of the LA90,10min noise statistic shall be measured at the complainant’s property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142: 2014 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.

(b) The microphone should be mounted at 1.2-1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing by the relevant Planning Authority), and placed outside the complainant’s dwelling. Measurements should be made in “free-field” conditions. To achieve this, the microphone should be placed at least 3.5 m away from the building facade or any reflecting surface except the ground at a location agreed with the relevant Planning Authority.

(c) The LA90,10min measurements shall be synchronised with measurements of the 10 minute arithmetic mean wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the Developer shall continuously log arithmetic mean wind speed and wind direction at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods, unless otherwise agreed in writing with the relevant Planning Authority. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 m height wind speed data which is correlated with the noise

measurements of Note 2(a) in the manner described in Note 2(c).

(e) Data provided to the Relevant Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation as agreed in the assessment protocol. At its request the Developer shall provide within 28 days of the completion of the measurements all of the data collected to the relevant Planning Authority.

(b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.

(c) A least squares, “best fit” curve of a maximum 2nd order polynomial or otherwise as may be agreed with the relevant Planning Authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured LA90,10min noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

Guidance Note 3

Where, in the opinion of the Relevant Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used:

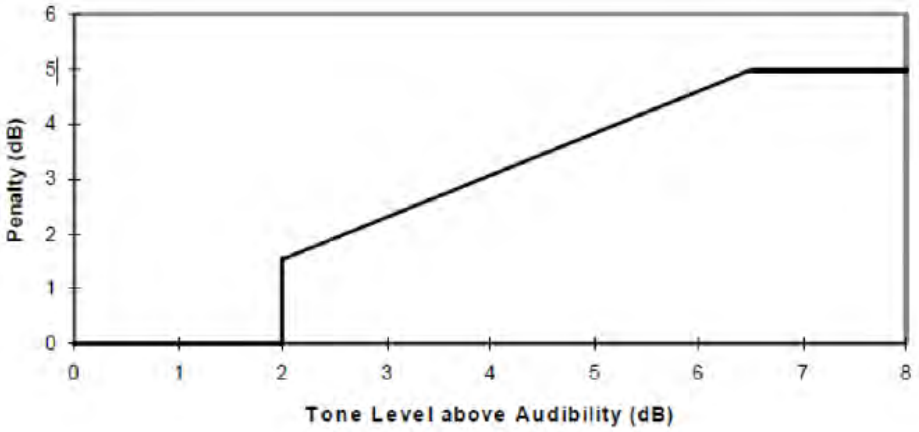
(a) For each 10 minute interval for which LA90,10min data have been obtained as provided for in Notes 1 and 2, a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods shall be regularly spaced at 10 minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(b) For each of the 2 minute samples the margin above or below the audibility criterion of the tone level difference, ΔLtm (Delta Ltm), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.

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

(d) A linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average shall be used.

(e) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



Guidance Note 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Notes 1 & 2 with the wind farm switched off in order to determine the background noise, L3, at the assessed wind speed. The wind farm noise at this wind speed, L1, is then calculated as follows, where L2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

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

The wind farm noise level is recalculated by adding the tonal penalty (if any) to the wind farm noise.

Appendix 9: Closing submissions