Energy and Climate Change Directorate
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The Scottish Government
Riaghaltas na h-Alba

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21 June 2019

Dear Mr Sage

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF LIMEKILN WIND FARM, LOCATED SOUTH OF REAY IN CAITHNESS WITHIN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL.

Application

I refer to the Application made by Limekiln Wind Ltd, a company incorporated under the Companies Acts with company number 08074755 and having its registered office at 16 West Borough, Wimborne, Dorset, BH21 1NG dated 13 June 2016 for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") and deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 for the construction and operation of Limekiln wind farm, situated approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness, Highland, within the administrative area of the Highland Council.

The application (as amended) is for the construction and operation of a wind powered electricity generating station with 21 turbines, 6 of which having a maximum blade tip height of 126m and 15 having a maximum blade tip height of 139m ("the Development"). The installed generating capacity will exceed 50 MW.

This letter contains the Scottish Ministers' decision to grant consent for the development as more particularly described at Annex 1.

Planning Permission

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 the Scottish Ministers may on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station direct that planning permission

be deemed to be granted in respect of that generating station and any ancillary development. **This letter contains the Scottish Ministers' direction that planning permission is deemed to be granted.**

Background

On 13 June 2016 Infinergy Ltd on behalf of Limekiln Wind Ltd ("the Company") submitted an application to construct and operate Limekiln Wind Farm. The application proposed 24 turbines with ground to blade tip height of either 125 metres or 139 metres, and having a total installed capacity of up to 72 MW. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations") an Environmental Statement (ES) describing the Development and giving an analysis of its environmental effects was submitted for the proposed development. Supplementary environmental information was provided in October 2017 outlining the decision to reduce the number of turbines proposed from 24 to 21.

Consultation

In accordance with statutory requirements, advertisement of the Application and Environmental Statement was made in the local and national press and the opportunity given for those wishing to make representations to do so. The 2000 Regulations have subsequently (with effect from 16th May 2017) been replaced by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 Regulations"). The 2017 Regulations now apply to this application subject to certain modifications. These modifications, among other things, provide that where the 2017 Regulations refer to an "EIA report" this includes an "environmental statement" prepared under the 2000 Regulations.

In October 2017, in response to feedback received and in line with a recommendation from the Highland Council's Planning Officer, Infinergy Ltd on behalf of the Company submitted Additional Information in respect of their decision to remove three turbines and their associated access tracks from the proposed Development thereby leaving a total of 21 turbines.

Under paragraph 2(1) of Schedule 8 to the Electricity Act, notice of the Application must be served on the Relevant Planning Authority and notice was served on the Highland Council. Notifications were also sent to Scottish Natural Heritage (SNH), Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES). A wide range of other relevant organisations were also notified and consulted.

In addition to responses from the Planning Authority, SNH, SEPA and HES, representations were received from 294 members of the public; 290 objected to the Development and 4 were in support.

Caithness and Sutherland Peatlands Special Area of Conservation, Caithness and Sutherland Peatlands Special Protection Area and Caithness Lochs Special Area of Protection

SNH advised of the connectivity between the proposed development and the Caithness and Sutherland Peatlands Special Area of Conservation, Caithness and Sutherland Peatlands Special Protection Area an Caithness Lochs Special Area of Protection. Paragraph 207 of Scottish Planning Policy sets out that Sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 network of protected areas. Any development plan or proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site.

An Appropriate Assessment for each area has been carried out. Ministers conclude, following advice from SNH, that the implementation of the conditions attached to this consent will ensure any adverse effects on the integrity of these sites will be avoided.

Consultation responses

A range of consultation responses were received to both the original application and the supplementary information.

No objections were received from the following;

- British Telecom;
- Caithness District Salmon Fishery Board;
- Civil Aviation Authority;
- Highlands and Islands Airport;
- Historic Environment Scotland;
- Joint Radio Company;
- Mountaineering Council for Scotland;
- National Air Traffic Service;
- Scottish Water; and
- The Crown Estate.

The Highland Council as the Planning Authority objected to Limekiln on the grounds that the impact of the development would be significantly detrimental to parts of the landscape of the North Caithness coastline as the proposal introduces tall man made vertical moving structures to a gentle rural landscape. The Council outlined that this can be evidenced within a number of viewpoints set out in the supporting Environmental Statement. In addition the visual impact of the development would be significantly detrimental from many locations, communities and travellers on roads including the A836 and A9(T) roads. They commented that the proposal would result in the loss of amenity close to the village of Reay, in particular for residents and visitors taking recreational access to the mixed use rural landscape to the south of Reay. These three issues making the proposal contrary to the adopted Highland-wide Local Development Plan and Interim Supplementary Guidance: Onshore wind energy. The council also added that the proposal, if approved, would have an unacceptable impact on Wild Land Area 39.

SEPA did not object to the Application subject to the following condition topics being added: construction environment management; pollution prevention; delivery of mitigation set out in the schedule of mitigation; micrositing (with specific requirements related to the minimisation of peat disturbance and buffers to water courses); peat management; habitat management; forestry residue management; borrow pit management; and design of water course crossings.

SEPA has also commented on the Supplementary Information including the amended 21 turbine scheme. SEPA has no objection to the revised layout if the planning conditions outlined in its previous response are applied.

SNH objected to the application due to the adverse effects on wild land area 39. Conditions are also required to avoid impacts on the integrity of the Caithness and Sutherland Peatlands Special Area of Conservation and Special Protection Area. SNH also advised that there would be likely significant effects on the qualifying features of the Caithness Lochs SPA, but which are unlikely to have a significant effect on the integrity of the site.

In response to the supplementary information provided by the Company in October 2017, SNH maintained its objection to the development. The reduction in turbine numbers does not alter its previous advice, and its position with respect to the wild land area remains unchanged.

HES did not object to this application.

Transport Scotland did not object to the application. Conditions are sought to secure detailed routes and mitigation for abnormal loads using the trunk road and quality assured traffic management.

Transport Scotland commented on the supplementary environmental information submitted by the Company in October 2017. Transport Scotland concluded that the impact of the revised layout would be no worse than the impact of the previous application. There are no further changes which could result in any significant environmental impacts on the trunk road network. Consequently, Transport Scotland has no objection to the development in terms of environmental impacts on the trunk road network. The previous request for conditions is reiterated.

Caithness West Community Council objected to the application. Concerns were raised in regard to the detrimental impacts of the proposed development on the village of Reay and the surrounding area: in particular residential amenity, impact on tourism and the economy, including the effect of the visibility of the scheme from the A836, which is part of the North Coast 500 route. Conditions are sought to secure traffic management, including the provision of footbridges to the east and west of Reay in the interests of pedestrian safety.

The John Muir Trust objected to the application because of its impact on wild land, the cumulative visual impact and impact on the economy.

Reay Area Windfarm Opposition Group (RAWOG) objected to the application as it does not consider there to be any need case, at the UK or Scottish level, for the proposed development; it is contrary to national and local planning policy; the Electricity Act Schedule 9 tests are not met; there would be significant adverse effects on residential amenity; the landscape and visual effects and effects on wild land would be significantly adverse, including cumulative effects.

Royal Society for the Protection of Birds (RSPB) did not object to the application although it raises concerns regarding the potential impact on golden eagles.

RSPB provided further comments on the supplementary information and amended scheme submitted in October 2017. This reiterated its position of no objection and made a number of observations. It is pleased that the Company has chosen to provide further observational data for golden eagle. There are some reservations about the quality of the ornithological assessment but a significant adverse effect on golden eagle is not considered to be likely while the current forestry cover is maintained. The RSPB remains disappointed with the quality of the cumulative impact assessment undertaken by the Company, and reiterates its view that the sum of multiple negligible impacts is not necessarily negligible as suggested by the Company. However, the construction and operation of the proposed wind farm is unlikely to significantly increase the total cumulative impact of wind energy on bird populations in Caithness.

Scottish Forestry (SF) did not object to the application. SF seek conditions to be attached securing compensatory planting and to provide a forest plan, to be agreed before development commences.

Marine Scotland Science (MSS) did not object to the application. It has recommended that: electrofishing surveys are extended to the Sandside Burn; pre-construction surveys include macroinvertebrate sampling; in river workings are avoided between October and May; monitoring of water quality before and during decommissioning is undertaken; impacts of felling on water quality are considered; and a programme of integrated water quality, macroinvertebrate and fish population monitoring is undertaken.

Ministry of Defence - Defence Infrastructure Organisation (MoD) did not object to the application. Conditions are requested in order to secure aviation warning lighting. It also wishes to be notified of the construction start and end dates, the maximum height of construction equipment and the latitude and longitude of each turbine.

Visit Scotland did not object to the proposal. It notes the importance of tourism to Scotland's local and national economy and of the natural landscape for visitors.

Public Local Inquiry (PLI)

The Highland Council, as the relevant planning authority, lodged an objection meaning in terms of para 2(2)(a) of Schedule 8 of the Electricity Act that a Public Local Inquiry was required to be held.

A pre-examination meeting was held on 31 August 2017 to consider the arrangements and procedures for the inquiry. That meeting coincided with the nearby Drum Hollistan wind farm application (WIN-270-9) being passed from the Scottish Government's

Energy Consents Unit to the Planning and Environmental Appeal Division. The decision was therefore taken to hold a single, conjoined inquiry in respect of both applications. This is reflected in our minute of appointment.

In light of the above, a second pre-examination meeting on 18 October 2017, to consider the arrangements and procedures for a conjoined inquiry into both applications.

The inquiry sessions were held between 26 February and 06 March 2018, and the hearing session took place on 06 March 2018. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the Company) being lodged on 06 April 2018.

Unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 30 August 2017, 01 September 2017, 17 and 18 October 2017, 04 March 2018 and 27 and 28 April 2018. Accompanied site inspections took place on 07 March 2018 and 26 and 27 April 2018.

The Report of Inquiry was received by the Scottish Ministers on 16 October 2018.

The Reporters' recommendation to Scottish Ministers is that consent is granted under section 36 of the Electricity Act and that a direction is given that planning permission is deemed to be granted, both subject to conditions.

The Scottish Ministers' Considerations

Environmental matters

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

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. The Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

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

SEPA advised the Scottish Ministers that, on the basis of information provided to them about the Development, appropriate authorisations applied for under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 would be capable of being granted.

Duration of planning permission

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5 year time scale for the commencement of development is appropriate.

Main determinative issues

The Scottish Ministers, having taken account of all relevant information agree with the Reporters that the main determining issues are:

- the extent to which the development accords with and is supported by Scottish Government policy and the terms of the development plan;
- the significant effects of the Development on the environment, more particularly described in the Report at the reference provided in footnotes below, which are, in summary:

    a) the landscape and visual impact of the Development;
    b) the Development's impact upon the East Halladale Flows wild land area 39;
    c) the benefits of the Development, including its renewable energy generation, carbon emissions savings and net economic impact; and
    d) the degree to which it would be in conformity with national planning policy, the local development plan and other relevant guidance.

Public Local Inquiry Report

In each chapter the Reporters summarise the arguments for each party, taking account of the precognitions, hearing statements, the discussion at the Inquiry and hearing sessions and the closing submissions. The Reporters also took into account the environmental information in the Environmental Statement and in the Supplementary Information submitted during Inquiry, the written representations and all of the other information supplied for the Inquiry and hearing sessions.

Chapter 2 of the PLI Report deals with Legislative and Policy Context, Chapter 3 with the landscape and visual impact (including landscape effects, visual effects and cumulative landscape and visual effects), chapter 4 with Impact on wild land, chapter 5 with Economic impacts, tourism and recreation, chapter 6 with Carbon balance and peat management, chapter 7 with Other relevant issues, chapter 8 with Proposed conditions and legal agreement and chapter 9 has the Reporters' conclusions and recommendations.

Scottish Government Policy Context

At paragraphs 9.30 – 9.34 the Reporters set out that national energy policy articulates a clear commitment to renewable energy and makes clear that onshore wind farms continue to be recognised as important contributors to the achievement of targets for renewable energy generation and the reduction of greenhouse gas emissions. They also acknowledge the seriousness of climate change and its potential effects and the seriousness of the need to cut carbon dioxide emissions. They concluded that the proposed Development;

- would provide net economic benefit, and its renewable energy generation and associated savings of carbon dioxide emissions are all significant factors in its favour; and
- the proposal accords with all relevant national planning policy and development plan provisions.

Scottish Ministers, having considered the Reporters' reasoning and conclusions in respect of these aspects of the Inquiry, which are fully detailed in paragraphs 9.30 to paragraph 9.35 of chapter 9 of the PLI Report, agree with these conclusions and are satisfied they can be adopted for the purpose of their own determination.

Local Development Plan

The development plan for the area is the Highland-wide Local Development Plan ("HwLDP").

The relevant policies of the HwLDP are Policy 28 (Sustainable Design), Policy 29 (Design Quality & Decision-Placing), Policy 31 (Developer contributions), Policy 51 (Trees & Development), Policy 55 (Peat and Soil), Policy 56 (Travel), Policy 57 (Natural, Built and Cultural Heritage), Policy 58 (Protected Species), Policy 59 (Other Important Species), Policy 60 (Other Important Habitats), Policy 61 (Landscape), Policy 63 (Water Environment), Policy 67 (Renewable Energy Developments), Policy 72 (Pollution) and Policy 77 (Public Access). Policy 67 was identified as the key relevant policy in the HwLDP and the Reporters concluded that the proposed Development complied with it.

The Reporters' reasoning and conclusion on this aspect of the PLI are summarised at page 11 and 12 and detailed at page 108, page 109 and page 110 of the PLI Report.

Landscape and Visual Impact

In their assessment of landscape and visual impact of the Development the Reporters have taken into account matters including relevant landscape designations, landscape character and cumulative effects. The assessments and the Reporters' conclusions are detailed in chapter 3 of the PLI Report. Scottish Ministers have taken account of the Reporters' overall conclusions on the landscape and visual effects of the proposed Development, set out at paragraphs 3.138 – 3.143 of the Report, and are content to adopt them for the purpose of their own decision.

Wild Land

Chapter 4 of the PLI Report contains the consideration, reasoning and conclusions of the Reporters of the effects the Development will have upon the East Halladale Flows Wild Land Area (the WLA"). Scottish Ministers have taken account of the Reporters' conclusions, summarised at paragraphs 4.129 – 4.133 and are content to adopt them for the purpose of reaching a determination.

Renewable Energy Generation and Associated Policy Benefits

The Reporters conclude the Development would make a positive contribution towards the achievement of challenging national renewable energy targets and a low carbon economy, and saving greenhouse gas emissions. Ministers agree with this conclusion and have taken renewable energy generation and associated policy benefits into account in reaching their determination.

Community Shared Ownership

The Scottish Ministers have considered the information provided by the Company regarding their aspirations to provide a community shared ownership offer and find it is not sufficient to determine the net benefit that this might bring to the economic position of the area. In paragraph 5.33, chapter 5 of the PLI Report the Reporters state that the weight they attach to the Development's proposed shared ownership is tempered because, at the date of the inquiry, whilst local organisations had expressed a desire to progress the shared ownership option, there was no firm commitment from any third parties to invest in the Development.

The Reporters' overall conclusions and recommendation with regard to Limekiln Wind Farm can be found in chapter 9 of the PLI Report.

The Scottish Ministers have considered fully the Reporter's findings with regards to community shared ownership and are of the view that community benefits are not material considerations and accordingly there can be no such conditions attached to the consent. Being unable to take any community benefit into account (on the grounds that it is not a material consideration), does not alter the Scottish Ministers' assessment that the benefits of the development will outweigh its adverse effects.

Unilateral Undertaking

Ministers' note the Reporters' recommendation that the granting of consent and deemed planning permission should be subject to the Company and a landowner registering a unilateral undertaking pursuant to Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of an alternative forestry access route and other proposals detailed within the draft presented at the PLI. Whilst this is acknowledged, Scottish Ministers' do not consider that the proposals presented in this draft agreement are required as essential to the grant of consent for this development and, for this reason Scottish Ministers' have not imposed the requirement for such a unilateral agreement as part of their determination.

The Scottish Ministers' Determination

The Scottish Ministers have considered fully the Reporters' findings and reasoned conclusions and adopt them for the purposes of their own decision.

The Scottish Ministers agree with the Reporters recommendation that section 36 consent should be granted for the proposed wind farm at Limekiln, and that a direction deeming planning permission to be granted should be given

Subject to the conditions set out in **Part 1** of **Annex 2**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Limekiln Wind Powered electricity generating station in the Highland Council area (as described in **Annex 1**).

Subject to the conditions set out in **Part 2 of Annex 2**, the Scottish Ministers 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 the development described in Annex 1.

Duration of Deemed Planning Permission and Section 36 Consent

The consent hereby granted will last for a period of 30 years from the earlier of i) the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or ii) the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5 year time scale for the commencement of the development is appropriate. A direction by Scottish Ministers under section 58(2) of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise notice of this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated. It should also note how a copy of this decision letter may be inspected on the application website.

Copies of this letter have been sent to the public bodies consulted on the Application including the Planning Authority (The Highland Council), SNH, SEPA and HES. This letter has also been published on the Scottish Government Energy Consents website at http://www.energyconsents.scot.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions,

including how the Scottish Ministers exercise their statutory function to determine applications for consent.

The rules relating to the judicial review process can be found on the website of the Scottish Courts:

http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=8

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

Yours sincerely,
Redacted

William Black
Head of Energy Consents
A member of the staff of the Scottish Ministers

Description of the Development

The Limekiln Wind Farm with a generating capacity **exceeding 50 MW**, comprising a 21 turbine wind-powered electricity generating station, located on land approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness in the Highland Council planning area.

All as more particularly shown on plan reference **Figure 1** appended to this decision letter and all as specified in the application submitted by Limekiln Wind Ltd, incorporated under the Companies Acts (Registered Number 08074755) and having its registered office at 16 West Borough, Wimborne, Dorset, BH21 1NG and supporting environmental information, which comprises the Environmental Statement dated 13 June 2016.

The principal components and ancillary development comprise;

- 21 wind turbines, 15 with a maximum blade tip height of 139 metres; and 6 with a maximum blade tip height of 126 metres high to blade tip;
- turbine foundations and associated crane hardstandings;
- an onsite network of underground cables;
- a series of onsite access tracks;
- an onsite substation (if required) and control/ maintenance building;
- 2 borrow pits;
- a new vehicular access from the A836 at the Bridge of Isauld;
- temporary works including a construction compound; and
- a permanent anemometer mast.

Conditions attached to Section 36 Consent

The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

1. **Duration of the Consent**

   The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of both the Date of First Commissioning and the Date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after those dates.

Reason: *To define the duration of the consent.*

2. **Commencement of Development**

   (1) The Commencement of the Development shall be no later than five years from the date of this consent, or such other period as the Scottish Ministers may hereafter direct in writing.

   (2) 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: *To ensure that the consent is implemented within a reasonable period. And to allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

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 Company 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 Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 24 hours of the incident occurring.

Reason: *To keep the Scottish Ministers informed of any such incidents which may be in the public interest.*

Conditions attached to Deemed Planning Permission

5. Approved Details

The Development shall be undertaken in accordance with the Application and Environmental Statement submitted on 13 June 2016 as amended by the Supplementary Information submitted in October 2017, except in so far as amended by the terms of this consent.

Reason: *To ensure that the Development is carried out in accordance with the application documentation.*

6. Redundant Turbines

In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then unless otherwise agreed in writing with the Planning Authority, after consultation with the Scottish Ministers and SNH, such wind turbine will be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment will be dismantled and removed from the site by the Partnership within the following 6 month period, and the ground reinstated to the specification and satisfaction of the Planning Authority after consultation with the Scottish Ministers and SNH.

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

7. Failure of Development to Generate Electricity

In the event of the Development, not generating electricity on a commercial basis to the grid network for a continuous period of 12 months from 50% or more turbines installed and commissioned from time to time, the Company must immediately notify the Planning Authority in writing of that situation and shall, if the Planning Authority, in consultation with the Scottish Ministers, direct decommission the Development and reinstate the site to the specification and satisfaction of the Planning Authority. The Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall take the decision on decommissioning following discussions with the Scottish Ministers and other such parties as the Planning Authority consider appropriate.

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

8. Design and Operation of Wind Turbines

(1) No development shall commence unless and until full details of the proposed wind turbines hereby permitted, including each turbine number and specific height of that turbines (as stated in Figure 1.1 of the Supplementary Information dated September 2017), have been submitted to and approved in writing by the Planning Authority. These details shall include:

a) the make, model, design, direction of rotation (all wind turbine blades shall rotate in the same direction), power rating, sound power level and dimensions of the turbines to be installed, and
b) the external colour and/or finish of the wind turbines to be used (including towers, nacelles and blades) which shall be non-reflective, pale grey semi-matte.

(2) No wind turbines shall have any text, sign or logo shall be displayed on any external surface of the wind turbines, save those required by law under other legislation.

(3) Thereafter, the wind turbines shall be installed and operate in accordance with these approved details and, with reference to part (b) above, the wind turbines shall be maintained in the approved colour, free from rust, staining or dis-colouration until such time as the wind farm is decommissioned.

(4) All cables between the turbines and between the turbines and the control building on site shall be installed and kept underground.

Reason: *To ensure the Planning Authority is aware of the wind turbine details and to protect the visual amenity of the area.*

9. Signage

No anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plant shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

Reason: *in the interests of the visual amenity of the area.*

10. Design of Sub-station, Ancillary Buildings and other Ancillary Development

(1) No development shall commence on the sub-station unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

(2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under paragraph (1).

Reason: *To safeguard the visual amenity of the area.*

11. Site Decommissioning, Restoration and Aftercare

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

(2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority (in consultation with SNH and SEPA). The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

(3) Not later than 2 years before decommissioning of the Development or the expiration of this consent (whichever is the earlier), a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):

a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
c) a dust management plan;

d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
f) details of measures for soil storage and management;
g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
h) details of measures for sewage disposal and treatment;
i) temporary site illumination;
j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
k) details of watercourse crossings; and

l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.

(4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan.

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

12. **Supply of energy to the National Grid**

The Company shall, at all times after the Date of First Commissioning, 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:

a) any one or more (up to eleven) of the wind turbine generators hereby permitted cease to export electricity to the grid for a continuous period of 6 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning Authority for its written approval within 3 months from the end of that 6 month period for the repair or removal of those turbines. The scheme shall include either a programme of remedial works where repairs to the relevant turbine(s) are required, or a programme for removal of the relevant turbine(s) and associated above ground works approved under this permission and the removal of the turbine foundations to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine(s). The scheme shall thereafter be implemented in accordance with the approved details and timetable;

b) twelve or more of the wind turbine generators hereby permitted cease to export electricity to the grid for a continuous period of 12 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning Authority for its written approval within 3 months of the end of that 12 month period for either the repair of those turbines, including a programme of remedial works, or decommissioning of the development in accordance with Condition 11. The approved scheme shall then be implemented in accordance with the programme contained therein.

Reason: *To ensure appropriate provision is made for turbine(s) requiring repair or for turbine(s) which require decommissioning.*

13. Financial Guarantee

(1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 11 is submitted to the Planning Authority.

(2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 11.

(3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 11.

(4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: *to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.*

14. Micro-siting

(1) The wind turbines hereby permitted shall be erected at the following grid coordinates:

Turbine	Easting	Northing
22	98458	61951
23	98785	61581
25	96988	61338
26	97552	61453
27	98118	61260
30	99161	61256
31	97093	60848
32	97731	60965
33	98265	60800
35	98659	61115
36	99273	60738
42	97270	60386
43	97751	60475
44	98367	60322
51	98779	60595
54	97607	60006

55	98078	59956
56	98809	60117
57	99328	60196
60	98510	59713
61	99015	59669

(2) 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 in consultation with ECoW, micro-siting is subject to the following restrictions:

a) subject to sub-paragraphs (b) and (c) below, the wind turbines and other infrastructure hereby permitted may be microsited within 50 metres save that:
b) wind turbines numbered 25, 31 and 42 may be microsited within 25 metres; and,
c) no wind turbine or other infrastructure may be micro-sited to less than 50 metres from surface water features.

(3) A plan showing the final position of all wind turbines buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority within one month of the completion of the Development works. The plan shall also specify areas where micrositing has taken place and, for each instance, be accompanied by copies of the Environmental Clerk of Works ("ECoW") or Planning Authority's approval, as applicable.

Reason: *To enable necessary minor adjustments to the position of the wind turbines and other infrastructure to allow for site-specific conditions while maintaining control of environmental impacts and taking account of local ground conditions.*

15. Borrow Pits – Scheme of Works

(1) No development shall commence unless and until a scheme for the working and restoration of each borrow pit has been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA). The scheme shall include:

a) detailed working method statement based on site survey information and ground investigations;
b) details of the handling of any overburden (including peat, soil and rock);
c) drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out;
d) a programme of implementation of the works described in the scheme; and
e) details of the reinstatement, restoration and aftercare of the borrow pit(s) to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of

topographical surveys to be undertaken of the restored borrow pit profiles.

(2) The approved scheme shall be implemented in full.

Reason: *To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and to secure the restoration of borrow pits at the end of the construction period.*

16. Borrow Pits - Blasting

Blasting shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

17. Ecological Clerk of Works

(1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by the Planning Authority (in consultation with SNH and SEPA). The terms of appointment shall:

a) Impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016 and Supplementary Information dated September 2017 lodged in support of the application and the Construction Environmental Management Plan, Peat Management Plan, Habitat Management Plan, Species Protection Plan, Bird Protection Plan, Water Quality Management Plan and other plans approved in terms of the conditions of this permission ("the ECoW Works");

b) Advise on micrositing proposals issued pursuant to Condition 14;

c) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the construction project manager; and

d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity

(2) The ECoW shall be appointed on the approved terms during the establishment of the Habitat Management Plan and throughout the period from Commencement of Development to completion of post construction restoration works".

(3) No later than eighteen months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted for the written approval of the Planning Authority.

(4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the decommissioning, restoration and aftercare phases.*

18. Construction Method Statement

No development shall commence unless and until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMS, subject to any variations approved in writing by the Planning Authority.

The CMS shall include:

a) details of the phasing of construction works;
b) the formation of temporary construction compounds, access tracks and any areas of hardstanding;
c) details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
d) the maintenance of visibility splays on the entrance to the site;
e) the method of construction of the crane pads and turbine foundations;
f) the method of working cable trenches;
g) the method of construction and erection of the wind turbines;
h) a dust management plan;
i) pollution prevention and control statement: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
j) details of water crossings;
k) temporary site illumination during the construction period;
l) details of the proposed storage of materials and soils and disposal of surplus materials;
m) details of timing of works;
n) details of surface treatments and the construction of all hard surfaces and access tracks between turbines and between turbines and other infrastructure;
o) details of routeing of onsite cabling;
p) details of emergency procedures and pollution response plans;
q) siting and details of wheel washing facilities;

r) cleaning of site entrances, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the road;
s) details and a timetable for post construction restoration/reinstatement of the temporary working areas, and the construction compound;
t) working practices for protecting nearby residential dwellings, including general measures to control noise and vibration arising from on-site activities, shall be adopted as set out in British Standard 5228 Part 1: 2009;
u) location of fencing to be erected around Milton Township and the associated rig and furrow;
v) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
w) details of the excavation, use and subsequent restoration of the approved borrow pits;
x) a Site Waste Management Plan to include details of measures to be taken during the construction period to minimise the disturbance of soil and peat;
y) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances); and
z) details of watercourse crossings.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement and supplementary information which accompanied the application, or as otherwise agreed, are fully implemented*

19. Construction Environmental Management Plan

No development shall commence unless and until a Construction Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority.

The CEMP shall include:

a) a peat management plan including peat slide hazard and risk assessment and emergency plans for peat slide;
b) a species protection plan;
c) a bird protection plan; and
d) a water quality management plan.

The Development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement and Supplementary Information which accompanied the application, or as otherwise agreed, are fully implemented.*

20. Hours of Construction

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 0700 to 1900 on Monday to Friday inclusive and 0700 to 1300 on Saturdays, with no construction work taking place on a Sunday or on a Public Holiday. Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection and delivery, maintenance, emergency works, dust suppression, and the testing of plant and equipment.

Reason: *In the interests of amenity to restrict noise impact and the protection of the local environment.*

21. Traffic Management Plan

No development shall commence unless and until a Traffic Management Plan ("TMP") has been submitted to and approved in writing by the Planning Authority. The approved TMP shall be carried out as approved in accordance with the timetable specified within the approved TMP. The TMP shall include proposals for:

a) the routeing of construction traffic and traffic management including details of the capacity of existing bridges and structures along the abnormal load delivery route and a risk assessment;
b) scheduling and timing of movements;
c) the management of junctions to and crossings of the public highway and other public rights of way;
d) any identified works to accommodate abnormal loads (including the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site) along the delivery route including any temporary warning signs;
e) temporary removal and replacement of highway infrastructure/street furniture;
f) details of all signage and lining arrangements to be put in place and the reinstatement of any signs, verges or other items displaced by construction traffic;
g) banksman/escort details;
h) a procedure for monitoring road conditions and applying remedial measures where required as well as reinstatement measures; and
i) a timetable for implementation of the measures detailed in the TMP.
j) Provisions for emergency vehicle access; and
k) Identification of a nominated person to whom any road safety issues can be referred.

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

22. Floating Access Tracks

Floating roads shall be installed in areas where peat depths are in excess of 1 metre. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority. The floating road shall then be implemented as approved.

Reason: *To ensure peat is not unnecessarily disturbed or destroyed.*

23. Deer Fence Management Plan

No development shall commence unless and until a Deer Fence Management Plan ("DFMP") has been submitted to and approved in writing by the Planning Authority in consultation with SNH. The DFMP shall include the mitigation measures described within paragraph 11.10.12 of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016. Thereafter the DFMP shall be implemented as approved.

Reason: *To protect ecological interests.*

24. Habitat Management Plan

(1) No development shall commence unless and until a Habitat Management Plan ("HMP"),which will include the mitigation measures described within Appendix 11.L of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016, has been submitted to, and approved in writing by the Planning Authority in consultation with SNH, and SEPA.

(2) The HMP shall set out proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat on site.

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

(4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full.

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

25. **Species Specific Surveys**

No development shall commence unless and until surveys have been carried out at an appropriate time of year for the species concerned, by a suitably qualified person, comprising:

a) otter surveys at watercourses and adjacent suitable habitats and within a 250m radius of each wind turbine and associated infrastructure;
b) water vole surveys at watercourses and adjacent suitable habitats up to 200m upstream and downstream of watercourse crossings;
c) pine marten surveys at suitable habitats prior to tree felling, vegetation removal and dismantling of log and rubble piles;
d) bat surveys between May and September to include surveys at all structures within 30m of proposed works;
e) breeding bird surveys, particularly for breeding waders and raptors, of any land upon which construction takes place, plus an appropriate buffer as agreed with the ECoW to identify any species within disturbance distance of construction activity (only required if construction work is carried out during the bird breeding season from 15 March to 31 August inclusive); and
f) electrofishing surveys at Sandside Burn and Achvarasdal Burn.

The survey results and any mitigation measures required for these species on site shall be set out in a species mitigation and management plan, which shall inform construction activities. No development shall commence unless and until the plan is submitted to and approved in writing by the Planning Authority and the approved plan shall then be implemented in full.

Reason: *In the interests of nature conservation.*

26. Forestry

No development shall commence unless and until the Forestry Residue Management Plan contained in Chapter 16 of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016 shall be implemented as agreed. Thereafter, the Forestry Residue Management Plan shall be implemented as approved.

Reason: *In the interests of nature conservation.*

27. Replanting of Forestry

(1) No development shall commence unless and until a Compensatory Planting Plan ("CPP") has been submitted to and approved in writing by the Planning Authority in consultation with the Scottish Forestry. The CPP shall provide for the planting of woodland commensurate with the level of woodland lost, to be carried out across an area in the vicinity of the application site, and shall set out a timetable for implementation. Thereafter the CPP shall be implemented as approved.

(2) The CPP must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the CPP for approval. The CPP must include-

a) details of the location of the area to be planted;
b) details of land owners and occupiers of the land to be planted;
c) the nature, design and specification of the proposed woodland to be planted;
d) details of all consents required for delivery of the CPP and timescales within which each will be obtained;
e) the phasing and associated timescales for implementing the CPP;
f) proposals for the maintenance and establishment of the CPP, including annual checks, replacement planting, fencing, ground preparation and drainage; and
g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the CPP.

Reason: *To enable appropriate woodland removal to proceed, without incurring a net loss in woodland related public benefit, in accordance with the Scottish Government's policy on the Control of Woodland Removal.*

28. Forestry Felling

No development shall commence unless and until a scheme has been submitted to and approved in writing by the Planning Authority which describes proposals for the felling of trees to enable the construction and operation of the Development, and for the mitigation of the visual effects of tree removal, together with a timetable for all works. The scheme shall be implemented as approved.

Reason: *To enable attention to be given to issues of the structural diversity of the woodland and to manage the relationship with adjacent coupes already planned for felling.*

29. Access

No development shall commence unless and until an Access Management Plan ("AMP") has been submitted to and agreed in writing by the Planning Authority. The AMP should ensure that public access is retained in the vicinity of Limekiln 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.

Reason: *In the interests of securing public access rights.*

30. Archaeology

No development shall commence unless and until the Company has secured the full implementation of a programme of archaeological work in accordance

with a Written Scheme of Investigation ("WSI") which has been submitted to and approved in writing by the Planning Authority. This written scheme shall include the following components:

a) an archaeological evaluation to be undertaken in accordance with the agreed WSI; and
b) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed WSI.

Reason: *To protect and/or record features of archaeological importance on this site.*

31. Peat

No development shall commence unless and until the Company has appointed an independent and suitable qualified geotechnical engineer as a Geotechnical Clerk of Works ("GCoW"), the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority. The terms of the appointment shall impose a duty to monitor compliance with the Peat Management Plan referred to at condition 19(a).

Reason: *To ensure a satisfactory level of environmental protection.*

32. Air safety

(1) No turbine shall be erected until a scheme for aviation lighting for the wind farm consisting of Ministry of Defence accredited infra-red aviation lighting has been submitted to and approved in writing by the Planning Authority in consultation with the MoD. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission.

Reason: In the interests of aviation safety.

(2) No development shall commence unless and until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and National Air Traffic Services ("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 wind turbines and masts in latitude and longitude.

Reason: In the interests of aviation safety.

33. **Private Water Supply**

(1) No development shall commence unless and until a private water supply method statement and monitoring plan in respect of private water supplies has been submitted to, and approved in writing by, the Planning Authority.

(2) The detail of the private water supply method statement must detail all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of the section 36 Consent and which may be affected by the Development.

(3) The private water supply method statement shall include water quality sampling methods and shall specify abstraction points.

(4) The approved private water supply method statement and monitoring plan shall be implemented in full.

(5) Monitoring results obtained as described in the private water supply method statement shall be submitted to the Planning Authority on a quarterly basis or on request during the approved programme of monitoring.

Reason: *To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the Development.*

34. **Hydrology**

No development shall commence unless and until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Third Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the Date of First Commissioning.

Reason: *To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.*

35. **Noise**

The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The Company 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 Company 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.

b) No electricity shall be exported until the Company has submitted 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.

c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified 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.

d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

f) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise

immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

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

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Achins	35	35	35	35	35	35	35	35	35	35
Reay	35	35	35	35	35	35	35	35	35	35
Borlum House	35	35	35	35	35	35	35	35	35	35
Milton	35	35	35	35	35	35	35	35	35	35
Loanscorribest	35	35	35	35	35	35	35	35	35	35
Achunabust	35	35	35	35	35	35	35	35	35	35
Water Plant Houses	35	35	35	35	35	35	35	35	35	35
Rathlin	35	35	35	35	35	35	35	35	35	35
Shebster	35	35	35	35	35	35	35	35	35	35

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Achins	38	38	38	38	38	38	38	38	38	38
Reay	38	38	38	38	38	38	38	38	38	38
Borlum House	38	38	38	38	38	38	38	38	38	38
Milton	38	38	38	38	38	38	38	38	38	38
Loanscorribest	38	38	38	38	38	38	38	38	38	38
Achunabust	38	38	38	38	38	38	38	38	38	38
Water Plant Houses	38	38	38	38	38	38	38	38	38	38
Rathlin	38	38	38	38	38	38	38	38	38	38
Shebster	38	38	38	38	38	38	38	38	38	38

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
Achins	295877	964090
Reay	296167	964440
Borlum House	297199	964065
Milton	297861	964470
Loanscorribest	298508	964010
Achunabust	299559	964415
Water Plant Houses	300551	964205
Rathlin	301008	964000
Shebster	301405	963875

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) Values of the LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Company shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the

commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

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

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. 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 Guidance Note 1. In specifying such conditions the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10- metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

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

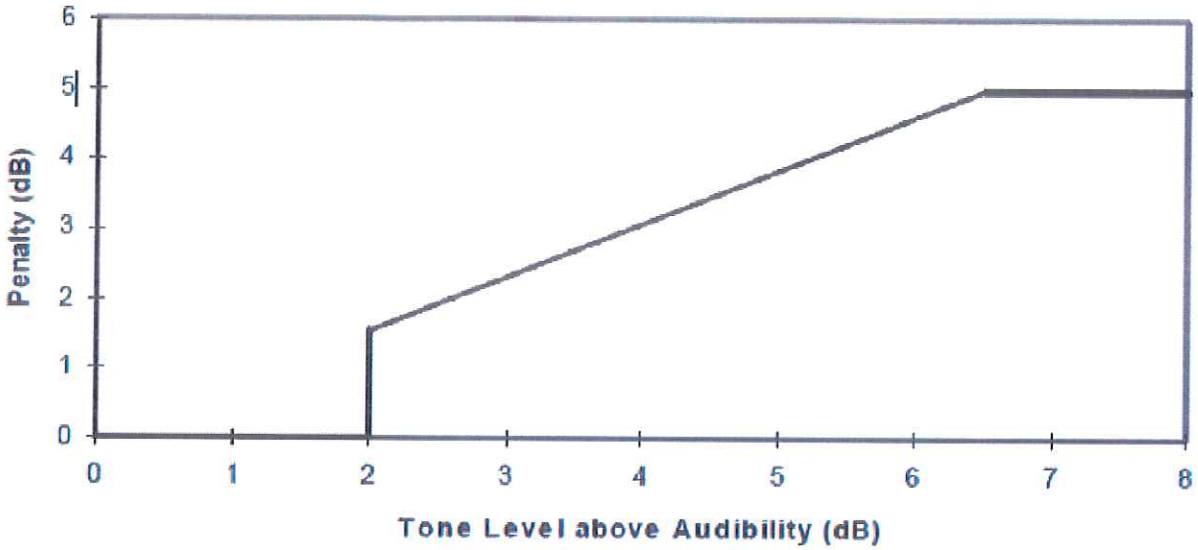
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

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

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

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

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

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

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

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Definitions

*"**Commencement of the Development**"* means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

*"**the Company**"* means Limekiln Wind Ltd, a company incorporated under the Companies Acts with company number 08074755 and having its registered office at Infinergy Limited, 16 West Borough, Wimborne, Dorset, BH21 1NG or such other person as from time to time has the benefit of the consent granted under section 36 of The Electricity Act 1989.

"**Construction Period**" means the period from the Commencement of Development until the approved site compounds areas have been reinstated in accordance with the conditions of this consent;

"***development***" means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

"EIA Report" means the Environmental Impact Assessment Report submitted by the Company on 13 June 2016.
*"**the Development**"* means the Development and/or site described in Annex 1.

*"**Date of First Commissioning**"* means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

*"**Final Commissioning**"* means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.

*"**Planning Authority**"* means The Highland Council

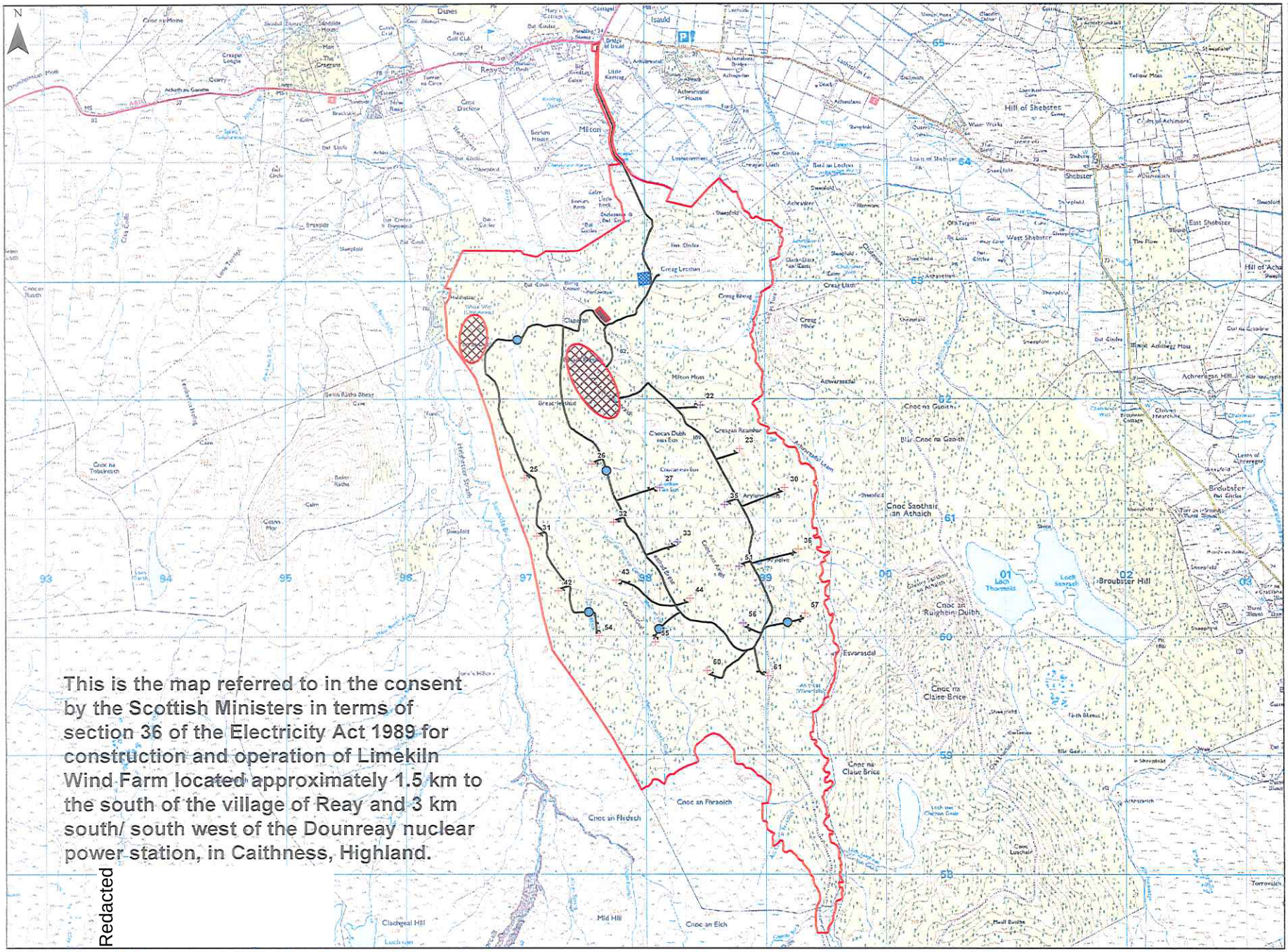
"***Public Holiday***" means;

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.
- Good Friday.
- Easter Monday.
- The first Monday in May.
- The fourth Monday in May.
- The first Monday in August.
- The third Friday and fourth Monday in September (subject to change according to published East Ayrshire school holidays).
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.
- Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.

- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.

Figure 1

INFINERGY



This is the map referred to in the consent by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for construction and operation of Limekiln Wind Farm located approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness, Highland.

Redacted

Planning and Environmental Appeals Division

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Report to the Scottish Ministers

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

Report by Christopher Warren and Andrew Fleming, reporters appointed by the Scottish Ministers

- Case reference: WIN-270-8
- Site Address: Limekiln Wind Farm, near Reay, Caithness
- Application by Infinergy Ltd on behalf of Limekiln Wind Ltd
- Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
- The development proposed: construction and operation of Limekiln Wind Farm
- Dates of inquiry / hearing sessions: 26 February 2018 – 07 March 2018

Date of this report and recommendation: 16 October 2018

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Summary of Report of Inquiry into application under section 36 of the Electricity Act 1989 and deemed application for planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended)

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The construction and operation of Limekiln Wind Farm at land near Reay, Caithness

• Case reference	WIN-270-8
• Case type	Section 36 application
• Reporters	Christopher Warren and Andrew Fleming
• Applicant	Infinergy Ltd on behalf of Limekiln Wind Ltd
• Planning authority	The Highland Council
• Other parties	Scottish Natural Heritage John Muir Trust Reay Area Windfarm Opposition Group (RAWOG)
• Date of application	13 June 2016
• Date case received by DPEA	07 April 2017
• Method of consideration and date	Inquiry sessions between 26 February and 06 March 2018 Hearing session and community evening session on 06 March 2018 Unaccompanied site inspections on 30 August 2017; 01 September 2017; 17 and 18 October 2017; 04 March 2018; 27 and 28 April 2018 Accompanied site inspections on 07 March 2018; 26 and 27 April 2018
• Date of report	16 October 2018
• Reporter's recommendation	Grant S36 consent and deemed planning permission

The Site

The site is located approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness, Highland. The site extends to approximately 1,140 hectares, and largely comprises of a commercial coniferous woodland plantation. It is bounded to the north by undulating moorland and semi-improved agricultural land, with Reay and other dispersed development beyond. To the east lies further coniferous woodland. Land to the west and south is largely open moorland, much of which is within the East Halladale Flows wild land area 39. The summit of Beinn Ratha is locally prominent and lies approximately 1.2 km to the west of the site boundary.

Background to the proposal

A previous application for a wind farm (referred to in this report as 'Limekiln 1') comprising up to 24 turbines and associated infrastructure on the same site has already been the subject of a public inquiry, held in August 2014, under reference WIN-130-1. The Scottish Ministers adopted the reporters' recommendation and refused consent and deemed planning permission in July 2015 due to there being insufficient information on impacts on the East Halladale Flows wild land area 39 (WLA 39).

This current application (which is referred to as 'Limekiln 2') seeks to address the deficiencies of the previous proposal. The number of turbines has also been reduced from 24 to 21.

Description of the development

It is proposed to erect 21 wind turbines (15 with a maximum blade tip height of 139 metres; and 6 with a maximum blade tip height of 126 metres). Associated infrastructure includes turbine foundations and hardstandings; an onsite network of underground cables; a series of onsite access tracks; an onsite substation (if required) and control/ maintenance building; 2 borrow pits; a new vehicular access from the A836 at the Bridge of Isauld; temporary works including a construction compound; and a permanent anemometer mast. The predicted installed generating capacity of the wind farm is 63 megawatts.

A pre-examination meeting was held in August 2017 which coincided with the nearby Drum Hollistan wind farm application (WIN-270-9) being passed from the Scottish Government's Energy Consents Unit to the Planning and Environmental Appeals Division. The decision was therefore taken to hold a single, conjoined inquiry in respect of both applications, and a second, conjoined pre-examination meeting was held in October 2017, to agree arrangements. A separate report for the Drum Hollistan wind farm proposal has been submitted alongside this report on the Limekiln 2 wind farm.

Consultations and representations

Caithness West Community Council objects to the application with regards to the detrimental impacts on the village of Reay and the surrounding area and in particular in respect of residential amenity, the impact on tourism and the economy, including the effect of the visibility of the scheme from the North Coast 500 route.

The John Muir Trust (JMT) objects to the application because of its impact on wild land, the cumulative visual impact and impact on the economy.

Reay Area Windfarm Opposition Group (RAWOG) objects to the application as it does not consider there to be any need case, at the UK or Scottish level, for the proposed development; it is contrary to national and local planning policy; the Electricity Act Schedule 9 tests are not met; there would be significant adverse effects on residential amenity; the landscape and visual effects and effects on wild land would be significantly adverse, including cumulative effects.

The Royal Society for the Protection of Birds (RSPB) does not object to the application although it raises concerns regarding the potential impact on golden eagles.

Scottish Natural Heritage (SNH) objects to the application due to the adverse effects on wild land area 39. Conditions are also required to avoid impacts on the integrity of the Caithness and Sutherland Peatlands Special Area of Conservation and Special Protection Area. SNH also advises that there would be likely significant effects on the qualifying features of the Caithness Lochs SPA, but which are unlikely to have a significant effect on the integrity of the site.

Visit Scotland does not object to the proposal. It stresses the importance of tourism to Scotland's local and national economy, and of the natural landscape for visitors.

A range of other consultees had no objection to the proposed development, or no objection subject to conditions being imposed.

In response to public consultation, 290 objections and 4 representations supporting the proposal were received, raising a wide range of issues.

The cases for the parties

Policy context

The applicant contends that the overall renewable energy policy framework provides considerable support in favour of renewable energy development. The proposal draws support from both the National Planning Framework 3 (NPF3) and Scottish Planning Policy 2 (SPP) as well as the Scottish Government's latest national policy on onshore wind.

Policy 67 is the key relevant policy of the Highland-wide Local Development Plan (HwLDP). There would be no effects arising from the development that would be considered "significantly detrimental" for the purposes of policy 67. The proposal is considered to be in accordance with policy 67 and the other policies of relevance in the development plan.

The council and SNH submit that the Scottish Government's recent statements of continued strong support relating to onshore wind largely reflect the existing position outlined within NPF3 and SPP, a policy framework that supports development in justified locations.

The development plan remains relevant and continues to accord with national policy. Policy 67 of the HwLDP is the most relevant policy in relation to the council's consideration of the proposal. The policy highlights the balance that the council has to strike 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. The council considers the proposal contrary to policy 67. The local development plan remains up to date as it is largely in accordance with SPP. The Onshore Wind Energy supplementary guidance (OWESG) reflects national policy.

John Muir Trust submits that national energy policy and the associated framework for fiscal support for renewable technologies are set at UK level and that UK policy, to the extent that it offers any future support to wind energy, now appears to be entirely focussed on theoretically reduced costs for offshore wind farms that have yet to commence construction. The provisions of SPP support the conclusion that the proposal should be rejected as it does not represent sustainable development. A loss of wild land, in policy terms, would not accord with the strengthened significant protection that flows from SPP.

The most relevant policy of the HwLDP is policy 67. Whilst the text is generally supportive of renewable energy, it is considered that a breach of any of the criteria in policy 67 must lead to a finding of a breach of the policy. The proposal would breach numerous criteria. The proposal is not in accordance with the local development plan on account of the identified significant detrimental impacts. The Onshore Wind Energy supplementary guidance now forms part of the development plan and the proposal is also contrary to its terms.

RAWOG submits that the proposal is in breach of the council's development plan policies and adopted supplementary guidance due to the adverse scheme-specific and cumulative significant effects on residential amenity, landscape and wild land, alongside the potential adverse economic effects on local tourism. These effects are not outweighed by the generic benefits of the scheme which are already built into the positive policy environment which is supportive of renewables.

Landscape and visual impact

The applicant submits that the landscape character effects are considered to be acceptable because the proposed development would be set within a large scale, simple and modified landscape which can accommodate the degree of change that the wind farm would introduce. The specific siting of the development responds to the landform and land use and takes advantage of being positioned within a wider bowl-shaped piece of landscape which serves to reduce the influence of the wind farm within a relatively short distance from the site. This would help to mitigate wider effects not only for visual receptors but also in respect of the landscape character.

The site is positioned within a less constrained piece of landscape when consideration is given to designated landscapes, setbacks from settlements and landscape character sensitivity in the form of wild land areas. The wind farm will sit comfortably within the landscape and will not lead to unacceptable conflicts of scale or have overbearing effects on views from settlements and communities.

The council submits that the landscape and visual elements of the council's reasons for objection 1, 2 and 3 (excepting references to Dunnet Head and the A9) were valid, which relate to landscape and visual, and local amenity effects.

A greater number of landscape character types would be significantly affected than were considered at the previous Limekiln 1 inquiry. The sensitivity, magnitude and levels of effect associated with significant visual effects would be generally higher than is stated (or implied) by the Environmental Impact Assessment (EIA) report and supplementary information.

Impact on wild land

The applicant submits that the only provision of SPP relevant to this proposal, being located outwith but potentially affecting a wild land area, is paragraph 169. This identifies effects on wild land as one of many material considerations for onshore wind farms.

Wild land is not attributed the same value as a National Park or National Scenic Area. It is relevant to note that Scottish Ministers and SNH both envisage a situation where some development of wind farms within WLAs may be acceptable, in some circumstances. It is

clear, too, from the recent Creag Riabhach (where 5 turbines were located within WLA 37) and Whitelaw Brae decisions that Scottish Ministers do not consider wind farms and WLA to be incompatible, even where significant impacts are found.

The draft SNH 2017 guidance for assessing impacts on wild land areas promotes an approach which is less prescriptive than the 2007 SNH guidance it seeks to replace. However, it remains a draft and therefore it is possible that the approach in the draft 2017 guidance could change fundamentally. The published 2007 SNH guidance should therefore be relied upon.

Limekiln 2 wind farm is sensitively sited with respect to WLA 39 and whilst it would give rise to some significant effects on wildness qualities, these would be indirect effects that would be limited in extent. These would largely coincide with parts of WLA 39 where the perceptual qualities are diminished to a degree by other influences. Limekiln 2 would not unacceptably harm the integrity of WLA 39, as a whole.

SNH submits that there is no policy dispute as to the proper approach to wild land – a significant adverse impact on wild land qualities can arise by reason of a wind farm outside a WLA and, if it does, it requires to be put in the balance against the benefits of the proposal, and is capable of justifying a refusal.

The proposed turbines where visible, would be a prominent (human) feature in this landscape. They would limit the expansiveness of views whilst disrupting the overarching simplicity where features outwith the WLA currently tend to be screened by landforms, due to their distance and/ or height, or are not so prominent that they substantially affect the strength of these qualities.

The proposal would result in adverse effects that are considered to be significant on the qualities of the WLA, seemingly bringing the experience of the more modified Caithness landscape into the more uninhabited landscapes of Sutherland.

The cumulative effect of Limekiln 2 in addition to Drum Hollistan on WLA 39 would result in material erosion of the WLA qualities due to the combined significant effects. The significant adverse effects across the northern third of the WLA would be of such significance that two of the wild land qualities would be majorly altered, if not lost, from parts of the WLA.

The applicant's wild land assessment understated the significance of effects that the proposal will have on the East Halladale Flows WLA.

John Muir Trust submits that Limekiln 2 is not "an appropriate development in an appropriate place", due to direct and indirect landscape, visual and cumulative impacts on WLA 39. A WLA is to be considered as a whole, and the areas around the edge are integral and important. To achieve the protection required by policy, it is essential that WLAs are not eroded bit by bit, the impact being said to be acceptable because a particular part of the WLA has some manmade impacts on it and is, therefore, 'less wild'. It is clear that, to protect the national resource of wild land, significant adverse impacts which would lead to this diminution should lead to a refusal of the development.

JMT submits that, based on a remapping exercise it has undertaken, Limekiln 2 would impact significantly on at least three out of the four wild land attributes, which were used to

map the spatial distribution and patterns of wild land quality across Scotland. Relative reductions in wildness are predicted by following and repeating the SNH Phase 1 mapping methodology for the proposed development using the same data and the same techniques to enable direct comparison. The mapping shows the effect upon the core of WLA 39, where wildness would be significantly reduced, with the proposed development being easily visible from various key locations within the central area.

The remapping exercise is a complementary approach and is not being presented as an alternative to other means of assessment including the use of zones of theoretical visibility, wirelines and fieldwork. The evidence is an empirical quantification of JMT's fundamental concern that the consenting and construction of wind farms, of this scale in these locations, will result in a material loss of wild land (when re-mapped using the original methodology).

Economic impacts, tourism and recreation

The applicant submits that the construction phase of the development could result in construction capital expenditure of approximately £81.27 million, based on the weighted average construction cost (being £1.29 million per MW), with an operational and maintenance expenditure of approximately £3.77 million per annum. Over a predicted 25 year period of operation, the proposed development is predicted to generate total operations and maintenance expenditure of £94.25 million with 42% of this expenditure expected to occur locally and 58% within the region/ nation. The construction phase could potentially support an estimated 257 job years in Scotland, of which 33% could be in Highland and 13% in the local (Caithness and North Sutherland) area. The applicant proposes to offer a shared ownership scheme and advises that the wind farm will be open to investment from community organisations and social enterprises up to a maximum of 10% of the project. Potential returns over the lifetime of the wind farm into the local third sector economy would help those organisations involved to ensure their development plans have a secure source of funding over the life of the wind farm. Community benefit payments are also proposed.

John Muir Trust submits that if approved, this wind farm would contribute to the further visual degradation of the wider landscape potentially resulting in a negative socio-economic impact. Caithness relies heavily on tourism in its broadest sense for employment and income. The NC500 tourist route has been hugely successful and anything which could affect this must be seriously questioned and properly evaluated.

There remains a policy-based need in this case to properly and objectively assess (as far as possible) the net economic impact of the proposed development in accordance with the provisions of paragraph 169 in SPP. Possible tourism impacts should be part of that net impact assessment.

RAWOG submits that Paragraph 169 of SPP confirms that net economic impact is a material consideration in the determination of wind farm proposals. The Limekiln 2 applicant has not produced a net economic impact assessment. Such a net assessment would address all of the costs of the proposals, including the costing of the environmental effects, as well as the benefits of the proposals.

Carbon balance and peat management

The applicant submits that the carbon balance calculation provided, using the Scottish Government's online carbon calculator tool, indicates that the carbon payback predicted for the proposed development is 1.6 years for the expected case; 0.9 years for the minimum (best) case and 2.2 years for the maximum (worst) case.

The proposed site layout has been determined through an iterative design process involving consideration of the distribution and depth of peat across the site to minimise disturbance to peat and peaty soils. SEPA has confirmed that deep peat is not a significant issue for this site, and that if micro-siting issues are addressed, the development will not have a significant effect on deep peat.

Based on a qualitative peatslide risk assessment, the likelihood of peatslides across the site are considered low.

Mr Batten, in written submissions, contends that the Scottish Government's online carbon calculator is unfit for purpose at a public local inquiry, because of the difficulties in scrutinising the inputs used and the outputs claimed by the applicant.

The applicant has not built mitigation into the design of the wind farm in order to reduce adverse effects on deep peat, contrary to SPP and the council's Onshore Wind Energy supplementary guidance.

Other relevant issues

In regard to traffic and transport, additional vehicular movements, including HGVs, have been calculated. Whilst the percentage increase in HGV movements on the A836 would be high, this is due to the low number currently. The road network has capacity to accommodate the predicted traffic from Limekiln 2's construction, including cumulatively with traffic associated with the Drum Hollistan wind farm, if that is also consented and under construction simultaneously.

Neither the council nor Transport Scotland object to the proposal on transport grounds although conditions are sought including in respect of a construction traffic management plan and mitigation for abnormal loads. The community council has expressed concern about the impact on the village of Reay and has requested conditions to secure traffic management.

According to the applicant, the predicted noise levels from the proposed development on its own, lie below the limits set by the ETSU-R-97 guidelines at each receptor assessed. Similarly, when considering the cumulative impact of the proposed development in addition to the Drum Hollistan proposal, the predicted noise levels lie below the limits set by the ETSU-R-97 guidelines at each of the receptors assessed.

The proposal has the potential to directly affect two non-designated cultural heritage assets and the applicant has suggested that in order to mitigate impacts, a programme of archaeological works is put in place and agreed with the council in advance of construction works. The proposal is not considered to directly affect any designated sites. It is considered that there will be no greater than a slight level of adverse effect on the setting of any assets, which is considered not significant in EIA terms.

The applicant submits that the site is not covered by any designations of ecological interest and therefore there would be no direct impacts on any designated areas. The Caithness and Sutherland Peatlands SAC lies up-stream of the proposed wind farm and therefore there are not considered to be any indirect effects on the habitats and plant communities for which the SAC is designated.

The applicant considers that as a result of the scheme design and the proposed mitigation measures, the proposal would not have significant effects on habitats or species interests from a nature conservation perspective.

Regarding ornithology, the proposal site adjoins the Caithness and Sutherland Peatlands Special Protection Area (SPA) which is designated for its internationally important peatland birds. SNH's advice with regards to hen harrier, merlin and golden eagle is that there will be no adverse impact on the integrity of the SPA site. Similarly, SNH's advice with regards to the Caithness Lochs SPA is that there would be no adverse effect on the integrity of the site.

Despite not objecting to the proposal, the RSPB expresses concern about the impact of the proposal on golden eagles within the adjacent Caithness and Sutherland Peatlands SPA.

A new golden eagle nest site was identified in July 2018. SNH finds that, even if the new nest site is used in the future, disturbance at the nest from construction activity remains unlikely, due to the distance from the wind farm site being greater than the accepted disturbance distance for golden eagle. SNH also considers that even if the new nest site is used in the future, it is very unlikely that there would be a significant increase in flight activity over the wind farm site, or any significant loss of available foraging habitat.

No hydrological and hydrogeological issues are identified, subject to conditions requested by SEPA.

The council considers the use of 11 rotor diameters for assessing shadow flicker where a property is not involved with the proposed development. No properties are located within 11 rotor diameters (902 metres) of any of the proposed turbines (even allowing for a micro-siting distance of 50 metres around each turbine) and therefore there are no predicted shadow flicker effects associated with the proposed development.

No objections have been raised by consultees in relation to potential interference with radio/ television networks in the locality.

There are no objections relating to aviation interests. The Ministry of Defence has requested that infra-red aviation warning lighting be installed.

In regard to forestry, it has been confirmed by Forestry Commission Scotland (FCS) that it is content with the restocking proposal and the level of compensatory planting. A condition should be imposed as part of the deemed planning permission to prevent the commencement of development until a final forestry scheme has been approved.

Reporters' conclusions

A broad range of issues have been identified in the consideration of this proposal and the majority of these (including traffic and transport; noise; cultural heritage; ecology; ornithology; hydrology and hydrogeology; shadow flicker; communications infrastructure; aviation; and forestry) can satisfactorily be dealt with by condition, where necessary. Appendix 2 of this report contains appropriate conditions in this regard.

The main issues in this case are as follows:

- landscape and visual impact;
- impact upon wild land area 39;
- the benefits of the development; and
- the degree of conformity with national and local planning policy and guidance.

Landscape and visual impact

The site is located in the 'Central Caithness' landscape character type which, according to the Caithness Landscape Sensitivity Appraisal, is the least susceptible to change from large scale wind farms, relative to all other landscape character types in Caithness. Whilst significant landscape effects would arise, these would be relatively localised with both the immediate (host) and surrounding landscape capable of satisfactorily accommodating the Limekiln 2 development. Importantly, the development would not have a strong influence upon the character of the coast and coastal landscapes, largely due to the separation distance, in excess of 3.5 kilometres at its nearest point, and the presence of intervening development and landforms.

Similarly, significant visual effects would be relatively localised and the Limekiln 2 development would not overwhelm views. It would not unduly detract from the wider visual amenity of the area, which is more strongly derived from views of the coast and sea, rather than the relatively unremarkable landward views from along the A836 and other locations on the north side of the application site, which would be affected by the development.

Given the nearest properties are over 2 kilometres away, there is no prospect of the development having an overbearing effect at any residential property. No property would be affected to an extent that residential amenity would be materially reduced.

Whilst there would be some visual association with existing wind farms, leading to significant cumulative effects, this broad clustering of wind farm development offers some advantages in terms of visual coherence, restricting the geographical extent of landscape and visual effects. Similarly, Limekiln 2 could co-exist with Drum Hollistan. The cumulative effects of both schemes would not lead to an overwhelming sense of encirclement of Reay.

Impact on wild land

Given the variable visibility of the development within the wild land area and given the variable characteristics of the wild land across its full extent, the effects on the attributes, responses and qualities of WLA 39 were assessed on the basis of three 'sub-areas', as identified by the applicant. This approach informed conclusions in relation to the effect on WLA 39 as a whole.

The overall strength of wildness in one sub-area, forming part of the interior of the wild land area, is particularly high and includes locations where wildness qualities are strongly present. There are limited other locations across the wild land area where these qualities are equally as strong. Limekiln 2 would have a significant effect upon a large proportion of this area of strongest wildness (which would be intensified further in a cumulative scenario where Drum Hollistan was to also exist), but the ability to experience this same level of wildness would not be lost from WLA 39 altogether, whether considered in isolation or cumulatively with Drum Hollistan.

Benefits of the development

The development would have a beneficial effect on the economy and employment during the construction and operational phases and the development would provide a net economic benefit. There is no evidence to suggest that the level of economic benefit would be tempered by harm to the visitor economy of the area which is also of high importance.

The wind farm would have an estimated installed capacity of up to 63 megawatts, saving approximately 61,029 tonnes of carbon dioxide per annum. The applicant's carbon calculations, which are derived from the Scottish Government's online carbon calculator, indicate a favourable carbon payback period of between 0.9 and 2.2 years, which would lead to substantial net carbon savings over the operational lifespan of the development.

The applicant has had proper regard to the presence of deep peat and has sought, through siting and design, to avoid areas of deep peat within the site as far as practicably possible.

Conformity with national and local planning policy

National energy policy provides a clear commitment to renewable energy and makes clear that onshore wind farms continue to be recognised as important contributors to the achievement of targets for renewable energy generation and the reduction of greenhouse gas emissions. These targets have been renewed by the Scottish Energy Strategy (2017) which are ambitious and look ahead to 2030.

NPF3 gives in-principle support to the development although it relies largely on SPP to direct such proposals to appropriate locations. Paragraph 169 of SPP identifies the range of considerations which must be balanced to be able to reach an overall conclusion over whether renewable energy proposals, including onshore wind farms, are acceptable on a case by case basis.

The site falls within group 2: 'areas of significant protection' as prescribed by table 1 of SPP, due to the presence of deep peat. However, due to siting and design, the proposal would not compromise the peat resource significantly. The site is outwith wild land and so would not be classed as group 2 by virtue of its impact on wild land. Thus, the matter of wild land effects fall to be considered against paragraph 169 of SPP, as part of the overall balancing exercise.

In the context of this being an application under the Electricity Act 1989, the development plan does not have primacy in decision making, regardless of whether or not it is up to date. Overall, although the HwLDP is more than five years old, the relevant provisions of the plan are not out of date, with the exception of its references to wild land in policy 57, which should be disregarded. This is of little consequence overall, as policy 67 can be relied upon

almost exclusively given it provides the council's adopted policy position specifically in respect of renewable energy development. Compliance or otherwise with policy 67 largely dictates the degree of compliance against the relevant provisions of other policies.

Despite policy 67 (and the HwLDP as a whole) pre-dating the current SPP, the considerations it identifies are broadly consistent with those identified in SPP paragraph 169. The development may draw support overall from both policy 67 and SPP paragraph 169, acknowledging that there is some tension between their provisions and the development's effect upon wild land.

The Highland Council's adopted Onshore Wind Energy supplementary guidance guides the assessment of wind farm proposals against policy 67. The Caithness landscape sensitivity appraisal is incorporated within this supplementary guidance. Whilst of relevance, the document does not contain any specific requirements beyond those established by policy 67.

Overall conclusions

The uncertain effects of the Limekiln 1 proposal upon wild land area 39 (WLA 39) ultimately led to its refusal. The inadequacy of the evidence accompanying that previous application has been addressed in the Limekiln 2 application, and there is now ample evidence in regard to wild land to be able to establish its impacts upon WLA 39. Limekiln 2 would have adverse effects upon the wild land area, but the integrity of WLA 39 would endure. These adverse effects, and also the landscape and visual effects of the Limekiln 2 development, are outweighed by the benefits of the development. Overall, this would be a sustainable development, according with relevant national policy and development plan provisions, and environmental matters have been adequately addressed in line with Schedule 9 of the Electricity Act.

Recommendations

Subject to conditions contained in Appendix 1 and 2 in this report and the completion of a unilateral undertaking by the applicant, it is recommended that the Scottish Ministers grant consent under Section 36 of the Electricity Act 1989 and deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

File reference: WIN-270-8

The Scottish Ministers
Edinburgh

Ministers

In accordance with our minute of appointment, dated 07 September 2017, we conducted a public inquiry in connection with an application to construct and operate the Limekiln Wind Farm on land near Reay, Caithness. We herein refer to this proposal as 'Limekiln 2', to distinguish the current proposal from a previous application for S36 consent, which was refused by Scottish Ministers in July 2015 following a public inquiry (under reference WIN-270-1). The Highland Council as planning authority has lodged an objection to the Limekiln 2 proposal which has not been withdrawn.

We held a pre-examination meeting on 31 August 2017 to consider the arrangements and procedures for the inquiry. That meeting coincided with the nearby Drum Hollistan wind farm application (WIN-270-9) being passed from the Scottish Government's Energy Consents Unit to the Planning and Environmental Appeal Division. The decision was therefore taken to hold a single, conjoined inquiry in respect of both applications. This is reflected in our minute of appointment.

In light of the above, we held a second pre-examination meeting on 18 October 2017, to consider the arrangements and procedures for a conjoined inquiry into both applications. At that meeting it was agreed that the following issues would be addressed at an inquiry session: the landscape and visual effects of the Limekiln 2 proposal, including residential visual amenity, and cumulative effects; and its impact on the East Halladale Flows wild land area 39, including cumulative effects. In addition it was agreed that there would be a hearing session on the following issues: energy policy and planning policy (in respect of both applications); and conditions and legal agreement. It was also agreed that further written submissions would be invited on net economic impact, specifically focused on the development's implications for the North Coast 500 tourist route.

The inquiry sessions were held between 26 February and 06 March 2018, and the hearing session took place on 06 March 2018. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 06 April 2018.

We conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 30 August; 01 September; 17 and 18 October 2017; 04 March 2018; 27 and 28 April 2018. Accompanied site inspections took place on 07 March 2018; 26 and 27 April 2018.

Our 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 Impact Assessment report, supplementary and other environmental information submitted by the parties, and the written representations made in connection with the proposal.

Today, we have also submitted our separate report to Scottish Ministers, outlining our findings and recommendation on the Drum Hollistan application. This is to enable Ministers to consider the cumulative impacts of both proposals together, given their proximity to one-another and commonality of the main issues. We elected to provide separate reports for the Limekiln 2 and Drum Hollistan wind farm proposals, despite the inquiry process itself being conjoined. This reflects that the two proposals are distinctly separate applications, despite the potential cumulative interactions between them. Inevitably however, some evidence and conclusions are common to both proposals; where this is the case, we have deliberately set out our conclusions in respect of both proposals in the same terms, in the respective reports.

Abbreviations

AA	Appropriate Assessment
CD	core document
ECU	(Scottish Government) Energy Consents Unit
EIA	Environmental Impact Assessment
ETSU	The Assessment & Rating of Noise from Wind Farms (ETSU-R-97)
GW	Gigawatts
ha	hectares
HwLDP	Highland-wide Local Development Plan
JMT	John Muir Trust
km	kilometres
LCA	landscape character assessment
LCT	landscape character type
LDP	local development plan
LVIA	Landscape and Visual Impact Assessment
MW	Megawatts
m	metres
m/s	metres per second
NPF3	Third National Planning Framework (2014)
RAWOG	Reay Area Windfarm Opposition Group
SAC	Special Area of Conservation
SEPA	Scottish Environment Protection Agency
SNH	Scottish Natural Heritage
SPA	Special Protection Area
SPG	Supplementary Planning Guidance
SPP	Scottish Planning Policy
SSSI	Site of Special Scientific Interest
THC	The Highland Council
VP	viewpoint
WLA	wild land area
WLA 39	Wild Land Area 39: East Halladale Flows
ZTV	zone of theoretical visibility

CHAPTER 1: BACKGROUND

The proposal

1.1 Infinergy Limited (the applicant) seeks consent under Section 36 of the Electricity Act and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) to construct and operate a wind farm on land near Reay, Caithness.

1.2 A previous application for a wind farm (WIN-270-1) comprising up to 24 turbines and associated infrastructure on the same site has previously been the subject of a public inquiry, held from 25 to 28 August 2014. In that case, the reporters recommended refusal of consent and deemed planning permission due to insufficient information to assess its impacts on the East Halladale Flows wild land area (WLA). The Scottish Ministers adopted the reporters' recommendation and refused consent and deemed planning permission on 13 July 2015.

1.3 This current application was submitted to Scottish Ministers on 13 June 2016. It was essentially a resubmission of the same application, but with additional information on the likely effects of the development upon the wild land area, thereby seeking to address the previous application's reason for refusal. The application was accompanied by an Environmental Statement. Herein we refer to this as the EIA report, for consistency with the 2017 regulations, which we refer to in more detail in paragraph 2.7 below.

1.4 Supplementary environmental information was provided in October 2017 (volumes 1 and 2), partly in support of the applicant's decision to reduce the number of turbines proposed from 24 to 21 (through the removal of turbines T19, T20 and T21). These revisions were confirmed by letter in October 2017. The predicted installed generating capacity of the wind farm also reduced from 72 MW to 63 MW. The main components of the proposed development, as amended are:

- 21 wind turbines (15 with a maximum blade tip height of 139 metres; and 6 with a maximum blade tip height of 126 metres) with associated turbine foundations and hardstandings;
- an onsite network of underground cables linking the turbines to a grid connection;
- a series of onsite access tracks connecting each of the turbine locations;
- an onsite substation (if required) and control/maintenance building;
- 2 borrow pits;
- a new vehicular access from the A836 at the Bridge of Isauld;
- temporary works including a construction compound; and
- a permanent anemometer mast to measure wind speed and wind direction.

Site description

1.5 The application site is located approximately 1.5 km to the south of the village of Reay and 3 km south/ south west of the Dounreay nuclear power station, in Caithness, Highland. The site extends to approximately 1,140 hectares and largely comprises of a commercial coniferous woodland plantation known as Limekiln forest.

1.6 The site is bounded to the north by undulating moorland and semi-improved agricultural land with Reay and other dispersed development beyond. To the east lies

further coniferous woodland. Land to the west and south is largely open moorland, much of which is part of the East Halladale Flows wild land area 39 (WLA 39). Within the wild land area is the summit of Beinn Ratha (242 metres above mean sea level), which is locally prominent and lies approximately 1.2 km to the west of the site boundary.

Consultation responses

1.7 A range of consultation responses were received to both the original application and the supplementary information. The following consultees had no objection to the proposed development:

- British Telecom
- Caithness District Salmon Fishery Board
- Civil Aviation Authority
- Highlands and Islands Airports
- Historic Environment Scotland
- Joint Radio Company
- Mountaineering Council for Scotland
- National Air Traffic Services
- Scottish Water
- The Crown Estate

1.8 The British Horse Society does not object to the application. It requests the development is made equestrian-friendly and that tracks are suitable for multi-use access.

1.9 Caithness West Community Council objects to the application. Concerns have been raised in regard to the detrimental impacts of the proposed development on the village of Reay and the surrounding area: in particular residential amenity, impact on tourism and the economy, including the effect of the visibility of the scheme from the A836, which is part of the North Coast 500 route. Conditions are sought to secure traffic management, including the provision of footbridges to the east and west of Reay in the interests of pedestrian safety.

1.10 CH2M has reviewed the applicant's assessment of peat slide risk. It does not object to the application but has raised concerns over the adequacy of the assessment of peat slide risk and requests further information is provided.

1.11 Forestry Commission Scotland (FCS) does not object to the application. FCS seek conditions to be attached securing compensatory planting and to provide a forest plan, to be agreed before development commences.

1.12 The John Muir Trust (JMT) objects to the application. Objections have been raised in regard to the proposed development's impact on wild land, the cumulative visual impact and impact on the economy.

1.13 Marine Scotland Science (MSS) does not object to the application. It has recommended that: electrofishing surveys are extended to the Sandside Burn; pre-construction surveys include macroinvertebrate sampling; in river workings are avoided between October and May; monitoring of water quality before and during decommissioning is undertaken; impacts of felling on water quality are considered; and a programme of integrated water quality, macroinvertebrate and fish population monitoring is undertaken.

1.14 Ministry of Defence - Defence Infrastructure Organisation (MoD) does not object to the application. Conditions are requested in order to secure aviation warning lighting. It also wishes to be notified of the construction start and end dates, the maximum height of construction equipment and the latitude and longitude of each turbine.

1.15 The Office for Nuclear Regulation responded to the supplementary environmental information published in October 2017, confirming it had no comments because the application falls outside the consultation zones around any nuclear site.

1.16 Reay Area Windfarm Opposition Group (RAWOG) objects to the application. RAWOG does not consider there to be any need case, at the UK or Scottish level, for the proposed development; it is contrary to national and local planning policy; the Electricity Act Schedule 9 tests are not met; there would be significant adverse effects on residential amenity; the landscape and visual effects and effects on wild land would be significantly adverse, including cumulative effects.

1.17 Royal Society for the Protection of Birds (RSPB) does not object to the application. Concerns are raised as to the potential impact on golden eagles and survey methodologies and completeness.

1.18 RSPB provided further comments on the supplementary information and amended scheme submitted in October 2017. This reiterated its position of no objection and made a number of observations. It is pleased that the applicant has chosen to provide further observational data for golden eagle. There are some reservations about the quality of the ornithological assessment but a significant adverse effect on golden eagle is not considered to be likely while the current forestry cover is maintained. The RSPB remains disappointed with the quality of the cumulative impact assessment undertaken by the applicant, and reiterates its view that the sum of multiple negligible impacts is not necessarily negligible as suggested by the applicant. However, the construction and operation of the proposed wind farm is unlikely to significantly increase the total cumulative impact of wind energy on bird populations in Caithness.

1.19 Scottish Environment Protection Agency (SEPA) does not object to the application subject to conditions to secure: construction environment management; pollution prevention; delivery of mitigation set out in the schedule of mitigation; micrositing (with specific requirements related to the minimisation of peat disturbance and buffers to water courses); peat management; habitat management; forestry residue management; borrow pit management; and design of water course crossings.

1.20 SEPA has also commented on the supplementary information including the amended 21 turbine scheme. SEPA has no objection to the revised layout if the planning conditions outlined in its previous response are applied.

1.21 Scottish Natural Heritage (SNH) objects to the application due to the adverse effects on wild land area 39 (East Halladale Flows). SNH requests that conditions are applied in line with their assessment to avoid impacts on the integrity of the Caithness and Sutherland Peatlands Special Area of Conservation and Special Protection Area. SNH also advises that there would be likely significant effects on the qualifying features of the Caithness Lochs SPA, however they advise the impacts are unlikely to have a significant effect on the integrity of the site.

In response to the supplementary information provided by the applicant in October 2017, SNH maintained its objection to the development. The reduction in turbine numbers does not alter its previous advice, and its position with respect to the wild land area remains unchanged.

1.22 Transport Scotland does not object to the application. Conditions are sought to secure detailed routes and mitigation for abnormal loads using the trunk road and quality assured traffic management.

1.23 Transport Scotland has commented on the supplementary environmental information submitted by the applicant in October 2017. It is concluded that the impact of the revised layout would be no worse than the impact of the previous applications. There are no further changes which could result in any significant environmental impacts on the trunk road network. Consequently, Transport Scotland has no objection to the development in terms of environmental impacts on the trunk road network. The previous request for conditions is reiterated.

1.24 Visit Scotland does not object to the proposal. Its response stresses the importance of tourism to Scotland's local and national economy, and of the natural landscape for visitors. It recommends that any detrimental impact on tourism be identified and considered in full.

Representations

1.25 In response to public consultation, 290 objections and 4 representations supporting the proposal were received.

1.26 A considerable number of the objections were based on a 'tick box' shell letter. The objections raised in representations relate to the following issues:

- Impact on wild land
- Visual impact (individual and cumulative)
- Landscape impact
- Traffic impact (road and road users)
- Impact on wildlife and ecology
- Impact on ornithology
- Impact on recreational users of the outdoors including those using the area for walking
- Impact on water environment
- Environmental impact including loss of peat and carbon balance
- Impact on private water supplies
- Impact on residential amenity and quality of life
- Noise impact
- Shadow flicker
- Tourism impact and associated socio-economic effects
- Limited economic benefit or job creation
- The proximity of the development to scheduled monuments
- The adverse effects of the development would outweigh any benefits
- Inefficient technology

- Health impacts
- Property values

1.27 The representations made in support of the application relate to the environmental and economic benefits of the proposed development.

Consideration by The Highland Council

1.28 The application was considered by the council's North Planning Applications Committee. Contrary to the recommendation of the planning officer that no objection be raised to the application subject to conditions, the committee resolved that the council would object to the proposal.

1.29 Three reasons for objecting to the application were set out as follows in a letter to the Scottish Government's Energy Consents Unit, dated 28 February 2017:

> "1. The proposal is contrary to Policy 29 (Design, Quality and Place Making), Policy 57 (Natural Built and Cultural Heritage),Policy 61 (Landscape) and Policy 67 (Renewable Energy Developments) of the adopted Highland - wide Local Development Plan and the Onshore Wind Energy : Supplementary Guidance (November 2016) as the impact of the development would be significantly detrimental to parts of the landscape of the North Caithness coastline as the proposal introduces tall man made vertical moving structures to a gentle rural landscape. This can be evidenced within a number of viewpoints set out in the supporting Environmental Statement for example; Viewpoints 1 A836 layby at Drum Hollistan, 3 A836 at Reay Church, 5 Sandside Harbour and 13 Dunnet Head.
>
> 2. The proposal is contrary to Policy 28 (Sustainable Design), Policy 29 (Design Quality and Place-Making) and Policy 67 (Renewable Energy Developments) of the adopted Highland - wide Local Development Plan as the visual impact of the development would be significantly detrimental from many locations, communities and travellers on roads including the A836 and A9(T) roads. These are demonstrated within Viewpoints 1 A836 layby at Drum Hollistan, 2 Reay footpath, 4 Shebster, 12 A9 North of Spittal and 20 A836 at Forss as set out in the supporting Environmental Statement.
>
> 3. The proposal, if approved, would result in the loss of amenity close to the village of Reay, in particular for residents and visitors taking recreational access to the mixed use rural landscape to the south of Reay."

1.30 The council contacted the Energy Consents Unit on 28 March 2017, to confirm that a fourth ground for objecting to the application had been omitted from the foregoing letter:

> 4. The proposal, if approved, would have an unacceptable impact on Wild Land Area 39 – East Halladale Flows given the height of the turbines proposed and the proximity of the application site immediately adjacent to this Wild Land Area."

Approach to the inquiry by parties

1.31 The council and SNH shared legal representation at the inquiry. The council's participation was focused on evidence relating to landscape and visual impact and policy

matters. SNH led evidence on wild land matters, including related policy. They relied upon one-another's evidence insofar as it was relevant to the position and remit of their respective individual organisations.

1.32 Similarly, the John Muir Trust (JMT) and Reay Area Windfarm Opposition Group (RAWOG) were jointly represented. The John Muir Trust's evidence in respect of the Limekiln 2 proposal has been principally focused on wild land effects rather than wider landscape and visual matters. No oral evidence was given by the JMT in respect of landscape and visual effects.

1.33 RAWOG did not actively participate in any of the inquiry or hearing sessions, but we permitted its representative to pose questions to the applicant's witnesses on behalf of RAWOG.

Evening session

1.34 It was agreed at the pre-examination meeting that there would be an evening session during the course of the conjoined inquiry, in order to enable members of the community to read statements they wished to make on the proposed developments. This was on the basis that no statements would be permitted which introduced new or technical evidence, and those making statements would not be asked any questions by us or the applicant(s). Individuals focused on a wide range of issues in relation to the Limekiln 2 application, and also the Drum Hollistan application, during the evening session, and these are captured in the bullet point summary above. We address those considerations which are material to our assessment in the relevant subject chapters of this report. Copies of the statements made, plus a small number of statements submitted after the evening session have been provided by the individuals involved.

CHAPTER 2 – LEGISLATIVE AND POLICY CONTEXT

2.1 This chapter outlines the principal legislative context, and the overall national and local energy policy context relevant to the assessment of this application. Other more detailed, topic-specific policy matters are dealt with in the subsequent chapters where appropriate.

Legislative context

2.2 Section 36 of the Electricity Act 1989 establishes that generating stations with a capacity of more than 50 MW shall not be constructed, extended or operated except in accordance with a consent granted by Scottish Ministers.

2.3 Scottish Ministers are required to serve notice on the relevant planning authority (in this case, The Highland Council), in accordance with Schedule 8(2) of the Act. As the council objected to the application, Scottish Ministers were required by the Act to hold a public inquiry to help determine whether or not to grant consent. In this case, the Scottish Ministers opted to conjoin the inquiry with that for the Drum Hollistan application.

2.4 In considering such applications under Section 36 of the Act, Scottish Ministers are required to have regard to a range of environmental matters set out within Schedule 9, paragraph 3(1)(a) which includes 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". Paragraph 3(1)(b) places a specific duty upon the person who formulated the proposals to do what he reasonably can to mitigate any effect of the proposal upon those same matters.

2.5 In considering Section 36 proposals, paragraph 3(2) of Schedule 9 requires Scottish Ministers to have regard to: (1) the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9; and (2) the extent to which the person by whom the proposals were formulated has complied with his duty.

2.6 The provisions of Section 57(2) of the Town and Country Planning (Scotland) Act 1997 state that "On granting or varying a consent under section 36 or 37 of the Electricity Act 1989 the Scottish Ministers may give a direction that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction…".

2.7 The applicant's original 'environmental statement' was prepared under the requirements of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended). These regulations have subsequently been replaced by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017. The transitional provisions set out in regulation 40 (except 40(3)) apply to this application. These in effect transpose elements of the 2000 regulations in place of aspects of the 2017 regulations. Some of the 2017 regulations are also not required to be applied to this case, given an environmental statement, which is now referred to as the EIA report, had been submitted ahead of the new regulations coming into force. For the avoidance of doubt, we have used the term 'EIA report' throughout this report.

2.8 Scottish Ministers are however required to comply with the requirements of regulation 21 of the 2017 regulations when determining this application. This sets out the information which must be included in the decision notice.

Policy context

2.9 The energy and planning policy context was considered by means of a hearing session held on 06 March 2018. Given the substantive policy issues are the same for the Limekiln 2 and the Drum Hollistan proposals, a single conjoined hearing session was held. Hearing statements were submitted by the applicant; the Drum Hollistan applicant; the council and SNH as a joint statement; the John Muir Trust (JMT); and RAWOG.

2.10 The applicant, council and SNH submitted a statement of agreed matters which included areas of agreement between the parties in respect of the energy and planning policy context.

Energy policy

2.11 The statement of agreed matters confirms that there is no dispute between the parties regarding (1) the seriousness of climate change and its potential effects or (2) the seriousness of the need to cut carbon dioxide emissions. It is agreed between the parties that the Scottish Government's 100% renewable electricity target for 2020 is not a cap as confirmed in the letter from the Chief Planner to the Scottish Government of November 2015, to all Heads of Planning in relation to energy targets and SPP. The parties also agree that renewable energy policy is a matter that should be afforded weight in the planning balance in this case.

2.12 It is agreed between the parties that the UK Government is legally committed to the delivery of 15% of all its energy to be derived from renewable sources by 2020, and that the Scottish Government remains committed to at least the equivalent of 100% of Scotland's electricity consumption to be delivered by 2020. It is further agreed that the letter from the Chief Planner to the Scottish Government referred to above, reinforces the position in Scotland, despite changes to the subsidy support system for the whole of the UK, announced by the UK Secretary of State for Energy and Climate Change in June 2015, and also confirms the Scottish Government's commitment to the expansion of community ownership of renewable energy developments.

2.13 The JMT advise that the Chief Planner's letter should be seen in the context of UK energy policy and the Scottish Government's strategy to significantly reduce overall energy usage. The JMT also highlight that this letter does not set out to deviate from the normal application of the planning balance. Whilst we agree with these observations, we are satisfied that the above target is not a cap and that there is a general acceptance of this by parties.

2.14 The statement of agreed matters lists the most relevant renewable energy policy documents at EU, UK and Scottish Government levels in regard to the consideration of the proposal, as follows:

- The EU Renewable Energy Directive, European Commission (March 2009);
- The EU 2030 Energy and Climate Change Policy (January 2014);
- The UK Renewable Energy Strategy (2009);

- The UK Renewable Energy Road Map (July 2011);
- The UK Renewable Energy Roadmap Update (2013);
- The 2020 Routemap for Renewable Energy in Scotland (2011);
- The UK Clean Growth Strategy (2017);
- The UK Industrial Strategy (2017);
- The Scottish Electricity Generation Policy Statement (2013);
- The 2020 Routemap for Renewable Energy in Scotland – Update (2015);
- The Scottish Government: Energy in Scotland (2017);
- Letter of 11 November 2015 from John McNairney to all Heads of Planning in relation to energy targets and SPP;
- The Scottish Government: Draft Climate Change Plan (January 2017);
- The Scottish Government: Scottish Energy Strategy (December 2017); and
- The Scottish Government: Onshore Wind Policy Statement (December 2017).

2.15 The Scottish Government formally published its Climate Change Plan in February 2018, replacing the draft version of the plan listed above.

2.16 Taken together, we find the above documents articulate a clear commitment to renewable energy, and that onshore wind farms continue to be recognised as important contributors to the achievement of targets for renewable energy generation and the reduction of greenhouse gas emissions. These targets have been renewed by the Scottish Energy Strategy (2017), which are ambitious and look ahead to 2030.

National planning policy

2.17 The statement of agreed matters confirms that the applicant, council and SNH agree that National Planning Framework 3 (NPF3) (2014) sets out the strategic spatial policy context for decisions and actions by Scottish Government and its agencies, and all planning authorities are required to reflect this policy in their strategic and local development plans. The parties agree that, amongst its wide-ranging policies, NPF3 sets out the need for a strategy to reduce reliance on fossil fuels and emphasises not just the challenges in embracing a renewable and low carbon economy while protecting and sustaining environmental assets but also the wider benefits that this will bring, especially in employment creation.

2.18 The statement of agreed matters also confirms agreement that Scottish Planning Policy (SPP) (2014) is non-statutory in that it does not form part of the development plan for the purposes of sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997. Sections 3D and 3E of the 1997 Act require the Scottish Ministers and planning authorities respectively to seek to achieve the objective of sustainable development in the preparation of NPF3 and development plans. This is recorded on page 2 of SPP. The parties are in agreement that, as a statement of Scottish Ministers priorities, SPP is a material consideration that carries significant weight for decision making.

2.19 SPP sets out policy principles (page 9) with the introduction of "….a presumption in favour of development that contributes to sustainable development." This means that policies and decisions should be guided by principles, amongst which include: supporting the delivery of energy infrastructure; supporting climate change mitigation; and protecting natural heritage including landscape.

2.20 SPP (paragraph 154) calls for the planning system to support the transformational change to a low carbon economy consistent with national objectives and targets, including deriving the equivalent of 100% of electricity demand from renewable sources by 2020. SPP states that the planning system should "support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity….".

2.21 SPP specifically considers onshore wind at paragraphs 161-166. SPP requires local development plans to establish a spatial framework to consistently guide broad locational decisions for onshore wind energy proposals. SPP is clear that locally derived spatial frameworks are expected to follow the approach set out in table 1 of SPP. Table 1 enables all areas to be categorised as one of three groups, indicating the likely acceptability of a location in principle (with the level of protection reducing from group 1 to 3). The site falls within group 2: 'areas of significant protection' due to being located on an area of 'carbon rich soil, deep peat and priority peatland habitat'.

2.22 Paragraph 169 of SPP sets out the wide range of considerations that may be applicable to the determination of onshore wind energy proposals.

2.23 The parties identify the following national planning guidance in the statement of agreed matters as being relevant in relation to onshore wind:

- The Scottish Government (online): Onshore wind turbines guidance (updated May 2014);
- The Scottish Government: Onshore Wind – some questions answered (December 2014);
- SNH: Spatial planning for onshore wind turbines – natural heritage considerations: guidance (June 2015); and
- The Scottish Government: Good practice principles for shared ownership of renewable energy developments (September 2015).

The development plan

2.24 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) is not engaged under the Electricity Act 1989 and as such the development plan does not have primacy in decision making. However, the development plan is capable of being a significant material consideration.

2.25 The statutory development plan for the site is comprised of:

- the Highland-wide Local Development Plan (HwLDP) (adopted 2012);
- the Caithness Local Plan (adopted 2002, continued in force April 2012);
- the Onshore Wind Energy supplementary guidance (adopted November 2016) including the Caithness Landscape Sensitivity Appraisal (adopted December 2017); and
- all other statutorily adopted supplementary guidance.

2.26 Policies of any relevance to the proposal within the Caithness Local Plan have been superseded by the policies of the Highland-wide Local Development Plan (HwLDP). The parties agree in the statement of agreed matters that there are no policies within the Caithness Local Plan which are of relevance to the application. The emerging Caithness

and Sutherland Local Development Plan is currently at the examination stage. It does not therefore form part of the adopted development plan, nor does the proposed plan contain any policies of any pertinence to the merits of this case, should the plan be adopted ahead of this application's determination.

2.27 The parties agree in the statement of agreed matters that the principal policies from the HwLDP which are relevant to the consideration of the application are as follows:

- Policy 57: Natural, Built and Cultural Heritage
- Policy 61: Landscape
- Policy 67: Renewable Energy Developments

2.28 In addition, the council considers that policy 28: Sustainable design, and policy 51: Trees and development, are relevant although the applicant considers these two policies to be of limited relevance.

2.29 Policy 28 advises that the council will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland. It establishes a range of sustainable design considerations, the majority of which cannot be readily applied to the Limekiln 2 proposal due to the particular characteristics of wind farm developments. The policy states that where developments are judged to be significantly detrimental in terms of the considerations it identifies, it will not accord with the local development plan.

2.30 Policy 28 also requires that all development proposals must demonstrate compatibility with the 'Sustainable Design Code' supplementary guidance, which requires that developments should: conserve and enhance the character of the Highland area; use resources efficiently; minimise the environmental impact of development; and enhance the viability of Highland communities.

2.31 Policy 51 advises that the council will support development promoting significant protection to existing hedges, trees and woodland on and around development sites. Where appropriate, the council requires a woodland management plan in order to secure management of an existing resource.

2.32 Policy 57 provides criteria to assess the effects of development upon natural, built and cultural heritage. The stringency of the criteria depend on whether such features are of local/ regional, national or international importance. The policy and accompanying appendix identify wild land as of local/ regional importance, which is out of step with subsequent published national policy, which identifies wild land as a nationally important asset. In this regard, the council and SNH have confirmed that no weight should be given to the policy.

2.33 Policy 61 advises that developments should be designed to reflect the landscape characteristics and special qualities identified in the landscape character assessment of the area in which they are proposed including consideration of scale, form, pattern and construction materials as well as the potential cumulative effect of developments. The policy encourages those undertaking development to include measures to enhance the landscape characteristics of the area, particularly where the condition of the landscape characteristics has deteriorated to such an extent that there has been a loss of landscape quality or distinctive sense of place.

2.34 Policy 67 was, in the hearing session, recognised by parties as the most relevant policy of the HwLDP for both the Limekiln 2 and Drum Hollistan proposals. This policy requires proposals for renewable energy developments to be well related to the source of the primary renewable resources that are needed for their operation. It requires a proposal's contribution towards renewable energy generation targets and its effects upon the local and national economy to be considered. It states that support will be given to proposals where they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments, having regard in particular to any significant effects on the following:

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

2.35 The policy makes clear that where consent is granted, this would be subject to appropriate arrangements to secure the restoration of the site once consent expires.

2.36 The other relevant policies of the Highland-wide local development plan include:

- Policy 29 Design, quality and place making
- Policy 31 Developer contributions
- Policy 55 Peat and soils
- Policy 56 Travel
- Policy 58 Protected species
- Policy 59 Other important species
- Policy 60 Other important habitats
- Policy 63 Water Environment
- Policy 72 Pollution
- Policy 77 Public access

2.37 The council adopted its Onshore Wind Energy supplementary guidance in November 2016, and this now forms part of the adopted development plan. Section 4 of the document contains general guidance on wind energy across the Highland council area. The Caithness Landscape Sensitivity Study provides a more detailed but still strategic level assessment of the variable capacity and sensitivity of the landscape to accommodate wind turbines. This was adopted in December 2017 and forms section 5 of the supplementary guidance.

The main points for the applicant

2.38 In regard to the main policies and guidance listed above, the applicant submits that:

- The overall renewable energy policy framework, consisting of various statutory provisions, policy objectives and associated targets all provide considerable support in favour of renewable energy development.
- The Scottish Energy Strategy sets out that onshore wind is recognised as a key contributor to the delivery of renewable energy targets, specifically the new 2030 50% energy from renewable sources target. The Scottish Government has set out that this may require in the region of 17GW of installed renewables capacity by 2030. The Scottish Government's 2020 renewable electricity target remains in place and has been supplemented by these new stretching targets.
- One of the key messages in the Onshore Wind Policy Statement is the recognition that onshore wind is to play a "vital role" in meeting Scotland's energy needs and a "material" role in growing the economy, and that the technology remains "crucial" in terms of Scotland's goals for an overall decarbonised energy system and to attain the ambitious renewable targets which have been updated and remain in place for 2020, 2030 and 2050.
- This language on the role of onshore wind is demonstrably stronger than that in the current NPF and SPP. The increased importance of the contribution that onshore wind is expected to make to targets and meeting future energy needs should be afforded very substantial weight.
- The Scottish Energy Strategy and the Onshore Wind Policy Statement represent the leading edge of Government policy for the technology and land use proposed in this case and both documents should be afforded substantial weight.
- The new target to source 50% of Scottish energy requirements from renewables by 2030 can be regarded as a step change, implying as it does that renewable electricity may need to generate 140% of Scotland's electricity needs in order for the energy target to be met, a 40% increase from the previous electricity target.
- The Scottish Government's Scottish Energy Strategy and Onshore Wind Policy Statement have materially enhanced the need case for onshore wind.
- NPF3 and SPP set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource provided by onshore wind. This is clearly not at any cost and development continues to be guided to appropriate locations and environmental effects need to be judged to be acceptable.
- The proposal can claim the presumption in favour of development that contributes to sustainable development, not only because it is the right development in the right place (paragraph 28 of SPP) and not only because the development is in accordance with the guiding principles relevant to this type of development set out in paragraph 29 of SPP, but also because what is proposed has strong consistency with the declared desirable outcomes of SPP.

- The proposal is satisfactory when considered against the development management considerations in relation to renewable energy developments as set out in paragraph 169 of SPP.
- The proposal is located outside of the wild land area and so the indirect effects of the proposal on wild land is a material consideration whose weight is for the decision maker. There is no specific advice in SPP on development outside, but having the potential to impact on the interests of a wild land area (WLA). The proposal is not in a 'group 2' area for the purposes of paragraph 161 and table 1 of SPP by virtue of the adjoining WLA.
- The proposal is within a 'group 2' area, but only due to the presence within the application site of some carbon rich soils. It has been demonstrated through site specific surveys and the design approach followed, that significant effects on the qualities of this particular resource have been substantially overcome by way of siting, design and mitigation, as required by SPP.
- Given there is no residual peat issue, the proposal is located in what is in effect a 'group 3' location in which wind farms are likely to be acceptable subject to consideration of the criteria at paragraph 169 of SPP with regard to specific site and design approach circumstances.
- The proposal is appropriately sited and would provide a valuable contribution to renewable energy targets. In this context the proposal draws support from both NPF3 and SPP as well as the Scottish Government's latest national policy on onshore wind.
- Policy 67 is the key relevant policy of the HwLDP. There would be no effects arising from the development that would be considered "significantly detrimental" for the purposes of policy 67.
- Policy 67 contains a number of criteria which generally address the environmental topics that are referred to in other policies within the plan.
- The proposal is considered to be in accordance with policy 67 and the other policies of relevance in the development plan.
- Policies 28 and 29 add nothing further to the existing detailed provisions of policy 67 which deals specifically with renewable energy developments. Policy 28 is concerned with 'sustainable design' and the proposal would be consistent with the terms of policy 28 insofar as it is of relevance. Policy 29 is concerned with design quality and place making and is more applicable to more typical urban form type of development proposals compared to wind energy developments in rural areas. The policy has very limited if any relevance to the proposal.
- The proposal has been sited and designed to take account of existing landscape characteristics and overall it is concluded that the landscape has the capacity to accommodate the proposal successfully in accordance with policy 61.
- The proposal would not have an unacceptable impact on the natural environment, amenity and heritage resource and it accords with policy 57 although it is highlighted that the policy is out of date with regard to its reference to 'wild areas'.

2.39 The council and SNH produced a combined policy hearing statement although it is noted that SNH's interest is limited to those matters relating to wild land policy.

The main points for the council and SNH

2.40 The council and SNH submit that:

- The statements of continued strong support relating to onshore wind contained within the Scottish Energy Strategy and Onshore Wind Policy Statement, published by the Scottish Government, are acknowledged although none indicate a relevant distinct policy change since the date of the consideration of the proposals.
- It is also acknowledged that such support should only be given where justified. The onshore wind policy statement sets out the need for a more strategic approach to new development that acknowledges the capacity that landscapes have to absorb development before landscape and visual impacts become unacceptable. These statements largely reflect the existing position outlined within NPF3 and SPP, a policy framework that supports development in justified locations.
- It is not considered that the Climate Change Plan, Scottish Energy Strategy or Onshore Wind Policy Statement would materially change any judgement as to what was or was not acceptable development. It is important that energy policy support for renewable energy development is not double counted, given its clear reflection in policy.
- NPF3 considers that onshore wind has a role in meeting the Scottish Government's targets to achieve at least an 80% reduction in greenhouse gas emissions by 2050 and to meet at least 30% overall energy demand from renewables by 2020, including generating the equivalent of at least 100% of gross electricity consumption from renewables. The council do not consider these targets to represent a cap.
- NPF3 identifies wild land as a nationally important asset. NPF3 is a material consideration that should be afforded significant weight in the planning balance.
- Whilst acknowledging the policy principle, contained in SPP, favouring development that contributes to sustainable development, this requires to be balanced against the environmental and economic objectives of SPP.
- SPP is clear that areas identified for wind farm development should be sited and designed to ensure impacts are minimised. SPP is a material consideration that should be afforded significant weight in the planning balance.
- SPP (paragraph 200) recognises the high sensitivity of wild land and the need to safeguard its character. SPP (paragraph 215) provides a policy test for proposals within a wild land area and therefore is not engaged by the proposal. However, wild land is recognised by SPP (paragraph 169) as a relevant development management consideration for energy infrastructure whether it falls within or outwith a wild land area.
- The criteria contained within paragraph 169 of SPP, against which proposals for onshore wind energy developments should be assessed, are primarily reflected in policy 67 of the HwLDP (despite the HwLDP pre-dating the current version of SPP). The failure of a proposal against one policy criterion does not mean that the development fails: all of these criteria must be given consideration. It is for the decision maker to attribute weight to these on a case by case basis.
- The development plan remains relevant and continues to accord with national policy. Policy 67 of the HwLDP is the most relevant policy in relation to the council's consideration of the proposal. The policy highlights the balance that the council has to strike 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. The council considers the proposal contrary to policy 67.
- The HwLDP predates SPP and SNH's preparation of the map of wild land areas and is based on the previous NPF2 and SPP 2010. Although the HwLDP has not been amended to reflect the current NPF3/ SPP, it still remains up to date as it is largely in

accordance with SPP. The Onshore Wind Energy Supplementary Guidance (OWESG) reflects national policy.

- The directly applicable parts of the OWESG do not contain any further tests beyond what is contained in policy 67 of the HwLDP in respect of which to assess compliance. There is little to be gained from separately assessing "accordance" with the OWESG.
- No weight should be afforded to the wild areas policy content of the HwLDP as national policy post-dates the relevant policies.
- The development is outwith a wild land area (WLA) but the proposal will have an impact on the qualities of wildness experienced within the East Halladale Flows WLA 39.

The main points for the John Muir Trust (JMT):

2.41 The John Muir Trust submits that:

- National energy policy and the associated framework for fiscal support for renewable technologies are set at UK level. UK policy, to the extent that it offers any future support to wind energy, now appears to be entirely focussed on theoretically reduced costs for offshore wind farms that have yet to commence construction.
- Matters including grid capacity, installed over-capacity, or the likelihood of constraints payments, all of which are material to the overall net economic impact assessment flowing from SPP (paragraph 169), have not been addressed by the applicant.
- According to NPF3, features such as landscape and natural heritage are of national importance and a planned and balanced approach is needed in considering the location of renewable energy developments, notwithstanding the targets for renewable energy generation.
- SPP provides up to date planning policy guidance on wind farms as of 2014. The policy principles in SPP "introduce a presumption in favour of development that contributes to sustainable development". The proposal does not give due weight to net economic benefit; does not deliver good design; is not a sustainable land use, given the significant adverse effects; does not protect and enhance the natural heritage and landscape and constitutes over-development and therefore it does not represent sustainable development. The provisions of SPP support the conclusion that the proposal should be rejected.
- The climate change plan demonstrates the considerable extent of surplus capacity that needs to be built in order to meet the 100% renewable electricity generation target. Critically, the renewable energy targets are to be achieved across the whole range of renewable technologies. Whilst wave and tidal energy are still in the testing stages, offshore wind and solar capacity in the UK is expanding rapidly whilst encouraging smaller scale community level projects is an ambition of the Scottish Government.
- The onshore wind energy policy statement (2017) commits the Scottish Government (paragraph 77) to continuing the significant protection for wild land areas. The document does not introduce any new considerations for the determination of the application.
- A loss of wild land, in policy terms, would not accord with the strengthened significant protection that flows from SPP.
- The most relevant policy of the HwLDP is policy 67. Whilst the text is generally supportive of renewable energy, it is considered that a breach of any of the criteria in

policy 67 must lead to a finding of a breach of the policy. The Limekiln 2 proposal would breach numerous criteria.

- Under policy 67, the proposal is likely to have only limited economic benefits. In terms of environmental benefits, these do not extend beyond the assumed benefits of renewable energy that are already factored into the favourable policy framework.
- The proposal is not compliant with HwLDP policy 28 for a variety of reasons. The proposal does not demonstrate sensitive siting and high quality design given the adverse effects on Reay village and the surrounding area, the wild land and tourist routes.
- Following the publication of SPP2, the wild land areas (WLAs) became a nationally important mapped environmental interest. The effects on the WLA fall to be considered under sub-section 2 of the policy – features of national importance. The proposal is in breach of policy 57 on account of significant adverse effects on a feature of national importance. This is not outweighed by social or economic benefits of national importance, stipulated by the policy
- In terms of policy 61, the proposal has not been designed to reflect the landscape characteristics and special qualities of the area, having regard to the scale, form and pattern of the proposed development and its location in relation to the wild land resource.
- The proposal is not in accordance with the local development plan on account of the identified significant detrimental impacts. The Onshore Wind Energy supplementary guidance now forms part of the development plan and the proposal is also contrary to its terms.

The main points for RAWOG

2.42 RAWOG submits that:

- Section 36 consent should be refused on account of the failure to meet the Electricity Act tests.
- The proposal is in breach of the council's development plan policies and adopted supplementary guidance. This is due to the adverse scheme-specific and cumulative significant effects on residential amenity, landscape and wild land, alongside the potential adverse economic effects on local tourism, all of which are not outweighed by the generic benefits of the scheme which are already built into the positive policy environment which is supportive of renewables.
- The group supports the policy position of the John Muir Trust (JMT) in respect of the proposal and deferred to JMT during the hearing session in respect of energy and planning policy.

CHAPTER 3: LANDSCAPE AND VISUAL IMPACT

Evidence on landscape and visual impact

3.1 The applicant's landscape and visual impact assessment (LVIA) of the proposed wind farm is provided by: chapter 9 of the EIA report dated June 2016; supporting figures including photomontages and wirelines in volume 2b – 2f of the EIA report (under document reference CD1.4) and accompanying appendices 9.A, 9.B, 9.C and 9.D; chapter 9 of the supplementary information dated September 2017 (submitted October 2017); and updated wirelines showing Dounreay Tri Floating Wind Offshore Demonstrator Project.

3.2 The Section 36 application had previously proposed 24 wind turbines, and this is reflected in the June 2016 evidence referred to above. The applicant subsequently formally reduced the size of the wind farm to 21 turbines (through the omission of turbines 19, 20 and 21), to align with the applicant's earlier willingness to proceed with a 21 turbine scheme, should that have enabled the council to not object to the proposal. The LVIA evidence dated September 2017 onwards all relates to the reduced 21 turbine wind farm.

3.3 In advance of the inquiry, the statement of agreed matters, which was jointly submitted by the applicant, the council and Scottish Natural Heritage, confirmed agreement in respect of landscape and visual matters that:

- The methodologies employed in the assessment of landscape and visual effects of Limekiln 2 in the EIA Report and supplementary information broadly followed good practice guidance at the time of publication, and the viewpoint selection to inform the assessment is appropriate for the scale and siting of the proposal.
- The LVIA study area and relevant areas of focus (i.e. areas within the zone of theoretical visibility (ZTV)) are within accepted thresholds and are sufficient to enable the identification of the potential significant landscape and visual effects of Limekiln 2. The ZTVs represent a 'worst case scenario' by displaying theoretical visibility of the wind farm(s) given no intervening obstructions and under favourable weather conditions. On balance the actual potential visibility will be less than that illustrated on the ZTVs.
- The Caithness and Sutherland landscape character assessment informs the baseline landscape character and sensitivity that is relevant to Limekiln 2, but the baseline landscape character has changed since 1998, in part because of wind farm development. This is acknowledged by SNH in its Siting & Designing Wind Farms in the Landscape - 2017 Guidance (paragraph 3.5).
- There are no significant landscape effects beyond approximately 6-7 km radius of Limekiln 2.
- In respect of effects on landscape character, the parties agree that parts of the following landscape character types would be subject to some significant landscape effects from Limekiln 2:
    - Coniferous Woodland Plantation: Limekiln (i.e. the Limekiln 2 site);
    - Sweeping Moorland: West;
    - Sweeping Moorland: Broubster;
    - Moorland Slopes and Hills: Beinn Ratha; and
    - Mixed Agriculture and Settlement: North-east.
- Significant visual effects will only arise within a maximum 10 km range of the proposed turbines.

- The following seven representative viewpoints would be subject to significant visual effects (NB: the distances cited in the statement of agreed matters relate to the original 24 turbine scheme. We have updated the distances below to reflect the scheme as now proposed, for the avoidance of doubt):

    - VP1 A836, Drum Holliston Layby (4.90 km from nearest wind turbine);
    - VP2 Reay footpath (3.16 km);
    - VP3 A836, Reay Church, A836 (2.93 km);
    - VP4 Shebster (3.76 km);
    - VP5 Sandside Bay Harbour (4.80 km);
    - VP15 Borlum Hill (1.88 km); and
    - VP17 Beinn Ratha (1.57 km).

- Limekiln 2 would not significantly (or materially) affect any landscape designations that are intended to protect the scenic or historic qualities of the landscape.
- The cumulative assessment within the EIA report considered all other existing, consented and proposed (i.e. those wind farms for which a planning application has been submitted) wind farms within 40 km of Limekiln 2 as at 12 April 2016. The locations of these wind farms are indicated at table 9.4 of the EIA report.
- Since the application was made in June 2016, there have been some changes to wind farms proposed within 40 km of the Limekiln 2 site. The only material change is to the status of Drum Hollistan wind farm, which has progressed from scoping stage to a live application (and the subject of the conjoined inquiry), and the consent of the Dounreay Tri floating offshore demonstrator project.
- Potentially material cumulative effects comprise the additional and combined effects of Limekiln 2 with other existing, consented and proposed wind developments within approximately 20 km of Limekiln 2. The addition of the Limekiln 2 wind farm to the operational and consented wind farm baseline would not give rise to a 'wind farm landscape' (where wind farms are the defining characteristic in the landscape) but would contribute to the perception of a 'landscape with windfarms' (where wind farms are one of a number of defining characteristics in the landscape) in this part of Caithness.
- Whilst some significant visual effects would arise, no effects would arise at any residential property in relation to the visual component of residential amenity such that any property might become widely regarded as an unattractive place in which to live (agreed between the applicant and council only; SNH has not expressed a view on residential visual amenity).

3.4 In advance of the inquiry, the applicant submitted an inquiry report on landscape and visual effects, which was accompanied by supplementary figures and wirelines contained in documents LWL/20, LWL/21 and LWL/22. The council also submitted an inquiry report. At the inquiry session, evidence on landscape and visual effects was heard from witnesses for the applicant and the council.

The main points for the applicant

Methodology

3.5 The significance of landscape and visual effects is assessed through a combination of the sensitivity of the landscape or visual receptor, and the magnitude of change that will arise in relation to that receptor from the introduction of the proposed development.

3.6 Although the assessment is not reliant on the use of a matrix, the matrix presented in table 9.2 in the EIA report has been included, to illustrate how combinations of the ratings for sensitivity and magnitude of change can give rise to significant effects, as well as to give an understanding of the threshold at which significant effects may arise.

3.7 The methodology used to make the assessment accords with guidance given in the 'Guidelines for the Assessment of Landscape and Visual Impacts: Third Edition' (GLVIA3). The methodology used by the applicant does not differentiate between different levels of significant effects, as the EIA regulations only require those effects that are significant to be reported.

3.8 It is the acceptability of the findings in the LVIA, in landscape and visual terms, which forms the principal basis of disagreement between the parties. The council and third parties consider that the identified effects are unacceptable in relation to certain facets of the landscape and visual resource and the people who experience it, whereas the applicant considers that they are acceptable, insofar as landscape and visual considerations are applied.

Overview

3.9 The proposal respects the scale and character of the landscape in this location and takes advantage of the screening effects from localised elements of foreground landscape as well as the wider encircling and containment that is afforded by rising ground of the 'bowl' to the south and west.

3.10 The following matters also contribute to the acceptability of Limekiln 2 in regard to landscape and visual effects:

- The particular physical and visual characteristics of the site and surrounding landscape;
- the value and sensitivity of the landscape and absence of any nationally or regionally important scenic designations at close range;
- the scale and simple profile of the underlying landform and forestry cover;
- the separation distances from sensitive receptors, including residential properties; and
- the scale and massing of the proposed development relative to the above and to other cumulative wind farm development.

3.11 The approach adopted by the applicant reflects good practice in wind farm design and has led to a simple, coherent and legible solution which is appropriate to the site and its context. The approach demonstrates that the applicant has sought to mitigate adverse environmental effects of the development as required under the Electricity Act.

3.12 It is relevant to note that the reporters (and Scottish Ministers) at the inquiry into the previous Limekiln 1 development found that the landscape had capacity to absorb a commercial scale wind farm (paragraph 3.53) albeit that the wind farm at that time was larger than the current proposal, by 3 turbines.

Landscape effects

3.13 Landscape effects occur when the introduction of the wind farm changes or influences any of the following:

- the physical fabric of the site from the construction of the wind farm and its associated infrastructure including at Limekiln the loss of forestry required to accommodate the wind farm – these are direct effects;
- the character of the site and surrounding area as a result of the introduction of the wind farm as a new element in the landscape pattern – these can be both direct and indirect effects;
- the integrity of designated landscapes which are protected for their scenic qualities or value.

3.14 The site is located within landscape character type (LCT) 14, Coniferous Woodland Plantation (a subset of Sweeping Moorland), as described in paragraph 9.118 of the EIA report. Although the boundaries of the character types defined by SNH suggest that the western part of the site is located in the adjoining, un-forested Sweeping Moorland LCT, this is an inconsistency as the site is wholly within the forest, as is evident from the aerial photograph in figure JW8.

3.15 The principal physical effect to the site itself will result from the removal of the forest around each turbine base, which is referred to as 'key holing'. An area measuring approximately 2 ha would be required to be felled for each turbine with a 15m buffer around each item of infrastructure, as well as a 20m swathe for access. At the policy and conditions hearing session, the applicant proposed a condition requiring the approach to key holing be agreed, in order to minimise the landscape and visual effects of this technique.

3.16 It is inevitable that the construction of major development such as this will have a notable effect on the fabric of the site itself, which will be apparent for some time following construction. The visual effect of key holing has been illustrated in the visualisation from viewpoint 17, Beinn Ratha, in figure 9.46h of the EIA report, albeit for the 24 turbine scheme. These effects are considered to be of a localised nature and limited in extent given the relatively small footprint of the development, relative to the extensive nature of the plantation in which it is located. The negative effects will be limited in their influence, due to the factors described above and are capable of being substantially reversed at the end of the wind farm's functional life.

3.17 The key characteristics of the host landscape character type (LCT 14, Coniferous Woodland Plantation - a subset of Sweeping Moorland) as defined by SNH, are considered to provide an accurate reflection of the characteristics of the site and surrounding area with the obvious exception that they do not refer to the commercial plantation forest which sits on parts of the Sweeping Moorland. The operational Strathy North, Buolfruich, Camster and Stroupster wind farms, as well as the consented Halsary wind farm, are all located within the same LCT as Limekiln 2, providing precedence for the inherent suitability of the Sweeping Moorland/ Coniferous Plantation variant to accommodate wind farms, where they can be sited in acceptable locations. The LVIA finds that the sensitivity of the Limekiln plantation part of the Sweeping Moorland character type to this type of development is 'medium to low'.

3.18 Figure JW7 also shows the operational and consented commercial scale wind farm locations in Caithness and serves to demonstrate the relatively limited physical impact they have on the overall area. Whilst it is true that vertical, moving, turbines contrast in character terms with the overriding horizontal emphasis in the region and can be visible over many kilometres, it is also the case that the enormous horizontal scale of the land, with expansive skies above, give it the ability to absorb large scale structures and land use patterns (such as forestry) with relative ease, avoiding the scale comparisons that can arise in smaller scale landscapes.

3.19 Wind farms to date in Caithness have been concentrated in the north eastern part of the region, avoiding the areas with greatest wildness attributes in the south west. The Limekiln 2 wind farm follows that pattern and lies close to other forms of development along the northern edge of Caithness, with which it can be associated. This not only includes other wind farms (Forss and Baillie Hill most notably) but it also relates to the extensive nuclear/ industrial development and grid infrastructure at Dounreay, which covers a vast area of the coastline nearby and which has a discernible, if not pervading, influence on the local landscape character between Drum Hollistan and Forss.

3.20 In relation to the Sweeping Moorland LCT, the SNH Landscape Character Assessment (LCA) says on page 36 that:

> "This character type may be favoured for windfarm development on account of its typically consistent and high wind speeds, and it's open space and fairly flat landform. A windfarm will relate to the exposed, wind dominated character of this landscape, and can appear as a spectacular, futuristic-looking and sculptural addition. However, it may also conflict with the sense of remoteness and 'wild land' within many areas, particularly if a development requires associated facilities such as tracks and substations."

3.21 While the guidance acknowledges that parts of the moorland are afforested it does not provide specific guidance for those forested character sub areas within the type. It is contended that the forest does provide a very distinct pattern within the moorland, to which the Limekiln wind farm has been designed to relate.

3.22 The northern edge of the forest is marked with a number of distinctive knoll shaped landforms including Creag Mhor, Creag Leathan and Borlum Rock, which provide important localised screening of parts of the development from the settled areas to the north. At the inquiry, it was asserted that these landforms define the edge of the farmland character and provide separation from the forestry where Limekiln 2 would be situated. These landforms do not therefore simply act as scale indicators for the proposed development, as asserted by the council.

3.23 Regarding LCT6: Beaches Dunes and Links (Sandside), in appendix 9B , table 1 of the EIA report it was concluded that no further assessment was required as there may be some effect but this would not be significant due to the orientation of the landform towards Sandside Bay and the limited association with the LCT in which the proposed development is situated. Regarding LCT11: Open Intensive Farmland (Sandside), no further assessment was required due to its stronger association with the coast than the inland landscapes. The council's assertion that the EIA report is deficient, due to the filtering out of these LCTs, is rejected.

3.24 No designated landscapes have the potential to undergo significant effects and, accordingly, effects on landscape designations are not considered to be a determining consideration for Limekiln 2. It is untenable that the landscape can be considered as being in the highest category of sensitivity' as stated by the council, as this does not allow for higher ratings for nationally designated landscapes.

Visual effects

3.25 The LVIA found that 7 of the 20 representative viewpoints had the potential to experience significant visual effects, being viewpoints VP1, VP2, VP3, VP4, VP5, VP15 and VP17. These representative viewpoints lie within 5 km of Limekiln 2 which is a range at which significant visual effects are commonly found for wind farms of this scale, assuming visibility.

3.26 The separation distance of the Limekiln 2 wind farm turbines from the nearest village, Reay, is approximately 3.1 km. This exceeds guidance for community separation within SPP. The visual effects on Reay and also the community of Shebster are within acceptable parameters. This is because the intervening distance reduces the apparent vertical height and horizontal spread of the turbines, making them appear as one of a number of elements within a wider view. This effect has been reduced further by the subsequent removal of the three closest wind turbines, reducing the size of the proposed wind farm to 21 turbines.

3.27 In regard to residential visual amenity, none of the properties appraised would experience a degree of change that could constitute an 'overbearing' or 'dominant' effect on their residential amenity, having regard to intervening separation distances, existing context of the view; vertical and horizontal field of view affected, landform and tree screening and in respect of precedence established elsewhere in the UK. On the basis of the findings of this survey and the additional properties assessed outside the 2.5 km survey area, no residential property within Reay or the surrounding area will experience a magnitude of effect which is overbearing or dominant, to the extent that it could be widely regarded as an unattractive place in which to live. This conclusion is consistent with the findings of the reporters in the Limekiln 1 inquiry.

3.28 Other visual receptors assessed through the LVIA include the passenger ferry route from Scrabster to Stromness in Orkney, and the North and West Highlands tourist route, which runs from Ullapool in the west to John O'Groats in the east. The LVIA also assesses the visual effect at the summit of Beinn Ratha to be significant due chiefly to the close proximity of the proposed development. The visual effect here is acceptable, as the scale of the landscape and simple land cover is sufficiently large to accommodate the scale of the wind farm and it would reflect characteristics which are already apparent in the view, including Baillie Hill and Forss wind farms. It would also be associated with the more managed character of the forested moorland and settled farmland, which already introduces notable human influences into the view.

3.29 The council's second ground for objection relates to the likely visual effects on the amenity of users of part of the A836 North & West Highland tourist route. At no point along the route is Limekiln 2 wind farm seen in isolation of other development and, from the stretch of route from where it is seen, the amenity of travellers is strongly characterised by a host of other uses and activities in the landscape. This section of the route is through a highly modified landscape and the proposed wind farm would not be out of place or uncharacteristic in this respect.

3.30 The council's objection in respect of the effect on the amenity of users of the A836 is not well founded or justifiable in visual terms. Overall, the visual effects of Limekiln 2 are within acceptable parameters found for development of this type.

Cumulative effects

3.31 The principal operational sites with which Limekiln 2 has the potential to lead to significant cumulative interactions are Baillie Hill and Forss. The reporters at the Limekiln 1 inquiry agreed with this position in paragraph 3.65.

3.32 The council's grounds for objection do not refer to cumulative effects. While Limekiln 2 would add to the visual influence of operational wind farms in the Dounreay area, it would read as a separate development, leading to an incremental expansion of the overall combined cumulative effects (a 'landscape with wind farms') rather than leading to an effect of sufficient magnitude to redefine the landscape character as a 'wind farm landscape'.

3.33 The inherently large scale and context of the landscape on and surrounding the site has a substantial capacity to absorb the large scale of wind turbines, having regard to the operational cumulative baseline that exists.

3.34 In relation to cumulative visual effects, in a scenario where both Limekiln 2 and Drum Hollistan are assumed to exist, a significant cumulative visual effect would result for the village of Reay. This arises through the two application sites and Baillie Hill wind farm, giving rise to a degree of wind farm development around Reay that could cause a significant in-combination visual impact on the community, where wind farms are seen in different directions simultaneously and at a range where they are visually significant.

3.35 Dounreay Tri will not give rise to any additional significant visual cumulative effects, nor will it change any of the cumulative effects that are identified within the 2017 supplementary information.

Design

3.36 The design principles for Limekiln 1, as reflected in Limekiln 2, sought to create a:

- visually compatible design;
- positive simple layout;
- compact scheme which relates to the landform;
- appropriate scale in keeping with the landscape;
- balanced and coherent image, avoiding stacking overlapping in lines;
- legible pattern that looks designed and organised;
- scheme which enables the forest cover to be substantially retained.

3.37 It is difficult, if not impossible to achieve all of a set of design principles to their optimum. This is because when seen in the round, from 360 degrees, a wind farm comprising more than one turbine will inevitably lead to some variation in its appearance, especially when it is not located on an entirely flat landscape. At the inquiry, it was confirmed for the applicant that a key design view were those southwards from Reay.

Conclusions

3.38 The landscape character effects identified for Limekiln 2 are considered to be acceptable in landscape terms because the proposed development would be set within a large scale, simple and modified landscape which can accommodate the degree of change that the wind farm would introduce. The specific siting of the development responds to the landform (figure JW10) and land use (figure JW8) and takes advantage of being positioned within a wider bowl-shaped piece of landscape which serves to reduce the influence of the wind farm within a relatively short distance from the site, as confirmed in the ZTV (figure JW1). This would help to mitigate wider effects not only for visual receptors but also in respect of the landscape character.

3.39 If sites for commercial scale wind energy projects are to be found, then some consequences for the landscape resource must follow, although they will not be accepted by everyone as an acceptable consequence of this form of development. It is the case that the Limekiln 2 site is positioned within a less constrained piece of landscape when consideration is given to designated landscapes, setbacks from settlements and landscape character sensitivity in the form of wild land areas. The Limekiln site occupies an area of moorland which is on the north eastern fringe of an extensive and largely open landscape, which becomes progressively more sensitive towards the south and west in landscape character terms when compared with the north and east which has a wide range of human influences which indicate a degree of compatibility for the proposed development.

3.40 The perception of the wind farm will diminish within a relatively short distance from the site. It is likely that where visual effects do arise, some people will have a favourable disposition towards the wind farm, whereas others will not. What is of importance to an assessment of the acceptability of the wind farm is whether it will sit comfortably within the landscape and will not lead to unacceptable conflicts of scale or have overbearing effects on views from settlements and communities. This would be the case at Limekiln 2.

3.41 The grounds for objection put forward by the council, or the objections and/ or concerns of the other parties at the inquiry related to Limekiln 2 are therefore not well founded in landscape and visual terms. Accordingly, the applicant does not accept the council's position that the landscape effects of the development on the character of the area are unacceptable.

The main points for the council

Methodology

3.42 The applicant's LVIA methodology broadly accords with guidance current at the time of the preparation of the EIA report.

3.43 The applicant's methodology for assessing landscape and visual effects does not differentiate between different levels of significant effects. Whilst this is appropriate in strict EIA terms, it does not determine the level of effects, which would assist the decision maker with attributing the weight to be given to individual significant effects (as significant effects at the higher end of the spectrum may be given greater weight than effects that are just above the threshold of significance). 'Categories of significance' are normally identified to assist understanding of the assessment.

3.44 The levels of magnitude for the identified significant effects are generally greater in the assessment undertaken for the council than the assessment in the EIA report.

3.45 With reference to 'size and scale' the applicant's LVIA methodology fails to refer to movement, a key characteristic of wind farm development.

Landscape effects

3.46 The Onshore Wind Energy supplementary guidance, which includes the Caithness landscape sensitivity appraisal, concludes that in area CT4: Central Caithness, there is limited scope for larger turbines.

3.47 The council is in agreement with the conclusions of the EIA report and supplementary information, that areas of LCTs 1, 3, 12 and 14 would be subject to significant landscape effects. The council does however disagree with the omission of an assessment of effects on LCT 6: Beaches Dunes and Links (Sandside) and LCT 11: Open Intensive Farmland (Sandside), as the proposed development would be visible from these LCTs.

3.48 Regarding LCT 6: Beaches Dunes and Links (Sandside), the conclusion in the EIA report (Appendix 9B), that no further assessment is required, is flawed. Figure 9.6 in the supplementary information demonstrates that there is theoretical visibility across the whole LCT. An indication of the extent of visibility is also illustrated by viewpoint 15: Borlum Hill, where LCT 6 can be clearly seen beyond Reay church and Reay village. This view suggests that while there would be limited visibility from the beach, there would be extensive visibility from the dunes and the links.

3.49 LCT 6 is only approximately 0.5 km wide and the nearest proposed turbine is less than 3 km from the southern edge of LCT 6. This close association is illustrated at viewpoint 5: Sandside Bay harbour (including figure 9.62 in the supplementary information) where the proposed development would be clearly visible in the context of LCT 6.

3.50 Regarding LCT 11, the conclusion that the effects would not be significant because of its "stronger association with the coast than the inland landscapes" (Appendix 9B, table 1) is also flawed as while visibility is constrained by higher ground to the west of Sandside Bay, it is more extensive to the east and inland along the valleys formed by Sandside Burn, Reay Burn and Burn of Isauld.

3.51 Therefore, the EIA report did not report the full extent of likely significant landscape effects; the council finds the indirect landscape (and cumulative) effects would be significant for LCT 6 and LCT 11.

3.52 The hills to the north of the site including Creag Mhor, Creag Leathan and Borlum Rock are distinctive and therefore it is implicit that they make a positive contribution to the existing landscape and visual resource. They also act as scale indicators that increase the perceived scale of the turbines.

3.53 The applicant has emphasised the horizontal scale of the landscape and therefore its ability to absorb large scale structures with relative ease, avoiding the scale comparisons that can arise in smaller scale landscapes. However, when viewed from the north, the

landscape is less ‘horizontal’ and the distinctive hills Creag Mhor, Creag Leathan and Borlum Rock do provide scale comparisons.

Visual effects

3.54 The EIA report and the council’s assessments both find significant visual effects at viewpoints 1, 2, 3, 4, 5, 15 and 17, which is consistent with the Limekiln 1 inquiry report. It should also be noted that receptors at viewpoints 6, 8, 9, 10, 19 and 20 would be subject to a moderate level of effect that is judged to be just below that required to be considered a significant individual visual effect. Therefore, these effects may contribute to combined cumulative visual effects.

3.55 Walkers and cyclists are both considered to be medium sensitivity receptors in the EIA report. This is disputed due to the heightened sense of awareness and slower speed of movement through an area, giving the receptor more time to appreciate their surroundings.

3.56 The council agrees with the EIA report, which concludes that there would be significant visual effects on the communities of Reay and Shebster. The EIA report acknowledges that users of all core paths within and to the north of the proposed development would be subject to significant visual effects. The EIA report does not assess visual effects on users of the Reay golf course. However, theoretical visibility extends across the majority of the golf course and the EIA report finds significant effects on users of core paths which pass through the golf course.

3.57 The council considers that the findings of the EIA report and supplementary information support the conclusions of the council, that the visual impact of the development would be significantly detrimental from many locations, communities and travellers on roads including the A836, as stated in its reason for objection 2. It is however accepted that there would be no significant effect from the A9, as stated in the council’s original objection.

3.58 The council also concludes that the proposed development would result in the loss of amenity close to the village of Reay, in particular for residents and visitors taking recreational access to the mixed use rural landscape to the south of Reay’, as stated in its reason for objection 3.

3.59 The visual component of residential amenity does not form part of the council’s reasons for objection.

Cumulative effects

3.60 While cumulative effects were not specifically identified in the council’s original reasons for objection, they are nevertheless implicit in the general term ‘impact’. Therefore, the applicant was correct to address cumulative effects.

3.61 The applicant’s evidence implies that a proposed wind farm development may only be considered unacceptable where it contributes to the creation of a ‘wind farm landscape’. This sets the threshold too high.

3.62 The assessment in the applicant’s supplementary information (excluding the Dounreay Tri wind farm) finds that significant additional visual cumulative effects with

existing, consented and application stage windfarms (cumulative scenario 2) would occur at viewpoints 1-4, 6, 8, 15 and 17.

3.63 It should be noted that while the Drum Hollistan wind farm would not be visible from Limekiln 2 viewpoint 5: Sandside Bay harbour, it would be visible from the adjacent Drum Hollistan viewpoint 9, where the council finds that there would be significant additional and combined cumulative visual effects with existing, consented and application stage wind farms.

3.64 The cumulative viewpoint assessment (including the Dounreay Tri wind farm) carried out for the council finds that there would be significant combined and additional cumulative effects at viewpoints 1, 2, 5 (alternative location referred to above), 15 and 17 for existing and consented schemes, and viewpoints 1, 2, 3, 4, 5 (alternative location referred to above), 15 and 17 for existing, consented and application stage wind farms. Combined (rather than additional) cumulative visual effects would be significant at viewpoints 6 and 8 for existing, consented and application stage wind farms.

3.65 At viewpoints 10 and 20, the proposed development would also add to the existing significant adverse visual effects of the operational Baillie Hill wind farm.

Design

3.66 It is questionable whether the design of the proposed development would fully achieve any of the design objectives stated in the EIA report; and the proposed development would not achieve the threshold for all or part of the ten criteria in the Onshore Wind Energy supplementary guidance which set out key landscape and visual considerations for assessing proposals.

Conclusions

3.67 The landscape and visual elements of the council's reasons for objection 1, 2 and 3 (excepting references to Dunnet Head and the A9) were valid. Furthermore, a greater number of landscape character types would be significantly affected than were considered at the Limekiln 1 inquiry. The sensitivity, magnitude and levels of effect associated with significant visual effects would be generally higher than is stated (or implied) by the EIA report and supplementary information.

3.68 Furthermore, the applicant's landscape witness has focused on the 'acceptability' of the proposal, rather than confining an assessment to identifying the landscape and visual effects of the development. This is more reflective of an advocacy role rather than an objective assessment of effects.

Reporters' conclusions on landscape and visual impact

Methodology

3.69 The statement of agreed matters provided by the applicant, council and SNH helpfully enables us to restrict our consideration of methodological issues to a limited number of relatively detailed aspects of the applicant's landscape and visual impact assessment (LVIA). There are no fundamental areas of disagreement between parties in regard to the methodology that has been employed in the LVIA, and from the evidence

before us, including that presented during the inquiry, we see no reason to question this agreed position.

3.70 The council's witness has raised concerns that where significant effects were identified, the LVIA failed to categorise these further, in order to draw a distinction between different levels of significance. The Guidelines for Landscape and Visual Impact Assessment (Third Edition) (GLVIA3), is accepted by all parties to be the most relevant source of guidance to follow currently when undertaking an LVIA. The approach outlined in paragraph 3.33 of GLVIA3 aligns with the relevant requirements of the EIA regulations, stating: "It is not essential to establish a series of thresholds for different levels of significance of landscape and visual effects, provided that it is made clear whether or not they are considered significant".

3.71 We can appreciate the argument for providing categories of significance within an LVIA, although this would only ultimately introduce a further layer of professional judgement rather than a definitive, irrefutable conclusion. The applicant's decision not to provide such categorisation in the LVIA section of the EIA report does not hinder our ability to reach conclusions on the landscape and visual effects. Nor do we consider that the absence of such categorisation could be fairly described as a weakness of the LVIA methodology, particularly given the position of GLVIA3 on this matter and the absence of such a requirement in the EIA regulations.

3.72 The differences between the applicant and the council, in regard to the magnitude of identified significant effects, goes to the heart of the disagreement in their respective positions on landscape and visual effects. Given the council's objection to Limekiln 2 on landscape and visual grounds, it is unsurprising that the council has generally identified higher magnitude effects than the applicant.

3.73 These differences do not give us cause for concern over the methodology used by the applicant for its LVIA, or indeed by the council in its own assessment. It is quite usual for individual landscape professionals to reach different conclusions for the same proposal. We are satisfied that the LVIA methodology set out and applied in chapter 9 of the applicant's EIA report, is sufficiently robust to inform our assessment, as is the evidence presented for the council.

Landscape effects

3.74 The proposed wind farm would be located entirely within the Coniferous Woodland Plantation landscape character type (LCT) 14 in SNH's 2010 dataset. LCT 14 is a subset of the Sweeping Moorland LCT (LCT 1), delineated by the Caithness and Sutherland Landscape Character Assessment (LCA), undertaken in 1998. This is illustrated in Figure 9.2 of the EIA report, which also shows the locations of other LCTs relative to the application site. This figure indicates that the western part of the site would fall within the unforested LCT 1; we accept that this simply reflects an error in the SNH dataset, by it not reflecting the true extent of the Limekiln plantation.

3.75 The Caithness and Sutherland LCA describes Sweeping Moorland as being characterised by features including wide open space; simple visual composition; a fairly flat, or gently sloping or undulating landform. The landscape character assessment does not provide a separate description for the coniferous plantation within it, but the description for the Sweeping Moorland LCT (of which it is a subset) acknowledges the presence of

plantations. Therefore, we consider the assessment's basic guidance on locating wind farm developments within the Sweeping Moorland LCT (on page 37) can also be applied to its coniferous woodland plantation subset. This advises that "A windfarm will tend to appear most appropriate where it is located within the wide open areas of this landscape character type, so that the size of the turbines appear inferior to the scale of the surrounding space. A windfarm should aim to portray a simple and sculptural image within moorland surroundings, as this landscape possesses no distinct pattern;…".

3.76 The landscape sensitivity appraisal, also recently (in December 2017) adopted by the council as part 2B to its statutory Onshore Wind Energy supplementary guidance, classifies the Limekiln 2 site as area CT4 'Central Caithness'. The document describes the sensitivity of the landscape type specifically in relation to wind energy developments. It indicates that there is limited scope for wind energy development comprising 'larger turbines' (with the proposed turbines for Limekiln 2 being categorised as such). We find it important to note that in its rating of each character area's sensitivity to wind energy development, area CT4 is rated as '3' for large scale wind farms (on a scale of 1-4, with 1 being most susceptible to change). The document therefore indicates that the landscape character of area CT4 is the least susceptible to change from large scale wind farms, out of 11 landscape types in Caithness considered by the appraisal.

3.77 From our experience, large scale moorland landscapes (with or without the presence of coniferous plantations) tend to more readily provide the capability to accommodate large scale wind turbines than more complex, smaller scale landscapes, where scale comparisons may result in wind turbines detracting from the composition of the landscape character. This is not to suggest, however, that even in such relatively expansive and featureless landscapes, significant landscape effects would not arise.

3.78 The findings of the applicant's LVIA, as set out in EIA report table 9.6, and table 9.3 of the supplementary information, conclude that significant effects upon landscape character would occur for LCT 14 (the host landscape); in the northwest corner of LCT 1 (Sweeping Moorland: Broubser); in the eastern half of LCT 1 (Sweeping Moorland: West) between the A836 and the modest summit of Beinn nam Bad Mor; LCT 3 (Moorland Slopes and Hills: Beinn Ratha) and LCT 12 (Mixed Agriculture and Settlement: North-east) in areas to the north of the proposed development. The assessment for the council (in paragraph 5.3.1 of the inquiry report) reaches the same conclusions in respect of all of the above landscape character types. These findings are summarised by the table in paragraph 5.3.1 of that document. We agree that significant effects upon landscape character would arise in those parts of LCT 1, 3, 12 and 14 referred to in the above assessments.

3.79 Noting in particular the expansive nature and horizontal scale of LCT 1 (characteristics largely shared by LCT 14, albeit with tree cover), and the notable simplicity of these landscape types, we are satisfied that the overarching defining characteristics of these LCTs would not be undermined by the proposed development.

3.80 Whilst LCT 3 has an increased vertical scale provided by the sharply rising slopes of Beinn Ratha, we find there would be sufficient separation between that LCT and the wind farm so that the intrinsic character of the LCT would not be diminished, despite the significance of the effects upon it.

3.81 The part of the north-east component of LCT 12, where we agree significant landscape effects would arise, includes most of Reay itself and extends southwards up to

the coniferous plantation within LCT 14. From locations where there would be visibility of the wind farm (as indicated by the zones of theoretical visibility in figures JW1 and JW2) it would nevertheless be immediately apparent that the wind farm was sited beyond the more settled, smaller scale landscape of LCT 12. It would be seen and perceived in the context of the more expansive LCT 14 which rises away from the smaller scale and more complex landscape character, closer to the coast.

3.82 The applicant and council are in dispute in regard to whether significant effects upon LCT 6 (Beaches, Dunes and Links: Sandside) and LCT 11 (Open Intensive Farmland: Sandside) would arise. For both of these LCTs, the council's landscape witness has concluded that significant effects would occur, and the level of these significant effects has been categorised as 'moderate / major' for both LCTs (with these categories of significance being defined in Table A7 on page 67 of the inquiry report). This is a marked difference to the applicant's position, with its LVIA's preliminary assessment (Appendix 9.B, table 1) finding that neither of these LCTs would be subject to significant effects. They were thus filtered out in advance of a more detailed assessment.

3.83 Given the composition of this part of LCT 6 at Sandside, consisting of beaches, dunes and links, its character clearly has a strong association with the coast. This was confirmed to us during an unaccompanied site inspection. Representative viewpoint 3 is located at the southeast extremity of this LCT, on the A836 adjacent to Reay church. The conclusions of the council in respect of LCT 6 have therefore also been informed by the wirelines and photomontages for viewpoint 5 at Sandside Bay harbour.

3.84 We have noted the applicant's contention that viewpoints located in one LCT cannot be used to assess the effects upon another LCT. We find that, whilst exercising caution, it is possible to make some assessment of the nature of landscape effects even in the absence of illustrative material from a specific location or LCT. We consider the experience of the council's witness, the use of ZTVs and illustrative material in the vicinity, all combine to enable judgements to be made. The applicant must have also found this to be possible in order to make its preliminary assessment of the LCT, and we do not consider the approach for the council to be deficient in this regard.

3.85 Setting that matter aside, we nevertheless concur with the findings of the applicant that the LCT's character is overwhelmingly derived from its relationship with the sea and Sandside Bay. This would not be altered by the proposed development, and we find the effects upon LCT 6 at Sandside would not be significant.

3.86 Regarding LCT 11 (Open Intensive Farmland: Sandside), representative viewpoint 5 in the applicant's LVIA is located at the eastern extremity of the LCT at Sandside Bay harbour. Taken in isolation, this representative viewpoint gives little impression of the character of LCT 11 itself but does give some indication of the nature of the effect that Limekiln 2 may have upon the wider LCT. We agree with the council that visibility from this LCT is principally to the south and east. The zones of theoretical visibility (figures JW1 and JW2) indicate the potential for unobscured views of Limekiln 2 from most of this LCT. The council's evidence refers to viewpoint 15 at Borlum Hill as demonstrating the extent of visibility from LCT 11, which we have cautiously taken note of.

3.87 In paragraph 5.3.5 of the council's inquiry report, extracts from the Caithness and Sutherland Landscape Character Assessment are cited which relate to the "key forces for change and design guidance" for LCT 11. From the evidence we heard during the inquiry,

we do not consider this to be relevant to the question of whether significant indirect effects upon LCT 11 would occur. The above reference relates only to developments within the LCT itself and is of no assistance to assessing indirect effects.

3.88 Having visited this LCT, whilst we find its association with the coast is stronger than with landscapes further inland (as asserted for the applicant), we do not consider its relationship with the landscape to the north, inland, should be disregarded. That said, we do not find that the influence of those inland landscapes upon LCT 11 are sufficiently important to suggest that Limekiln 2 would affect the integrity of LCT 11's own character and qualities.

3.89 Overall, we find that significant landscape effects would be confined to an area not exceeding a radius of approximately 6 to 7 kilometres from the application site; this is a point which is also agreed between the council, SNH and the applicant. Despite the significant effects which have been identified, we find the landscape is nevertheless capable of absorbing the Limekiln 2 development. We find the development would not have a strong influence upon the character of the coast and coastal landscapes, owing largely to the separation distance from it, but also the presence of intervening development and landforms. We find the lack of association with the coast to be beneficial, given the coastal landscape's generally more complex, or otherwise more settled and smaller scale character, would in our view potentially present greater challenges for satisfactorily accommodating a development of the size and scale proposed. The character of the landscape along/ closer to the coast is markedly different from that of the proposed development site, differentiating the location of Limekiln 2 from the more sensitive and complex coastal landscapes.

3.90 The physical effects upon the landscape arising from the development are, we would agree with applicant, confined to the areas of felling required to accommodate the development within the plantation. The implications of this, and the proposed 'key holing' technique are considered in the context of visual effects below.

Visual effects

3.91 The council's reasons for objection indicate concerns that Limekiln 2 would have a significantly detrimental visual impact from a number of locations to the north, west and east of the proposed development. The statement of agreed matters confirms the council's acceptance that significant visual effects would be restricted to within a 10 kilometre radius of the proposed turbines.

3.92 We have made extensive unaccompanied site inspections, which included (but were not confined to) visiting all of the representative viewpoints within 20 kilometres of the application site. Having done this alongside consideration of the zones of theoretical visibility, we find factors such as the intervening distance and topography, the landscape character and scale, the influence of other developments including Dounreay power station and the wind farms at Baillie Hill and, to a lesser extent, Forss, all contribute to lessening the distance at which significant visual effects would occur. The applicant has asserted that significant visual effects would not occur beyond around 6 – 7 kilometres from the wind turbines. For the above reasons, we agree with that conclusion.

3.93 The applicant and council are in agreement over which representative viewpoints would be subject to significant visual effects, all of which are within 5 km of the proposed

development; these are viewpoints 1, 2, 3, 4, 5, 15 and 17. We attach weight to the consistency in these findings. However, the council's assessment generally finds the sensitivity of the principal visual receptors and/ or the magnitude of visual effects at these representative viewpoints to be higher than accounted for in the applicant's assessment. These differences are summarised on page 28 of the applicant's inquiry report, and we have also considered the effects at these viewpoints in turn, below.

3.94 Viewpoint 1 is located on the A836 at the Drum Hollistan layby, from where the Limekiln 2 wind farm would be seen to the south east. From this location, there are views eastwards into Caithness, and to the north/ northeast out to sea and towards Orkney. We found the focal point at this point to be the coastline and also the prominent Dounreay nuclear power station. Whilst the proposed development would be seen in a single panorama together with the Caithness coastline, from viewpoint 1 the development would be seen as visually separate, assuming an inland position on higher ground and in an expansive landscape. We concur with the EIA report and supplementary information, that the magnitude of visual effects would be medium to high from this viewpoint.

3.95 The EIA report and supplementary information consider receptors (road users, and recreational users) at viewpoint 1 would have medium sensitivity, chosen to represent a 'mid-point' in the range of sensitivity that the main receptors in this location may have. We prefer the council's approach to accounting for the variable sensitivity of receptors, which acknowledges that sensitivity is likely to differ, depending to some degree on the reason for receptors being there. There is a danger that if a single, median sensitivity rating is provided to account for all receptors, this could underplay the overall effects. This is relevant to the assessment of visual effects at all representative viewpoints.

3.96 The A836 at this location is part of National Cycle Route 1, the North Coast 500 and North and West Highlands tourist route, and such users are likely to have higher sensitivity than commercial drivers for example, as their attention is likely to be more focused on views from the road. The layby enables, and perhaps even encourages, recreational road users to stop to appreciate the view, although we do not consider this elevates the importance or value of the view from this location. Overall, we agree with the applicant and council that the visual effect would be significant.

3.97 Viewpoint 2, located on a core path approximately 50 metres south of Reay, is representative of the nature of the visual impact from recreational routes locally. The EIA report and supplementary information find the receptors (recreational users / walkers) at this location would have a high sensitivity. The assessment for the council rates their sensitivity as 'very high', although given that both ratings represent the top of their respective scales used, in practice there appears to be little difference between the applicant and council in this regard.

3.98 Having regard to the numerous third party representations which highlight the value that the local community places on the network of paths in the vicinity of Reay, we agree that receptors would be highly sensitive to the development. We also agree with the applicant and council that the magnitude of visual effects would be high from this representative viewpoint, given the proximity of the turbines and the extent to which southward views would be altered by the development. The visual effects would be significant.

3.99 From viewpoint 3 (A836, Reay church), the revised 21 turbine scheme would appear less prominent than the original 24 turbine proposal. The applicant has contended that views south from Reay have been a key consideration in the design of the wind farm proposal. We find the omission of turbines 20 and 21 in particular (as part of the reduction from 24 to 21 turbines), would perceptibly reduce the prominence of the wind farm from viewpoint 3. We find the proposed development would not dominate the view, because from this location, the wind farm would clearly appear to be located beyond the immediate setting of the village, in a more expansive landscape. The turbines would remain highly visible, but the landscape context in which they would be seen help to reduce the extent to which they would appear discordant in this view. The turbines would also be seen in the context of other development, infrastructure and forestry.

3.100 We nevertheless consider that the magnitude of visual effects at viewpoint 3 would be high, in line with the findings of the applicant and council. Receptors include church-goers, golfers at the adjacent Reay golf course, and road users and pedestrians on the A836 through Reay. For all of these receptors we consider a medium sensitivity rating to be appropriate at this location given the context the wind farm would be seen in, and we find the effects would be significant.

3.101 From viewpoint 4 at Shebster, there is only a slight difference between the applicant and council in their assessments of the magnitude of visual effects, concluding 'medium to high' and 'high' respectively. From this location, the bases of the turbines would all be obscured by the topography and forestry, which we consider would have the perceived visual effect of pushing the development back from the immediate landscape setting of the settlement. The horizontal scale of the landscape and intervening distance also help in this regard. Some stacking occurs and the overall composition of the wind farm from this viewpoint is compromised to some degree, although we consider that overall, the wind turbines would not unduly dominate west/ north west views from Shebster.

3.102 We consider that residents of Shebster are likely to have high sensitivity to the visual effects of the development, although the more immediate visual influence of Baillie Hill wind farm immediately to the north of the settlement may temper their sensitivity to Limekiln 2 to some extent, cumulative considerations notwithstanding. The road is not on a tourist route, but is on National Cycle Route 1, so there is scope for other receptors with high sensitivity to be affected. We find the visual effect to be significant.

3.103 From Sandside Bay harbour (viewpoint 5), there is considerable visual amenity provided by the views back to Sandside Bay. The horizontal spread of turbines would occupy much of the backdrop to Sandside Bay from this viewpoint, but the overall magnitude of effects would be reduced by the intervening distance of 4.8 kilometres. In this view the introduction of the proposed wind turbines would, we consider, represent a medium to high magnitude change on this basis.

3.104 We agree with the applicant that the sensitivity of receptors may be suppressed, to some extent, by influences in the wider view, in particular the presence of Dounreay nuclear power station. Given the level of visual amenity which endures despite the influences of other developments, we find receptors could still have high sensitivity to Limekiln 2. The visual effects would be significant.

3.105 Viewpoint 15 is located at the modest summit of Borlum Hill. For those receptors who make the effort to access this location specifically, to which there is no formal route, we

consider their sensitivity to the effects of the Limekiln 2 development would be high. From Borlum Hill, southward views currently offer an entirely different experience to northward views which include Dounreay, Baillie Hill wind farm and development in and around Reay. The coniferous plantation is the only obvious human influence to the south, and Limekiln 2 would introduce wind turbines into the foreground, and so we find this would be a high magnitude of change and a significant effect.

3.106 The final representative viewpoint from where significant visual effects are predicted is viewpoint 17, located at the summit of Beinn Ratha. The hill acts as a local landmark and its elevation relative to its immediate surroundings provides panoramic views. The assessments by the council and applicant both consider the magnitude of effects to be at the top of their respective scales. We concur, given the unobscured views of all 21 turbines that would be available. From this elevated position, there is also the potential for adverse visual impacts arising from the felling of trees around the turbine bases, if done so without sufficient regard to the finished appearance of the 'key holing' technique proposed. We find this risk could be appropriately mitigated using a condition, as put forward by the applicant during the inquiry and incorporated in condition 28 in Appendix 2 of this report.

3.107 The applicant's LVIA considers the sensitivity of the view, and receptors at/ in the vicinity of this location, to be medium, whereas the council considers the sensitivity of receptors to be very high. Representations have stressed the value the community places on the walks to the south of Reay and particularly Beinn Ratha. We walked to the summit of Beinn Ratha via Helshetter Strath. Despite boggy ground and no obvious path at the foot of the hill, it was relatively accessible. We consider walkers at this location would have high sensitivity to the development. This location provides receptors with extensive views, including southwards towards the interior of the East Halladale Flows wild land area 39, and beyond with long range views of the lone mountains. Northward views of the sea are equally impressive. Limekiln 2 would not directly interrupt these southern or northern views, but a strong awareness of the presence of the wind turbines would be unavoidable. The visual effects would be significant.

Residential visual amenity

3.108 We acknowledge that the council has confirmed, in the statement of agreed matters that it does not consider any residential property would become widely regarded as an unattractive place to live by virtue of the visual impact of Limekiln 2. There have however been numerous third party representations in regard to the loss of residential amenity, of which outlook is a component.

3.109 Significant visual effects are predicted at ten residential properties, as summarised in table 9.8 of the supplementary information. The supplementary information makes clear at paragraph 9.7.1 that these should be treated as representative of the range of effects that may be experienced from residential properties, rather than it being a complete list of properties from where significant visual effects would arise. We are satisfied that this is a reasonable approach for the assessment to have adopted.

3.110 We made accompanied site inspections to five of the nearest properties (Achins; Borlum House; Milton Cottage; Creag Leathen (which is derelict); and Loanscorribest), where we were able to assess the visual effects from within the domestic curtilages using the illustrative material provided by the applicant. This was in addition to extensive unaccompanied inspections in the vicinity of other properties in and around Reay. There

are no residential properties within 2 kilometres of the proposed turbines. At this distance we would not ordinarily expect wind turbines to be so visually dominant at a property so as to be overbearing. We are satisfied that there are sufficient separation distances between the turbines and nearest properties in this case to ensure that no overbearing effects would arise.

3.111 These separation distances also limit the extent to which the development would be visually dominant. We agree with the findings of the applicant that the highest magnitude of change would be experienced at Achins and Borlum House (recorded as 'high to medium' at both properties). Achins is the nearest property to the scheme with visibility of all 21 turbines, but at 2.79 kilometres to the nearest turbine, the wind farm would be a distinct feature in southward views from the house and garden ground, but would not overwhelm or dominate the outlook. From the south facing windows of the house, the wind farm would also be at a slightly oblique angle, limiting its effect further.

3.112 From Borlum House, the topography (particularly Borlum Hill) would restrict visibility of a number of wind turbines, with all or part of 12 turbines remaining visible as a worst case. The removal of turbines 19, 20 and 21 has reduced the visual impact that would occur at Borlum House. From this property, we find the relatively limited horizontal field of view that would be occupied by turbines, together with the intervening distance of 2.51 kilometres, would ensure a high degree of visual amenity would be retained.

3.113 On the basis of our site inspections and evidence submitted to the inquiry, we are satisfied that Achins and Borlum House can be used essentially as a proxy for assessing the extent to which other properties may experience overbearing or visually dominant effects from the development, as the visual effects at other properties are highly unlikely to exceed the effects that would result here. These two properties would experience the greatest overall visual effects, which we acknowledge would be significant, but we find no basis to reasonably conclude that the turbines would be overly dominant or overbearing, to the extent that residential amenity would be materially reduced.

Cumulative effects

3.114 The applicant's EIA report assessed the cumulative effects of the proposed development using two scenarios. Scenario 1 considered Limekiln 2 in the context of all operational, under construction and consented wind farms, whilst scenario 2 also included relevant application wind farms in the assessment. At that time, Drum Hollistan had not progressed to application stage and so did not feature in the cumulative assessment.

3.115 An updated assessment of cumulative effects was provided in the supplementary information submitted in October 2017. This identified one change to the cumulative situation of relevance to the assessment (under scenario 2), namely the Drum Hollistan application, being considered as part of this conjoined inquiry.

3.116 Additionally, we requested cumulative wirelines and associated commentary which would also take account of the consented Dounreay Tri Floating Offshore Wind Demonstrator Project ('Dounreay Tri'), which would consist of two offshore wind turbines, 200 metres in height to blade tip. Their precise location is uncertain, as we understand the consent allows for the turbines to be positioned anywhere within a 5 square kilometre area, as shown on the applicant's figure JW1. The updated wirelines were accordingly provided by the applicant, which assumed a 'worst case' scenario that the

Dounreay Tri wind turbines would be positioned as close to the shore as would be permissible under the terms of the consent. The associated assessment appears in the applicant's inquiry report, paragraphs 8.18 to 8.23.

3.117 The applicant's figure JW9 illustrates the spatial relationship between Limekiln 2 and other wind farms in both scenarios 1 and 2. Additionally, it includes potential wind farm proposals that are currently in the scoping stage. We note that the applicant, council and SNH are in agreement that significant cumulative effects may arise within approximately a 20 km radius of Limekiln 2. Based on our site inspections, we reach the same conclusions.

3.118 The scoping stage proposal at Broubster is the only scheme outwith scenarios 1 and 2 which we consider to be of some potential relevance when considering the cumulative effects of Limekiln 2, given their close proximity. However, based on the council's confirmation that there has been no correspondence subsequent to the scoping opinion, we see no basis for considering the cumulative implications given the uncertainty over whether the Broubster proposal may progress.

Cumulative landscape effects

3.119 The assessment of cumulative landscape effects undertaken for the council (in Appendix B of its inquiry report) contends that there would be significant cumulative effects upon the Long Beaches, Dunes and Links (Sandside) LCT 6, and the Open Intensive Farmland (Sandside) LCT 11, in both scenarios, in addition to those LCTs predicted to experience significant effects in the EIA report.

3.120 In reaching its conclusions on cumulative effects on the Long Beaches, Dunes and Links (Sandside) LCT 6, for scenario 1 the council has taken into account the assumed location of the Dounreay Tri wind turbines, using the updated cumulative wirelines (LWL/22) provided by the applicant. Viewpoints 3 (A836, Reay church) and 5 (Sandside Bay harbour) have been used as representative of the LCT. We do not find that the cumulative wirelines for these representative viewpoints give credence to the council's contention that Dounreay Tri would contribute to a high magnitude of combined effects. From viewpoint 3 only two blade tips would potentially be visible, whilst from viewpoint 5 there would be no visibility of Dounreay Tri.

3.121 During cross-examination, the council's witness, Mr Steele, explained that the conclusion in B2.2.1 of the inquiry report (that Dounreay Tri would contribute to a high magnitude of combined effects upon the Open Intensive Farmland (Sandside) LCT 11) was assumption-based, and not supported by any illustrative material before the inquiry. Mr Steele also clarified (under re-examination) his view that Dounreay Tri would make the least contribution to cumulative effects relative to other relevant schemes in each scenario. We agree with that assertion and find Dounreay Tri would have limited influence on cumulative landscape and visual effects from any locations, due to the intervening distance from the coast.

3.122 In scenario 2, figure 9.5 in the applicant's supplementary information shows that LCT 11 at Sandside would be subject to visibility of both the Limekiln 2 and Drum Hollistan proposals. The council has referred to the Drum Hollistan applicant's viewpoint 9: 'Sandside Bay harbour', in addition to the submissions of the Limekiln 2 applicant, to draw support for the contention that significant cumulative effects would occur at LCT 11

(Sandside). We also find the photomontages and wirelines at Drum Hollistan viewpoint 9, provided in figure 1.11 to be of assistance in reaching our conclusions.

3.123 Based on this material, we consider the cumulative landscape effects would be significant in scenario 2, but not to an extent that the LCT would be characterised by the presence of wind farms. In scenario 1, we find the cumulative landscape effects would not be significant.

3.124 Overall, we find that none of the significantly affected LCTs (in either scenario) would become a 'wind farm landscape' as wind turbines would not become a defining characteristic.

Cumulative visual effects

3.125 The applicant and council's conclusions differ in regard to the representative viewpoints from where, in scenario 1, significant cumulative effects on views/ visual receptors are predicted to occur. The applicant identified cumulative significant effects at viewpoints 4 (Shebster) and 6 (A836, Dounreay road junction), whilst the assessment for the council concluded that cumulative significant effects would arise at: viewpoints 1 (A836, Drum Hollistan layby); 2 (Reay footpath); at Sandside Bay harbour using Drum Hollistan viewpoint 9 rather than viewpoint 5 used in the applicant's EIA report; 15 (Borlum Hill); and 17 (Beinn Ratha).

3.126 For scenario 2, which takes account of the Drum Hollistan wind farm application, there is a much greater level of agreement between the applicant and council in regard to where significant effects would arise, than for scenario 1. Of the representative viewpoints, the assessment for the council concludes that only one other viewpoint would be subject to cumulative significant visual effects in addition to the eight identified by the applicant, as a consequence of using the Drum Hollistan applicant's viewpoint 9 rather than the Limekiln 2 applicant's viewpoint 5.

3.127 The substantive reasoning behind why the council has reached different conclusions to the applicant (in regard to scenario 1) above has not been provided in any submissions to the inquiry. This was a matter which was covered during cross-examination of the council's witness, Mr Steele, who conceded that reasoning was absent in regard to cumulative visual effects (with specific reference to Appendix C of the inquiry report).

3.128 Despite this, we consider that the conclusions drawn by Mr Steele for the council, on cumulative visual effects, may be taken in good faith as representing a professional judgement using the evidence available. In any event, even if the applicant and council were in full agreement over the nature of cumulative visual effects, we would still need to satisfy ourselves whether we also concurred, based on the submitted evidence and our own site inspections.

3.129 All told, we are in agreement with the applicant's conclusions that significant cumulative visual effects would, in scenario 1, be confined to viewpoints 4 and 6. The council's conclusions that significant cumulative effects would occur over a considerably wider area appears to place what is, in our view, an overstated reliance on the cumulative interaction between Limekiln 2 and the Baillie Hill, Forss and Dounreay Tri wind farms. We find that viewpoints 4 and 6 are reflective of where significant cumulative effects would arise

from the broad clustering of these wind farms (excluding Dounreay Tri, which we do not consider has any significant cumulative implications).

3.130 Whilst at viewpoints 4 and 6 the cumulative effects would be significant, we also consider that there is merit in Limekiln 2 achieving some visual association with these operational schemes, in order to consolidate the overall visual influence of wind energy developments. At the other viewpoints cited by the council however, we find the visual influence of Baillie Hill and Forss wind farms to be markedly less. We are satisfied on this basis that in scenario 1, Limekiln 2 would not give rise to significant additional or combined cumulative visual effects at the viewpoints referred to by the council.

3.131 In scenario 2 (which introduces Drum Hollistan wind farm into the cumulative context) we agree with the conclusions shared by the applicant and council that significant cumulative effects would arise principally at representative viewpoints in the vicinity of Reay.

3.132 Numerous representations have raised concerns regarding the 'encirclement' of the village of Reay, particularly in the event that both Limekiln 2 and Drum Hollistan were consented and built. We have made extensive unaccompanied site inspections in and around Reay, in addition to the accompanied visits to specific residential properties. We are in no doubt that the cumulative effects upon Reay would be significant. However, as the illustrative material accompanying both applications indicates, there are limited locations from within the village where simultaneous visibility of the developments would be available, notwithstanding the theoretical cumulative visibility (shown in figure JW3) because this takes no account of buildings, vegetation and other land cover. The two schemes would also be visually separated by the distinctive hill of Beinn Ratha.

3.133 We are satisfied that, in respect of the cumulative effects upon Reay, Limekiln 2 and Drum Hollistan could co-exist without resulting in any overwhelming sense of encirclement. Taking Limekiln 2 in isolation, from Reay we do not find there would be significant effects from the visual cumulative interaction with any other wind farm development.

3.134 In regard to the cumulative visual effects upon receptors using the A836 (used by a wide range of users including residents, commuters, business, tourists), we agree with the applicant that in scenario 1, no significant cumulative effects would occur, regardless of the direction of travel. Scenario 2, which assumes the existence of Drum Hollistan wind farm, would result in Limekiln 2 contributing to significant cumulative effects, whether travelling westbound or eastbound, because the distance over which wind farms would be a visible feature (whether sequentially or simultaneously) would be extended, but such effects would remain relatively localised.

3.135 Whilst there is scope for sequential and simultaneous cumulative visual effects to arise along other routes, including the Shebster road and local core path network, we are satisfied that the overall character of, and amenity provided by, these routes would persist.

Design

3.136 During the inquiry, it was confirmed for the council that it was not objecting to the proposal on design grounds.

3.137 We have no basis to conclude that the design of the Limekiln 2 proposal is unsatisfactory; the evidence before us demonstrates how the site context, topography and principal views towards the development have been taken into account. We are satisfied that due consideration has been given to the design of the proposal, and that issues of overlapping or 'stacking' of turbines, where this does occur in certain views, has been minimised. We find the overall design of the wind farm to be well considered and coherent.

Overall conclusions on landscape and visual effects

3.138 We conclude that the Limekiln 2 development would result in significant landscape and visual effects both in its own right and cumulatively. For a wind farm consisting of 21 turbines of the heights proposed, we are however struck by the extent to which these significant effects would be contained within a radius of approximately 6 to 7 kilometres. This conclusion does not take account of the effects upon wild land however, which we consider in detail in chapter 4, below.

3.139 We recognise that the viewpoints used in the EIA report and supplementary information are representative, and therefore are not the only locations from where significant visual effects would arise. There will inevitably be many locations within the general environs of these viewpoint locations from where significant visual effects would also be likely to occur.

3.140 There would be significant effects upon Reay and Shebster, but given the separation distances from both settlements, including outlying properties, we do not find the living conditions of any residents would be compromised by the development. We find that users of this and other core paths/ recreational routes on the south side of Reay would experience a variable magnitude of visual effects, depending on the extent of visibility, and orientation at any given location. The overall experience provided by these routes would be significantly altered by the presence of the Limekiln 2 wind farm, although we consider the amenity value they provide would endure.

3.141 Overall, we find Limekiln 2 would be consistent with the emerging pattern of wind energy development in north Caithness. It is set back from the coast sufficiently to avoid any obvious association with the coastal landscapes and the considerable visual amenity it provides.

3.142 We have noted the conclusions of the Limekiln 1 inquiry report, which is a material consideration in this case also, and our findings in regard to landscape and visual effects are broadly consistent with the conclusions of the previous reporters. However, we must stress that we have conducted our own assessment of the proposal and drawn our own conclusions. The proposal differs from the Limekiln 1 scheme, being 21 rather than 24 wind turbines, and the cumulative scenarios differ with the consenting of Dounreay Tri and the application for the Drum Hollistan wind farm. The applicant's decision to remove three turbines from the proposal has, in our view, materially reduced the visual impact from Reay (including outlying properties on the south side of the settlement).

3.143 We note that the applicant's landscape witness has asserted that the development is, in his view, acceptable in landscape and visual terms. During cross-examination it was intimated for the council that because Mr Welch has stated the development is 'acceptable', this indicates an advocacy role rather than an objective and pure landscape assessment. However, we take no issue with the applicant's witness expressing a view on acceptability

in the qualified terms (set out in paragraph 3.10 onwards in the inquiry report) in which it has been used. This also makes clear that this is only a professional judgement. We do not consider the credibility or robustness of the assessment is undermined having expressed such a view. Nor has that opinion on acceptability influenced our own consideration of landscape and visual effects.

CHAPTER 4: IMPACT ON WILD LAND

4.1 In this chapter we consider the effects of the Limekiln 2 wind farm upon the East Halladale Flows wild land area 39 (WLA 39). We first of all draw conclusions on what we consider to be the most appropriate methodology for assessing these effects, as this informs our subsequent assessment.

Wild land policy and guidance

4.2 Rather than provide a full chronology of how wild land policy and guidance has emerged and developed, we set out in this section the current and salient policy and guidance considerations relevant to this application.

4.3 As already identified in chapter 2 above, National Planning Framework 3 (NPF3), at paragraph 4.4, makes clear the position of the Scottish Government, stating that: "We also want to continue our strong protection for our wildest landscapes – wild land is a nationally important asset."

4.4 Scottish Planning Policy 2014 (SPP) expands on NPF3's position. Table 1 of SPP sets out a spatial framework for onshore wind farms, which should be reflected in development plans. This establishes three groups of areas in Scotland: group 1: areas where wind farms will not be acceptable (which applies to National Parks and National Scenic Areas); group 2: areas of significant protection (which includes a range of designations and interests including areas of wild land as shown on the 2014 SNH map of wild land areas); and group 3: areas with potential for wind farm development (which are locations outwith those in groups 1 and 2).

4.5 Paragraph 169 of SPP sets out a wide range of development management considerations of relevance to wind farm proposals. This includes, in the sixth bullet point "landscape and visual impacts, including effects on wild land".

4.6 More broadly and relating to the role of development plans, SPP goes on to state in paragraph 200 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. Plans should identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas." Finally, paragraph 215 states that "In areas of wild land (see paragraph 200), development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation."

4.7 SNH published its wild land areas map in June 2014, which delineated all areas of wild land in Scotland. This was accompanied by 'Scottish Natural Heritage's Advice to Government' which outlined the approach used to map the areas.

4.8 Guidance on how to assess the impacts of development on wild land areas is, at the time of the inquiry and submission of this report, under review by SNH. In 2007, SNH published 'Assessing the Impacts on Wild Land – Interim Guidance Note', which was updated in October 2014. Despite its 'interim' title, it has not been formally superseded by any alternative document. In January 2017 SNH published revised draft guidance 'Assessing impacts on Wild Land Areas – Technical Guidance', which was subject to

consultation between January and April 2017. This document received 148 consultation responses, and the outcome of the consultation and final document is awaited. The matter of whether the 2007 or draft 2017 guidance should have primacy is disputed by parties; we discuss this issue and the differences between the two versions in our conclusions below.

4.9 In January 2017 SNH also published descriptions for each wild land area, including for WLA 39. These descriptions align with the assessment approach proposed in the draft 2017 guidance, although it should be noted that the descriptions themselves are published rather than draft. The descriptions identify "…individual wild land attributes and resulting wild land qualities. The qualities reflect specific combinations of the attributes and the varying influence of these as they come together and are experienced" (CD10.33 para 1.2).

Evidence on wild land effects

4.10 The applicant's evidence in regard to wild land comprises of EIA report chapter 9, which in turn largely defers to appendix 9.E where a wild land assessment for Limekiln 2 is provided. The assessment was based on SNH's 2007 'Assessing the Impacts on Wild Land' guidance. Accompanying figures and visualisations are contained in EIA report volume 2b (figures 9.28a, b, c, d and e) and volume 2d (A, B, C, D, E, F, G and H) respectively.

4.11 Additional to the above, the applicant submitted supplementary information in October 2017 to take account of the applicant's decision to amend the application through the deletion of three turbines (numbers 19, 20 and 21). Chapter 9 of the supplementary information contains a short updated wild land assessment for WLA 39. Appendix 9.C of the supplementary information provides comparative wirelines showing the original and revised scheme at the selected wild land viewpoints. Updated wirelines including the consented Dounreay Tri offshore wind turbines, dated November 2017 were also submitted.

4.12 In advance of the inquiry, a wild land inquiry report was prepared for the applicant. Annex 1 comprises of supplementary large format figures prepared to support the inquiry report. Whilst the applicant considers that the 2007 interim guidance ought to be followed, Annex 3 of the inquiry report provided an alternative assessment of effects on WLA 39, applying the draft 2017 SNH guidance.

4.13 SNH submitted an inquiry report providing an assessment principally based on its draft 2017 guidance, but in Annex A also provided an alternative appraisal using the SNH 2007 interim guidance. A separate document prepared for the purposes of the inquiry, 'Supplementary Information on Wild Land Impact Appraisal', contains more detailed information on how the 2017 draft guidance has been interpreted and applied to the main assessment provided in the inquiry report.

4.14 The John Muir Trust (JMT) submitted two inquiry reports: one by Ms Helen McDade from JMT and one by Dr Steve Carver of the Wildland Research Institute (WRI). The latter inquiry report and precognition gave rise to a number of queries being raised by the applicant, seeking clarification on numerous aspects of the evidence. In the interests of being able to conduct the inquiry session expeditiously, we allowed Dr Carver to respond and we also allowed the applicant to submit a supplementary precognition to address matters arising.

4.15 The statement of agreed matters, submitted jointly by the applicant, SNH and the council, identifies limited agreement on wild land issues, confined to the following points:

- The parties agree that the WLA 39 is the only wild land area which requires consideration at the inquiry.
- Limekiln 2, as revised (i.e. the 21 turbine scheme), would have broadly the same magnitude of effect on the wild land qualities of WLA 39 as those effects arising from Limekiln 2 as submitted (i.e. the 24 turbine scheme).
- The Limekiln 2 applicant's position is that Limekiln 2, as revised, would have broadly the same magnitude of effect on the wild land qualities of WLA 39 as those effects from Limekiln 1.
- SNH's position is that Limekiln 2, as revised, would likely have broadly the same magnitude of effect on the wild land qualities of WLA 39 as those effects from Limekiln 1, but cannot confirm given that insufficient information was submitted for Limekiln 1.

The main points for the applicant

4.16 As the reporters said in the Limekiln 1 report, SPP paragraph 215 is only engaged where development is proposed within a WLA. The Scottish Ministers did not dissent from this finding and found the same in their Creag Riabhach decision (page 21). The wording of SPP paragraph 215 and that for group 2 areas within SPP table 1 are clear. Paragraph 200 advises only on plan making. Paragraph 169 gives relevant advice, but only that wild land will be a material consideration. As clearly reflected in SPP paragraph 212 and in the spatial framework within SPP table 1, wild land is not attributed the same value as a National Park or National Scenic Area.

Assessment findings

4.17 The wild land assessment in appendix 9.E applies the agreed methodology set out in the 2007 guidance and had regard to all of the additional matters raised in SNH's scoping response and correspondence with the applicant. The fieldwork within WLA 39 was of utmost importance to the assessment and two chartered landscape architects spent four days in WLA 39 carrying out the inspections and photography. The field assessment was instrumental to the findings that are set out in appendix 9.E.

4.18 A summary of the likely significant effects from Limekiln 2 on viewpoints A-H has been extracted from the individual assessments in EIA report Appendix 9.E, as well as the updated findings in the 2017 supplementary information, and is reported in table 3 of the inquiry report.

4.19 The significant effects from Limekiln 2 on the wildness qualities of WLA 39 are confined, in the main, to the arc of hills that link to form the Beinn Ratha ridgeline, extending around from Beinn Ratha in the north to Beinn nam Bad Beag in the south east (figure JW5). Where higher levels of visibility breach the containment provided by this rim of hills and extend into localised areas represented by viewpoints B and C, the significant effects would extend too. From these locations the wind farm is more distant (6.6 km and 7.1 km respectively) and would be partially concealed by the ridgeline, resulting in a medium level of impact. The extent of this effect would be localised to these respective high points, which are not devoid of other human influences, including Strathy North and Baillie Hill wind farms and Strathy South (now consented) to which SNH did not object.

4.20 The appearance of Limekiln 2 in views to the north from Beinn Ratha and the edge of the 'bowl' that substantially contains the site (and exceptionally from further south at viewpoints B and C) would not begin to compete or challenge the overwhelming appreciation of the much stronger wildness qualities that will continue to be experienced in views south and west across the WLA from these locations.

4.21 The relevant projects that Limekiln 2 may interact with cumulatively, and that have the potential to give rise to significant cumulative effects on wildness qualities, include Baillie Hill, Strathy North, Strathy South and Drum Hollistan wind farms.

4.22 The significant cumulative effects on wildness qualities that are identified to arise within WLA 39, including at Beinn Ratha (viewpoint 17), occur principally along the ridgeline identified above. This relatively low rim of hills forms a strong sense of enclosure to the landscape to the north and east of Beinn Ratha, including the Limekiln 2 application site. This enclosure is broken in a localised area where viewpoints B and C are sited on low hills that are set back from the general 'arc' that wraps around the site. Any significant cumulative effects, including operational, consented and application stage wind farms are confined to parts of these same areas (see figure JW4) and include, at its greatest magnitude, the significant cumulative effect that would arise at Beinn Ratha if both Drum Hollistan and Limekiln 2 were consented.

4.23 It is relevant to note in the context of SNH's objection to Limekiln 2, the approach it took to the Strathy South application. Firstly, its letter confirms that SNH did not object to Strathy South, notwithstanding the fact that it has a widespread effect across WLA 39, nor because of the nature of that impact, which can clearly be seen in the cumulative visualisations for Limekiln 2. Strathy South will have a more marked impact on the wildness qualities of WLA 39 than Limekiln 2 would, despite its closer proximity. This is because Strathy South will be seen in views (such as viewpoints B and C) which display a greater strength of wildness qualities and in which Strathy South appears to be positioned much deeper into the core of wild land in this area. Secondly, SNH determined that Strathy South would not give rise to any significant cumulative effects on the qualities of the WLA 39. This also works in reverse and serves to indicate that Limekiln 2, if added to a baseline which includes Strathy South, would not give rise to additional significant cumulative impacts on WLA 39.

4.24 While the combined effects on the northern part of WLA 39 will, in places where high visibility of turbines occurs, be significant they coincide with a part of the WLA that is less sensitive – particularly on the north-eastern side of the Beinn Ratha ridgeline - where other external factors are conspicuous and influential. The effects on the central and southern parts of WLA 39 would not be significant and the wildness qualities, that become progressively stronger in the south, would remain intact.

4.25 Importantly, no parts of WLA 39 that are located outside the applicant's 2014 wild land search area (WLSA) (that is transposed onto figure 9.8 as a brown outline), to the south and south east of the Limekiln 2 site, for which an absence of information gave rise to the previous refusal of Limekiln 1, would experience significant effects on their wildness qualities, either singly or cumulatively. Significant effects on WLA 39 are confined to those parts of WLA 39 for which the reporters had sufficient information in 2014 to reach the position they did.

4.26 Limekiln 2 wind farm is sensitively sited with respect to WLA 39 and whilst it would give rise to some significant effects on wildness qualities, these would be indirect effects that would be limited in extent and that would coincide with parts of WLA 39 where the perceptual qualities are diminished to a degree by other influences. In this sense it would affect parts of the WLA that are transitional, in the sense that the wildness qualities are not as strongly expressed as they are in other locations. Limekiln 2 would not unacceptably harm the integrity of WLA 39, as a whole.

Guidance and methodology

4.27 SNH confirmed in its consultation response to Limekiln 2 (dated 31 August 2016) that "The information provided in the Environmental Statement accompanying the 2016 application, is sufficient for us to provide advice on the impacts on the East Halladale Flows WLA." At no point during the application process had any shortcoming or inadequacy been identified in the 2007 methodology applied or in relation to the information provided within Appendix 9.E, by either SNH or the council. The first suggestion by SNH that the draft 2017 guidance should be applied, was in its inquiry statement.

4.28 The draft 2017 guidance seeks an approach (using GLVIA3) which is less prescriptive than the 2007 guidance it replaces, and which in the applicant's view allows for more subjective interpretation than the 2007 guidance, particularly in respect of perceptual responses, given that these are inherently individual reactions.

4.29 The more prescriptive approach set out in the 2007 guidance is better than the draft 2017 guidance for wild land assessment purposes. Furthermore, the application of the 2017 guidance relies on the wild land descriptions being accurate and instructive, in relation to the clear identification of both the physical attributes and the perceptual responses they give rise to. There are further concerns about the usefulness of the wild land description for WLA 39 in this regard.

4.30 The difficulty in making an assessment of someone's perceptual responses is recognised in the Creag Riabhach decision, where Scottish Ministers despatched their officers and Minister into WLA 37, in order to inform their understanding of its landscape context, prior to making a decision on that application. This is confirmed in pages 12 and 13 of the Scottish Ministers' decision into that scheme.

4.31 It is possible that the approach in the draft 2017 guidance could change fundamentally. Until that point is reached, the draft 2017 guidance does not provide a suitably robust, transparent and repeatable approach that can lead to a consistent and comparable set of findings in an assessment**.**

4.32 There is a considerable lack of reference in the description of WLA 39 to the influence that human development outside the boundary has on the perception of wildness qualities within parts of WLA 39. The wild land description for WLA 39 does not clearly identify, firstly, what the physical attributes of WLA 39 are and then, secondly, identify what perceptual responses arise from them. This is unhelpful because the approach set out in SNH's 2017 draft guidance is dependent on these two facets being identified. Instead, the description for WLA 39 mixes the two facets up and identifies 'key attributes' and 'wildness qualities'.

4.33 A matter that is not explained in the description, nor which can be fully appreciated without site visit(s), is the degree to which the perception of the attributes and resultant wildness qualities in WLA 39 draws on the influence of landscapes which lie well outside the boundaries of the WLA, particularly when viewed from the north, looking south and west.

4.34 It is relevant to note that Scottish Ministers and SNH both envisage a situation where some development of wind farms within WLAs may be acceptable, in some circumstances. Annex 1 to SNH's publication Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations (2015) confirms, in relation to the landscape objectives for accommodation of wind farms in the Scottish landscape, that WLAs (unlike NSAs) may be considered in a category of landscapes which can accommodate wind farms: "Within local landscape designations and Wild Land Areas, the degree of landscape protection will be less than for National Scenic Areas. In these areas, an appropriate objective may be to accommodate wind farms, rather than seek landscape protection." It is clear, too, from the recent Creag Riabhach (where 5 turbines were located within WLA 37) and Whitelaw Brae decisions that Scottish Ministers do not consider wind farms and WLA to be incompatible, even where significant impacts are found.

Re-assessment using SNH's 2017 draft guidance

4.35 The use of an alternative approach by SNH to assessing the effects on WLA 39 is particularly unhelpful as it does not provide a directly comparable basis to consider the applicant's assessment in Appendix 9.E nor of the reporters' findings in respect of the previous Limekiln 1 inquiry. In an attempt to reconcile this, and against its better judgement, the applicant has provided a further assessment of the likely effects from Limekiln 2 on WLA 39 in Annex 3 of its inquiry report.

4.36 While the re-assessment deploys a different methodology to that used in Appendix 9.E of the EIA report, it reaches substantially the same conclusions as to the areas of WLA 39 that may experience significant effects on their wildness qualities. However, the same result does not mean that the draft 2017 guidance and WLA 39 description are fit for purpose and as they stand, they are not. Importantly, the reassessment reaches the conclusion that the Limekiln 2 wind farm would not harm the integrity of WLA 39 as a whole. Instead, the significant effects that are identified coincide with areas within the Beinn Ratha ridgeline where the perception of wildness qualities is diminished as a result of existing external human influences, and exceptionally, into a localised area which is illustrated by viewpoints B and C.

The evidence of SNH

4.37 Notwithstanding the differences in our respective approaches and the applicant's concerns about the unresolved nature of the 2017 draft guidance, SNH and the applicant draw similar conclusions about the extent of effects on the wildness qualities of WLA 39. The principal difference relates to the significance of these effects and how that relates to an assessment of the effects on the overall WLA. SNH's conclusion that the Limekiln 2 wind farm would harm the integrity of the overall WLA is not accepted.

The evidence of the John Muir Trust (JMT)

4.38 The applicant does not agree with Ms McDade's approach or findings, where these relate to wild land. She does not provide a methodology for the exercise she undertakes, nor does she carry out any methodological assessment of the effects on wildness qualities yet makes unsubstantiated claims as to the severity of impacts, notably from outside WLA 39, which does not form a relevant part of SNH's wild land assessment approach.

4.39 Dr Carver relies on a desk-based analysis of GIS datasets to establish the significance of effects on wildness qualities without any reference to field assessment. The difficulty is in translating that exercise into something that means anything in a practical planning context. That cannot be done and no weight should be given to this evidence. In turn, little or no weight should be given to the evidence of JMT on the substantive impacts of Limekiln 2 on WLA 39.

The main points for Scottish Natural Heritage (SNH)

4.40 There is no policy dispute as to the proper approach to wild land – a significant adverse impact on wild land qualities can arise by reason of a wind farm outside a WLA and, if it does, it requires to be put in the balance against the benefits of the proposal. The weight to be given to such impacts will vary with each case but, nevertheless, is likely to be considerable given the recognised national importance of protecting WLAs. As the Creag Rhiabhach decision demonstrates, that can be overcome in an appropriate case. Significant wild land impact does not equate per se to an embargo, though it can quite properly justify a refusal as contemplated by the reporters in the Limekiln 1 inquiry.

4.41 What is important for this inquiry is that the assessment methodologies, as applied, are understood and provide a robust assessment of the qualities. It is not particularly important for the inquiry that the 2017 draft guidance is a draft document if, in its current format and read alongside the explanatory note submitted to the inquiry, it fulfils that task.

Assessment findings

4.42 SNH's principal assessment of the effects on the East Halladale Flows WLA applies the 2017 draft guidance. The 2017 draft guidance notes that the value of WLAs should be judged to be high in accordance with their nationally important status as set out in the National Planning Framework 3 (NPF3), paragraph 4.4.

4.43 The assessment set out in table 1 of SNH's inquiry report concludes that significant adverse effects would occur on two of the four qualities (i.e. qualities 1 and 2) included in the description for WLA 39. These are:

- An awe inspiring simplicity of landscape at the broad scale, with a strong horizontal emphasis, 'wide skies' and few foci
- A remote, discrete interior, with limited access and a strong sense of solitude

4.44 The effects identified in table 1 occur in a range of locations across the WLA, both in close proximity to the proposal, and more widely (as illustrated by the ZTV and the viewpoints included within the applicant's resubmission). The impacts identified fall generally into two categories:

- Effects on areas where the strength of wildness is recognised to be diminished as a result of external influences:

    - This area is defined as east of the Beinn Ratha ridge (to the west of the proposal), and north of the Shurrery track (to the south of the proposal). This area is broadly represented by viewpoints 17, A, and H.
    - The Limekiln 1 reporters noted their agreement with all parties that even though there is a reduced sense of wildness, the effects on this part of the WLA are significant due to the proximity and height of the turbines (paragraph 4.92).

- Effects on areas within the WLA where currently the strength of wildness, and the subsequent expression of wild land qualities, is high due to limited human influences from outwith the WLA, and an absence of human artefacts from within it:

    - This is defined by the WLA to the west of the Beinn Ratha ridge and south of the Shurrery track. This area is broadly represented by viewpoints B, C, D, E, F and G, which all illustrate the proposal where the bases of the turbines and the surrounding forestry are not seen.
    - The applicant concludes that there will be significant effects on wild land from both viewpoint B and C (EIA report paragraphs 6.27 and 6.39 respectively). SNH are in agreement with these conclusions. The applicant concludes that these effects will not result in a significant effect on the WLA.

4.45 The interior locations described above are highly susceptible to a development of this size (height), form (moving) and very close proximity, due to the high strength of wildness that results in the range of qualities described being well expressed. Existing wind farms, forestry and other features outside of the WLA do not have a substantial effect on the WLA, and its qualities are expressed strongly.

4.46 This WLA is valued for its awe-inspiring simplicity of open skies where the vast sense of space, together with the actual extent of the area not always being apparent, leads to a high sense of remoteness, sanctuary and solitude. These are qualities which are especially well expressed from the interior of the WLA as described above. The Limekiln 2 turbines where visible, would be a prominent (human) feature in this landscape limiting the expansiveness of views whilst disrupting the overarching simplicity where features outwith the WLA currently tend to be screened by landforms due to their distance and/ or height, or are not so prominent that they substantially affect the strength of these qualities.

4.47 The proposal will result in adverse effects that are to the degree that they are considered to be significant on the qualities of the WLA, seemingly bringing the experience of the more modified Caithness landscape into the more uninhabited landscapes of Sutherland. This is as a result of:

- the proximity of the proposal to the WLA being just outside of its margins;
- the substantial proportion of the area affected by the proposal including locations well into the interior of the WLA which make an important contribution to the WLA;
- the strength and range of wild land qualities expressed in the areas affected.

4.48 These impacts are considered to be adverse and long term.

4.49 The cumulative effect of Limekiln 2 in addition to Drum Hollistan on WLA 39 would result in material erosion of the WLA qualities due to the combined significant effects. It would be difficult to accommodate these two large, prominent (and moving) wind farms without compromising the overarching simplicity and openness of this WLA and its current lack of defining features. The combined effect of the two wind farms would have such an substantial influence over how the qualities of this WLA are appreciated, particularly quality 1 and quality 2, that they would alter both how and where these qualities would be expressed and appreciated. The significant adverse effects across the northern third of the WLA would be of such significance that two of the wild land qualities would be majorly altered, if not lost, from parts of the WLA.

4.50 The addition of the Strathy Wood and (now consented) Strathy South proposals to a baseline which includes the operational Strathy North wind farm would substantially extend development into the presently expansive peatlands (forestry and settled valleys are not readily appreciated) to the west, intruding on views to the mountains of Sutherland to the west from the WLA and further eroding the sense of continuity and expansiveness which comprises WLA quality 4. The addition of Limekiln 2 would contribute to these adverse effects resulting in a significant cumulative sequential effect.

The evidence of the applicant

4.51 The applicant's assessment of effects on wild land was undertaken at a time prior to the release of the January 2017 draft guidance. This assessment accords with the 2007 guidance and does not make reference to the wild land qualities. SNH advised the applicant during the pre-application period that their wild land assessment should refer to the (then) emerging wild land qualities which are now the published wild land descriptions.

4.52 The applicant's baseline assessment understated the strength of wildness expressed within WLA 39. In some instances the applicant's assessment states that external factors are considered to substantially reduce the strength of an attribute at the baseline. In applying this approach, the applicant has overstated the magnitude of change that developments some distance away from the WLA have on the strength of wildness as appreciated from within it. In addition this approach appears to conflict with a later statement where the influence from other wind farms (Strathy North and Baillie Hill) is described as relatively weak. This has resulted in the baseline strength of wildness being understated.

4.53 The applicant's wild land assessment understated the significance of effect that the proposal will have on the East Halladale Flows WLA. The applicant's assessment finds that there would be some significant effects on wild land qualities (in limited areas) in the interior of the WLA (paragraph 7.16) but that the overall effect on the WLA would not be significant either singularly or cumulatively (paragraph 7.18).

4.54 SNH disagrees with the applicant that the vast majority of the WLA 39 will gain no or low levels of visibility. 42% of the WLA will gain visibility of one or more of the Limekiln 2 turbines. SNH agrees with the Limekiln 1 reporters (in paragraph 4.86 of the report) that this is a substantial proportion of the WLA, and the fact that the majority of a WLA is not affected is not a determining factor in judging the overall significance of effect.

4.55 SNH disagrees with the applicant that notable effects will occur only in localised areas concentrated to the north of WLA 39. The locations from where the applicant

identifies significant effects collectively cover a range of locations from the north and east of this WLA and within its interior. The effects of the proposal on the WLA are therefore not so limited that they can be considered localised, nor are they limited to the northern part of the WLA.

4.56 The wider influence of operational and consented wind farm developments which already influence the baseline condition has been inconsistently approached by the applicant, leading to an understated overall judgement on significance of effect.

4.57 Paragraph 4.7 of the inquiry report for the applicant demonstrates a very fundamental misunderstanding of the whole basis of identifying qualities when it suggests that the wild land description "mixes the two facets up". The point is re-emphasised in paragraph 4.8. This serves to undermine the applicant's assessment. The very point of the descriptions of the qualities is that they seek to identify the particular combinations in the specific WLA that give rise to the qualities that should be protected.

Guidance and methodology

4.58 The 'Supplementary information on wild land impact assessment' document (SNH8), clarifies the approach taken in applying the 2017 draft guidance. Document SNH8 also sets out how the 2007 and the 2017 approaches differ and why it is appropriate to use the 2017 approach as the starting point for a wild land assessment, despite its draft status.

4.59 The 2007 guidance focussed on the generic physical attributes of wild land and the perceptual responses to these. Paragraph 11 of the 2017 draft guidance states that the term 'wild land qualities' encompasses both physical attributes and perceptual responses, reflecting that it is a combination of factors that contributes to the value and appreciation of wildness.

4.60 Both the 2007 and 2017 guidance documents advocate similar approaches of assessing the impacts of a development on the physical attributes and perceptual responses of wild land (which together make up the 'qualities' of a WLA). They differ however in the advice given on the information to be used in making judgements and in the way the findings of the assessment are presented. The 2017 approach is considered to allow any significant effects on the qualities to be more readily identified.

Re-assessment using SNH 2007 interim guidance

4.61 The additional appraisal in line with the 2007 approach (included in Annex A to the inquiry report) used the appraisal of Limekiln 1 (table 2). It is noted however that the 2007 guidance is outdated as it does not deal with the identified qualities but only with physical attributes and perceptual responses and not on the particular qualities as identified for this WLA, as well as being formulated for a time when the boundaries of WLAs had not been identified.

4.62 When applying the 2007 guidance it is noted that the effects identified (on the individual attributes and responses) differ, and are less representative of the likely effects, from those identified in the main assessment in table 1 of SNH's inquiry report. This illustrates that with more tools to hand, such as the WLA map and a description of the wild land qualities, together with a greater understanding of when effects might be considered

significant, the 2017 approach allows for a better understanding of the effects to be identified.

4.63 Not all aspects of the 2007 guidance are required to be applied as the identification of the WLAs and their accompanying descriptions effectively replace the need to assess the strength of the physical attributes and perceptual responses at the baseline.

The main points for the John Muir Trust (JMT)

Ms Helen McDade

4.64 The JMT does not believe that all wind development should be totally excluded from wild land areas (WLAs). The Scottish Government position is that "wind farms may be appropriate…" so long as "any significant effects …can be substantially overcome by siting, design or other mitigation". The issue for this site is whether all significant effects on WLA 39 can be and have been substantially overcome.

4.65 Limekiln 2 is not "an appropriate development in an appropriate place", due to direct and indirect landscape, visual and cumulative impacts on WLA 39. The late removal of three turbines from the scheme does not significantly mitigate the development.

Limekiln 1

4.66 The previous Limekiln 1 proposal was found to be unacceptable by Scottish Ministers. The applicant argues that the refusal was based solely on the inadequacy of the information. The applicant's evidence for Limekiln 2 implies that the Limekiln 1 reporters found the development acceptable in wild land terms, on the evidence before them. This is incorrect. The report makes the following important points:

- On page 11, it states the applicant accepted that, although the development is not within the WLA but immediately adjacent, its impact on the WLA needs to be assessed given the status of the WLA as "nationally important".
- Secondly, the report notes the importance of considering the WLA as a whole and notes that wild land areas include areas of a wildness classification less than Jenks class 7 and 8.
- At paragraphs 4.91 to 4.94, the reporters noted that the impact on the part of the WLA to the east of the Beinn Ratha ridgeline alone would not render this development unacceptable but concludes "It does not follow, however, that the impact on the WLA as a whole would be acceptable."

Effects on WLA 39

4.67 Industrial-scale developments near a WLA can have significant adverse effects by visual impact. Such developments may lead to the loss of wild land, in the sense of leading to a reduction in area if the WLA was re-assessed after construction using the 2014 SNH methodology, as shown by Dr Carver's evidence.

4.68 A WLA is to be considered as a whole and the land areas around the edge are integral and important. To achieve the protection required by policy, it is essential that WLAs are not eroded bit by bit, the impact being said to be acceptable because a particular part of the WLA has some manmade impacts on it and is, therefore, 'less wild'.

4.69 Views into WLAs are very significant as people feel the wildness increasing as they approach. The wild land experience is a gradual entering into a natural environment, with increasing feelings that the qualities of wildness bring. If someone has to make their way through, or is looking past, an industrial wind farm as they near the WLA, the start of their 'wild land experience' will only be when they are past that industrialisation. Then the feeling of wildness gradually develops.

4.70 The hard-line boundary of the WLA has been identified in SNH mapping and government policy to identify something valuable which must not be eroded significantly further. The test is whether, if the SNH methodology for WLAs was reapplied with the proposed development in-situ, the WLA would be redrawn as a smaller area with a significant percentage removed. It is clear that, to protect the national resource of wild land, significant adverse impacts which would lead to this diminution should lead to a refusal of the development.

4.71 The 360 degree visualisations at wild land viewpoints, in volumes 2c, 2d, 2e of the EIA report, are particularly useful for the Limekiln 2 assessment because so many of the panoramic views demonstrate the quality of open views which are the unique Flow Country characteristic. These visualisations show how an impact on the views in one direction can impact beyond the direct line of sight due to the sequential, cumulative nature of impacts.

4.72 Much is made by the applicant of the area to the east of the Beinn Ratha ridge being less wild than in the south and west. However, the view is spectacular for its 360 degree views (as shown in figures 9.46b – 9.46g). The proposed development's vertical intrusion into that panorama would impact significantly on the open space experience, far more than the current commercial plantation does.

4.73 Both the Limekiln 2 and Drum Hollistan applications would introduce a very large number of very large moving industrial machines, with their associated infrastructure, on the very edge of two sides of the WLA. If one or both applications were to be consented and built it is impossible that the outcome will be anything other than a significant adverse effect on WLA 39. That does not equate to significant protection.

Dr Steve Carver

4.74 The JMT submits that the evidence of Dr Carver is of the utmost importance in these cases. This is the first time that empirical evidence of this type has been presented to a wild land wind farm inquiry in Scotland. It represents a profound and beneficial change of approach to the assessment of the effects of wind farms on mapped WLAs.

4.75 The JMT took the view that the most straightforward way to assess the effects of the development on the WLA would be to repeat the 2014 WLA mapping, but with an assumption of the relevant wind farms being in place, and then to assess just how much of the WLA would be lost.

4.76 Dr Carver's key findings in respect of Limekiln 2, as below, were not challenged in any way in evidence in chief or in cross examination by either applicant. These findings can be reported to Scottish Ministers as unchallenged evidence:

- For Limekiln 2 it is estimated that the effect would be that the area of Jenks class 7 and 8 wild land in the core zone would be reduced by 591 hectares or 38.3%.
- The cumulative effect with Drum Hollistan is estimated as being that the area of Jenks class 7 and 8 wild land in the core zone would be reduced by as much as 718 hectares or 50.6%, and the classes 5 and 6 areas reduced around the edge by 361 hectares or 3%.

4.77 These analyses are based on the same approach, methods and techniques used by SNH in developing the 2014 map of WLAs.

4.78 Limekiln 2 would impact significantly on at least three out of the four wild land attributes used to map the spatial distribution and patterns of wild land quality across Scotland. These are 'perceived naturalness of the land cover', 'absence of modern human artefacts', and 'remoteness from mechanised access'. 'Rugged and challenging nature of the landscape' would remain unaffected.

4.79 Updated maps (figures 3.4 and 3.5a-c) have been provided, as the track from Shurrery Lodge to Loch Tuim Ghlais was missing from the SNH data and maps (with its omission having been highlighted by the applicant). Given the method of calculating perceived naturalness of land cover, this track has little overall effect on this attribute and does not have a significant effect on the patterns shown in the original figures 3.1 and 3.2a-c.

4.80 During cross-examination, Dr Carver confirmed that the maps in figures 3.7 and 3.8 (showing the effect of Limekiln 2 upon the remoteness from mechanised access), were based on an assumption that Limekiln 2 would be providing new tracks which would facilitate access into the WLA, rather than largely relying upon the use of existing forest tracks.

4.81 Relative reductions in wildness are predicted and shown in Figures 3.11 and 3.12 by following and repeating the SNH phase 1 mapping methodology for the proposed development using the same data and the same techniques to enable direct comparison. The greatest impact is, as expected, in the immediate vicinity of the proposed site, but significantly affects the size of the Jenks class 7 and 8 area. This is perhaps the area of greatest significance in terms of impact on the core of WLA 39 with the proposed development being easily visible from various key locations within the central area. There are smaller patches of significant impact at greater distance from the proposed development site wherein most turbines will be in full view.

4.82 The various differences between the applicant's assessment and the remapping exercise for JMT principally arise from factors relating to:

- differences in the terrain data used;
- differences in the viewshed model – the mapping presented for JMT uses software which allows the calculation of the visibility of features in the landscape based on the vertical area visible (taking partial visibility into account) and distance decay effects.
- the applicant's ZTVs not taking 'terrain clutter' (such as buildings and trees) into account; and
- search radius.

4.83 These and other technical issues raised by the applicant have been explained/ addressed in two supplementary responses.

4.84 Dr Carver clarified his view during the inquiry that the remapping exercise is a complementary approach and is not being presented as an alternative to other means of assessment including the use of zones of theoretical visibility, wirelines and fieldwork.

4.85 The evidence is an empirical quantification of JMT's fundamental concern that the consenting and construction of wind farms of this scale in these locations will result in a material loss of Wild Land (when re-mapped using the original methodology).

Reporters' conclusions on wild land

4.86 Consent for the Limekiln 1 proposal was refused by Scottish Ministers, in line with the recommendations of the reporters, on the basis that they did not have sufficient evidence to fully assess the potential impacts of the wind farm on the full extent of the (then newly delineated) East Halladale Flows wild land area 39 (WLA 39).

4.87 Parties have interpreted the basis and implications of that refusal in different ways. Notwithstanding that the wild land effects from Beinn Ratha were found to be acceptable, the report and decision made no further meaningful assessment of the effects on the WLA due to the lack of evidence. That decision did not draw any conclusions on the effects on the WLA taken as a whole, and so we do not consider that any of the parties could fairly argue that the previous decision meaningfully weighs in favour of their respective cases, for or against the Limekiln 2 proposal, in regard to the overall wild land effects.

4.88 The Limekiln 1 decision did however make clear that wild land does not benefit from a degree of protection that would necessarily rule out wind farm development close to its boundaries, and we agree with these findings. Wild land policy provided by SPP principally relates to development proposals within wild land, or otherwise to the consideration of wild land in development plan preparation. The Limekiln 2 proposal is wholly outwith WLA 39 (as was Limekiln 1) and so SPP paragraph 215 cannot apply to it given the wording makes no allowance for such flexibility or interpretation. Similarly, SPP table 1's categorisation of wild land as group 2 (areas of significant protection) applies within WLAs but does not apply to developments outside but affecting the WLA.

4.89 It is paragraph 169 of SPP which must therefore be relied upon, which recognises effects on wild land as a consideration in wind farm proposals. As part of an overall planning balance, we consider this particular consideration must be taken account of having regard to the overarching position of NPF3, which recognises wild land as a nationally important asset.

4.90 In regard to the development plan, there is little by way of relevant policy in the adopted LDP which would be of assistance to our assessment of the proposal's wild land effects. We therefore simply refer back to chapter 2, where we provide an overview of the relevant development plan provisions, including where we note that LDP policy 57 is not aligned with SPP on wild land.

4.91 Despite the criticism of the SNH 2017 draft guidance made by the applicant and JMT, and noting the substantial number of responses to its consultation, we can appreciate why SNH would prefer an assessment of the effects of Limekiln 2 to be based upon it. We too are attracted to aspects of its approach, and in particular how it enables the published wild land descriptions to be more fully reflected in an assessment. That is not to say that

the draft guidance is not without its difficulties, but to assess the strengths and weaknesses of the draft document in detail would be sidestepping the more fundamental question of whether, and/ or how, the various criticisms of the 2017 draft will ultimately be addressed by the final version of the document. The answer to this is unknown. During the wild land inquiry session and policy hearing, SNH fairly acknowledged that changes to the draft document are likely but the scope of these changes could not be confirmed; nor could the likely timescale for the publication of the final guidance document.

4.92 Whilst both parties have ultimately undertaken assessments using both the 2007 and 2017 draft versions of the guidance, the matter of which guidance ought to be given primacy continues to be pertinent to their respective cases. All told, we consider the weight we can give to the 2017 draft guidance is reduced because of the inherent uncertainty over what approach the final document may ultimately take. For this reason, we conclude that greater reliance should be placed on the 2007 guidance, as updated in 2014.

4.93 The 2007 guidance requires the consideration of the effects of a development upon the following categories of physical attributes and perceptual responses (assessed against their baseline strength):

Physical attributes:

- perceived naturalness;
- lack of constructions or other artefacts;
- little evidence of contemporary land uses;
- rugged or otherwise challenging terrain; and
- remoteness and inaccessibility.

Perceptual responses that may be evoked by the above physical attributes are:

- a sense of sanctuary or solitude;
- risk or, for some visitors, a sense of awe or anxiety;
- perceptions that the landscape has arresting or inspiring qualities; and
- fulfilment from the physical challenge required to penetrate into these places.

4.94 Methodological issues aside, we consider that the evidence presented by parties, regardless of whether it aligns with the 2007 or draft 2017 guidance (or whether it is a 'bespoke' approach, such as that by Dr Carver), can all be given due regard in terms of the substance of the evidence therein. We have used this range of evidence to draw our own conclusions on the effects of Limekiln 2 on WLA 39.

4.95 We find it important to note also that the wild land descriptions, including that for WLA 39, have been published by SNH in their final form. We consider the WLA 39 description to be of assistance in drawing our own conclusions, as it more accurately reflects the physical attributes and perceptual responses, listed above, as they are specifically presented in WLA 39. We acknowledge the criticism and concerns of the applicant, asserting that the description does not adequately reflect the existing external influences from human activity upon parts of the WLA, or the effects these have upon it. We also note that the wildness qualities are also accepted by the applicant as being representative of WLA 39 and the descriptions factually accurate. We consider this specific matter of external influences later in our conclusions below, but overall we find the description is a useful tool which accurately reflects the qualities of WLA 39.

4.96 As noted above, we consider paragraph 215 of SPP applies only to developments within a WLA. We find it is however relevant insofar as it gives an indication that an assessment of effects on wild land requires consideration of the "the qualities" of a WLA. The published wild land description brings the qualities unique to WLA 39 into sharper focus, which are identified as:

1. an awe-inspiring simplicity of landscape at the broad scale, with a strong horizontal emphasis, 'wide skies' and few foci;
2. a remote, discrete interior, with limited access and a strong sense of solitude;
3. a rugged and complex pattern of hidden burns, lochans and pools at the local level, despite the landscape's simple composition at the broad scale; and
4. a remarkably open landscape with extensive visibility, meaning tall or high features in the distance are clearly visible.

4.97 These qualities are elaborated upon further in the accompanying narrative in the WLA 39 description and our assessment considers the nature of the effects upon them. We are unequivocal however that the need to demonstrate that significant effects on the qualities can be substantially overcome (as required by paragraph 215) does not apply to Limekiln 2, given its location wholly outwith the WLA.

4.98 The applicant and SNH are in disagreement over whether Limekiln 2 would have a direct effect upon the physical attributes of the WLA. The applicant has contended in both the EIA report (paragraph 7.5) and inquiry report (paragraph 3.19) that physical attributes can only be indirectly affected, as it is only the perception of such attributes that is being affected. Whilst we consider the physical attributes can only be indirectly affected by development outwith the WLA, we agree with SNH's assertion and find the more important point to be that indirect effects are not necessarily less significant than direct effects (paragraph 4.2).

4.99 We find the concept of considering 'sub-areas' (illustrated in figure JW5) as presented by the applicant (albeit in its alternative assessment using the 2017 draft guidance), to be a helpful approach to considering the nature of the development's effects, given the degree to which this is variable geographically across WLA 39. We consider the wild land effects on each sub-area in turn, before drawing upon these findings to consider the overall effect that Limekiln 2 would have upon WLA 39, as a whole.

Sub-area (i):

4.100 We agree that there is a discernible, loosely semi-circular, ridgeline formed by and connecting the summits of Beinn Ratha, Sean Airigh, Clachgeal Hill, Beinn Nam Bad Mor and Beinn Nam Bad Beg. The 'bowl' to the north of this ridge is orientated towards the north. There is visibility of various human influences from within this sub-area, beyond the WLA boundary to the north and east in particular. These external influences include development at Dounreay nuclear power station and Reay village, and contemporary land uses including the Limekiln forest coniferous plantation, and the wider managed farmland landscape along the coast. The proximity and character of these influences dramatically reduce the strength of wildness in this part of WLA 39.

4.101 From the ridgeline itself, the baseline photographs from representative viewpoints 17 (Beinn Ratha), A (Clachgeal Hill) and H (Beinn Nam Bad Beag), and also the Drum

Hollistan applicant's viewpoint C at Beinn nam Bad Mor, illustrate the strong contrast in the character of views to the north relative to those to the south. Despite the very obvious human influence to the north of the WLA, from the ridge there are also some of the most extensive southern views because of its elevation and position on the north side of the WLA. These views essentially hint at the wildness qualities which are available further toward the interior of WLA 39, rather than providing a strong sense of wildness in this location, given the extent to which wildness is reduced by the external influences referred to above. We find the effect of Limekiln 2 would be significant from within this sub-area and the foregoing viewpoint locations. We are however satisfied that given the very clear contrast between northern and southern aspects, the Limekiln 2 development would not diminish the overall wild land experience from these locations.

4.102 To the north of the notional ridgeline, we found the strength of physical attributes to be relatively weak. This is because of the absence of the expansive southern views and the clear presence of the human influences, most notably Dounreay and Limekiln forest. Noting this, and the lack of inter-visibility with more central areas of the WLA, the contribution of the land contained within the 'bowl' is largely limited to forming part of the transition between the wild land boundary and its interior, where wildness qualities, attributes and responses are generally stronger.

4.103 We agree with the JMT's assertion that these transitional areas have an important role as part of the overall experience provided by wild land. However, we consider that this transition would continue to be provided even in the presence of the Limekiln 2 wind farm, whether approaching from the north along Helshetter strath, or through Limekiln forest (and we did both unaccompanied as well as the former accompanied).

4.104 The transition becomes most apparent once the forest has been passed, on the approach to the ridge identified by the applicant in figure JW5. We recognise that the wind farm would have a much greater bearing on that transitional experience than the forest (which is relatively more 'natural' in character) but we consider that only when both elements are outwith a receptor's direct or peripheral vision when walking south, would a sense of transition begin to meaningfully take hold. Once south of the ridgeline, we consider the transition to essentially be complete, with visibility of the nearby human influence to the north almost entirely obscured from view. We consider the effects on these other parts of the WLA below.

4.105 Overall, we find that sub-area (i) serves an important function, in terms of the transitional experience described above, but we do not consider that the proposed development would displace that sense of transition to further within the WLA. Had significant effects upon WLA 39 been confined to sub-area (i), our findings in regard to wild land effects would have been clear cut. We consider it to be of much greater significance to our assessment that visibility of the wind farm would extend south of the ridgeline into areas of wild land which are recognised by all parties as presenting the wildness qualities most strongly.

Sub-area (ii):

4.106 The blade tip ZTV in figure JW5 illustrates the extent to which visibility of Limekiln 2 is likely, south of the notional ridgeline referred to above. We have also had careful regard to the hub-height ZTV (figure JW2), as this indicates where visibility is likely to be at its greatest. The highest area of visibility beyond the ridge is principally concentrated in sub-

area (ii), as suggested in figure JW5. This tightly drawn sub-area contains two representative viewpoints, B and C. The impact upon wildness at these viewpoint locations, and the extent of theoretical visibility in their vicinity, are a fundamental part of SNH's objection to the proposal.

4.107 We consider it important to highlight that we have visited both of these viewpoints on an unaccompanied as well as accompanied basis. We made the unaccompanied visits on foot from Shurrery Lodge, on days with excellent visibility. We are satisfied that we have had sufficient opportunity to gain first-hand experience of the characteristics of this part of the WLA, to enable us to draw properly informed conclusions, assisted by the applicant's illustrative material.

4.108 The applicant has concluded that the baseline strengths of the physical attributes: 'a lack of constructions or other artefacts', 'little evidence of contemporary land uses' and 'remoteness and inaccessibility' are all tempered to varying degrees by external influences. The EIA report makes particular reference to the influence of Strathy North and Baillie Hill wind farms, the electricity transmission line, and distant visibility of farming and forestry. The effect of external influences is expanded upon in the applicant's inquiry report (paragraphs 4.17 to 4.24), and we note that SNH consider the applicant has over-stated the effects of these external influences.

4.109 We consider that Strathy North wind farm, despite the intervening distance (11.74 kilometres from viewpoint B) does attract one's attention and does have some bearing on the foregoing physical attributes, being seen in a context of little other human influence. Indeed we found the other developments referred to in the applicant's assessment to have a much lesser, even negligible effect on these attributes at viewpoints B, C and across sub-area (ii) more widely. Noting that Strathy South wind farm has been consented, if built this would in our view have some further effect upon the strength of these attributes.

4.110 Notwithstanding, we consider the overall strength of wildness in sub-area (ii) to be particularly high. We appreciate the applicant's point that as viewpoints B and C are located on modest summits, the wirelines and photomontages represent the 'worst case' in terms of the extent of visibility of Limekiln 2. This is confirmed by the ZTVs. However, we also find that these summits and other areas of relatively high ground comprised within sub-area (ii) are locations where qualities 1, 2 and 4, as outlined in the WLA 39 description, are all strongly present. From both our accompanied and extensive unaccompanied site inspections, out of all of the many areas and locations we visited, we found no other areas of the WLA to present these qualities more strongly. Furthermore, there were few parts of sub-area (iii) which we found could compete with sub-area (ii) in terms of the overall wildness experience. We return to our assessment of the effects on sub-area (iii) below.

4.111 We have given careful consideration to the factors which lead us to this view. The relative elevation of sub-area (ii) provides for particularly expansive, panoramic views. The vast sense of scale, simplicity, openness, and horizontal emphasis are strongly present. The extensive visibility to the south and south-west is a very significant factor, with visibility stretching well beyond the boundaries of WLA 39, which we found to be largely indecipherable from here. Whilst WLA 39 is actually relatively small in area, there is no impression of this from sub-area (ii), with these southern views extending across WLA 36 (Causeymire-Knockfin Flows) and beyond to mountains including Morven and Scaraben. Long range views of Ben Loyal and Ben Hope are available to the south west. Whilst these

views are shown in the illustrative material, we agree with the applicant that to fully appreciate the experience, site inspections are essential.

4.112 In comparison to this southern aspect, in isolation the northward views are less impressive, curtailed by the ridgeline which also forms the notional boundary with sub-area (i). However, areas to the north of sub-area (ii) do also make a strong contribution to remoteness given the lack of foci. Sub-area (ii) is arguably the most difficult part of WLA 39 to access, given its distance from any of the tracks which penetrate into the wild land, and the nature of the terrain. In this part of the WLA's interior, it is perhaps a reasonable expectation that wildness qualities will be at their strongest.

4.113 We found our unaccompanied site inspection particularly beneficial to consider the perceptual responses that arise from being in sub-area (ii). We found that having walked a considerable distance over challenging terrain, having experienced the difficulties of navigating and orientating oneself in what is a remote area with very few visible human influences (and with all such human influences being relatively distant), all of the perceptual responses which ought to be provided by a WLA presented themselves strongly. For us, the sense of sanctuary and solitude, sense of risk, and the arresting, inspiring qualities of the landscape were all particularly apparent.

4.114 Fundamental to our assessment of Limekiln 2 therefore is the effect the development would have upon the wildness qualities in sub-area (ii), in the context of the attributes and experience it offers, as considered above.

4.115 Whilst there are external influences upon sub-area (ii) already, we do not consider that any of those influences, individually or together, have sufficient bearing on the baseline strength of the attributes and responses to an extent that would lessen the susceptibility to such influences and therefore the effect on wildness attributable to Limekiln 2. This contrasts with our findings in respect of sub-area (i) above, where external influences have a profound bearing on wildness.

4.116 The ZTV in figure JW5 shows that there are areas of land immediately to the south and west of sub-area (ii) where there would be no visibility of Limekiln 2. This is an area which we walked through during our unaccompanied visit. We found this area to have equally strong physical attributes giving rise to similar responses, with the southern aspect dominating the experience. However, we consider in this vicinity, the tendency would be to gravitate towards the modest summits in order to achieve the most extensive visibility. In doing so, Limekiln 2 would present itself, impinging on the wildness qualities at those locations. Once an awareness of Limekiln 2's presence results, we agree with SNH that this may well affect the strength of wildness one perceives even once it is out of view again.

4.117 All told, we consider that the wild land effects at viewpoints B and C (and sub-area (ii) more widely) would be significant, as concluded by the applicant. We conclude these effects would also be adverse. Whilst we accept that these particular effects are restricted to a relatively localised area, we find that this localised area also corresponds with an area of particularly strong wildness, which is not particularly prevalent across WLA 39.

4.118 We do not find Limekiln 2 would have such an adverse effect within sub-area (ii) as to result in any of the attributes and responses being lost altogether, and we consider that wildness qualities would still prevail. To Limekiln 2's advantage, it does not directly affect the experience derived from the expansive southern views which we consider contribute

strongly to the defining characteristics of WLA 39. We are however left in no doubt that in sub-area (ii), wildness would be reduced. The extent to which this weighs against the proposal is accentuated by the limited locations elsewhere in WLA 39 where the wildness experience is comparably strong.

Sub-area (iii):

4.119 This area comprises all other parts of WLA 39 outwith sub-areas (i) and (ii) considered above, and represents the majority of the delineated WLA. Representative viewpoints D, E, F and G are all within sub-area (iii), and are located where some visibility of Limekiln 2 would occur. The ZTVs show that there are extensive areas of this sub-area where there would be no visibility of the development.

4.120 This sub-area includes large swathes of land along the west, south and east boundaries of WLA 39. In these parts of the sub-area, the strength of wildness is affected by external influences, to varying degrees. Whilst we consider these areas of wild land are not as heavily influenced by development or contemporary land uses beyond the WLA boundary as sub-area (i), they are comparable in that these more peripheral parts of the WLA provide a 'transition' in much the same way as we have described for sub-area (i). For this reason we find the extent of sub-area (iii) which could be fairly described as forming the 'interior' of WLA 39 to be limited.

4.121 We draw support from the applicant's illustrative material for all of the representative viewpoints in sub-area (iii), which we acknowledge have been selected because there is some visibility of Limekiln 2, rather than necessarily being where the physical attributes and perceptual responses are at their strongest. During our site inspections we found that from much of the eastern third or so of sub-area (iii) (i.e. approximately the area south and east of viewpoint H) there are a number of influences upon the physical attributes and perceptual responses. Within the WLA, there are the tracks from Shurrery Lodge to Loch Tuim Ghlais, and from Dorrery to Loch Caluim. There are other external influences, including the wind farms at Baillie Hill and Causeymire; coniferous plantations; the railway; the mast at the summit of Ben Dorrery and the single dwelling at Torran, at the foot of Ben Dorrery. Further west, viewpoint D displays the physical attributes more strongly, but there is not the same impression of openness or extensive visibility as from more elevated locations, and the relative proximity of coniferous plantations (some of which have been/ are being felled) limits the strength of perceptual responses. This is acknowledged in the applicant's assessment.

4.122 We consider that the applicant's assessments of viewpoints D, E, F and G overall provide a fair assessment of the baseline strength of the physical attributes and perceptual responses, which indicates that from those locations at least, wildness is not as strongly expressed as in sub-area (ii).

4.123 We must be careful to not overstate the effects of external influences on the wildness of sub-area (iii) as a whole. It is however pertinent to our conclusions that we find the baseline strength of wildness in sub-area (iii) to be generally lower than that of sub-area (ii). This reinforces our findings above that the area of WLA 39 which presents the strongest wildness overall, is principally centred around sub-area (ii), where visibility of Limekiln 2 would also be more extensive. Whilst we agree with the applicant that representative viewpoints within sub-area (iii) would not be subject to significant effects, we find sub-area (iii) does not provide a perception of wildness of comparable strength to sub-area (ii). It is,

however, from sub-area (ii) where visibility of Limekiln 2 would be more extensive, and consequently it is where the effects of the development would be most profound. Therefore, we consider sub-area (iii) would provide only limited alternative locations to sub-area (ii) where a comparable strength of wildness would endure within the WLA, and could be experienced, in the presence of the Limekiln 2 development.

4.124 In paragraph 4.116 above, we have already identified the area immediately to the south of sub-area (ii) as possessing similarly strong levels of wildness to that provided by sub-area (ii). Additionally, we found there were further areas to the immediate north, south and west of Loch Tuim Ghlais, although access to this area is facilitated until the loch by the well-made track from Shurrery Lodge. Based on our site inspections and the evidence before us, we consider that if there are any other locations in sub-area (iii) with comparably strong physical attributes and responses, these must be highly localised.

Cumulative considerations

4.125 We agree with the applicant that the operational Baillie Hill and Strathy North wind farms, the now consented Strathy South wind farm, and the proposed Drum Hollistan wind farm (with which the Limekiln 2 inquiry is conjoined) are most relevant to an assessment of cumulative effects upon WLA 39. We also consider the application-stage Strathy Wood wind farm and operational Causeymire wind farm are relevant when considering the cumulative interaction Limekiln 2 would have with other schemes, and the cumulative effect this would have upon WLA 39.

4.126 Setting aside the cumulative effects that would arise from adding Drum Hollistan to the assumed cumulative baseline (which we return to below), we find that there would be some significant cumulative effects arising in sub-areas (ii) and (iii), principally in locations where the Strathy North, Strathy Wood, Strathy South and Limekiln 2 developments would be visible in a single panorama. However, we do not consider the cumulative interaction between these schemes would be so great as to materially reduce wildness, particularly given the intervening distances to these other schemes and the horizontal separation between these and Limekiln 2. We found Baillie Hill to have less visual influence upon sub-areas (ii) and (iii) and so we do not find there would be significant cumulative effects between it and Limekiln 2.

4.127 We agree with the applicant that significant cumulative effects would occur in sub-area (i). The extent to which wildness qualities are already diminished in north and north-eastern views by extensive human influences and developments in sub-area (i) are outlined above, and so we consider the cumulative effects would have to be extraordinarily adverse to be capable of being a main factor in our overall planning balance. We do not consider this to be the case.

4.128 The addition of Drum Hollistan wind farm to the assumed baseline would lead to a more marked combined cumulative effect upon WLA 39. It is clear from the cumulative ZTV in figures JW3 and JW4 that the extent of wild land with visibility of wind farms would increase, with visibility of Drum Hollistan being more focused on the north-western areas of WLA 39 where Limekiln 2 would not be visible. Of greater concern to us is that the areas of combined theoretical visibility would occur in sub-area (ii). In the event that both schemes were consented, we consider their deleterious effects upon wildness would be significant and adverse.

Overall conclusions on wild land effects

4.129 Whilst we have considered the effects of Limekiln 2 on WLA 39 by 'sub-area', the effect upon WLA 39 as a whole, and the wildness qualities it possesses, must be taken into account.

4.130 The mapping undertaken by Dr Carver for JMT is essentially a desk-based approach to informing an assessment of the overall effects of the development upon the physical attributes and perceptual responses for WLA 39, individually and cumulatively. Whilst in our view this approach to mapping effects offers some potential to assist with an assessment, we found too may discrepancies and anomalies were generated on the mapping to rely upon it to any meaningful extent. A desk-based approach also has inherent limitations and, as Dr Carver fairly acknowledged, it is not intended to be a substitute for a field assessment. We found that the mapped predicted effects of Limekiln 2 were inconsistent with our own findings during site inspections.

4.131 We find that from peripheral, or 'transitional' areas on the north side of WLA 39, significant effects would arise but these would not have a bearing on the overall integrity of the wild land. A transition into (or indeed out of) wild land would be experienced with or without Limekiln 2's presence.

4.132 Having made that transition, we consider it to be a reasonable expectation that wildness qualities, the physical attributes and perceptual responses to be at their strongest. In reality, for various reasons outlined above, and principally because of influences upon wildness from existing developments and land uses outwith the WLA, the parts of the WLA which demonstrate the strongest overall wildness are limited to a smaller area than one would perhaps expect in advance of entering into WLA 39. We are left in no doubt that Limekiln 2 would have a significant effect upon a large proportion of this area of strongest wildness. These particular adverse effects would be intensified in a cumulative scenario where Drum Hollistan was to also exist.

4.133 We do not find that Limekiln 2, individually or cumulatively, would have an effect so severe or widespread as to undermine the integrity of WLA 39 as a whole. We do however conclude that the resulting significant effects upon wildness, in parts of WLA 39 where wildness is most strongly present, would be detrimental to the qualities of WLA 39 and potentially one's experience of it. There is however no specific policy test or threshold against which identified effects may be judged, and so these matters must ultimately fall to our overall conclusions to be weighed in the balance against other relevant considerations.

CHAPTER 5: ECONOMIC IMPACTS, TOURISM AND RECREATION

Summary of Evidence

5.1 Chapter 6 of the EIA report assesses the potential socio-economic effects that may arise as a result of the proposed development. This is augmented by supplementary information which takes account of the proposed development's subsequent reduction from 24 to 21 turbines. The applicant's assessment considers potential effects during the construction and operational phases of the development.

5.2 The proposed development is expected to generate a slight beneficial effect on the economy (in the local area, the Highlands and in the wider Scottish economy) during the construction and operational phases. There is expected to be a moderate beneficial effect on tourism businesses during the construction phase. During the operational phase there is expected to be no measurable impact on tourism or on other sectors. In EIA terms, no significant effects are predicted.

5.3 In paragraph 16 of our note of the second pre-examination meeting, we requested further written submissions specifically in relation to the economic impact of the North Coast 500 (NC500) tourist route.

5.4 The applicant made further written submissions (November 2017) and in these, referenced the further written submissions of the Drum Hollistan applicant on net economic impact) (November 2017), specifically sections 3, 4 and 6. These sections, respectively, include an assessment in relation to: current and predicted future economic impact of the NC500 route on the local economy; evidence of reasons why visitors are attracted to use the NC500 route; and the likely future impacts on the use of the NC500 and hence on the tourism economy of the region. Save for those references specific to the Drum Hollistan applicant or the Drum Hollistan site, the Limekiln 2 applicant adopts the evidence contained within that statement.

5.5 The JMT and RAWOG also made further written submissions in regard to the NC500 and net economic impact in respect of both the Limekiln 2 and Drum Hollistan applications.

5.6 The applicant has submitted a draft unilateral undertaking which, amongst other matters, identifies improvements to access within the Limekiln estate, including the development of a mountain bike trail.

5.7 We had a limited discussion on matters relating to net economic impact during the policy and conditions hearing session. The hearing statements submitted by parties (to which links are provided in Appendix 5 of this report) are therefore also relevant sources of evidence.

The main points for the applicant

5.8 The construction phase of the development could result in construction capital expenditure of approximately £81.27 million, based on the weighted average construction cost (being £1.29 million per MW), with an operational and maintenance expenditure of approximately £3.77 million per annum. Over a predicted 25 year period of operation, the proposed development is predicted to generate total operations and maintenance

expenditure of £94.25 million with 42% of this expenditure expected to occur locally and 58% within the region/ nation.

5.9 It is estimated that the proposed development could contribute around £34.12 million to the Scottish economy during the construction phase (if the turbine towers are manufactured in Scotland). Of this £34.12 million, the Highland economy could gain £12.33 million of which £5.07 million would be generated in Caithness and North Sutherland.

5.10 The construction phase could potentially support an estimated 257 job years in Scotland, of which 33% could be in Highland and 13% in the local (Caithness and North Sutherland) area.

5.11 The applicant proposes to offer a shared ownership scheme and advises that the wind farm will be open to investment from community organisations and social enterprises up to a maximum of 10% of the project. This, according to the applicant, is most likely to be via a 'shared revenue' model, one of the options proposed in the 'Scottish Government good practice guide for shared ownership of onshore renewable energy developments' (2015). Potential returns over the lifetime of the wind farm into the local third sector economy would help those organisations involved to ensure their development plans have a secure source of funding over the life of the wind farm.

5.12 It is acknowledged that returns are dependent on a range of inputs including energy price, turbine pricing, inflation, the ability of a project to attract a support mechanism and the cost of debt financing, which are all subject to regular and market changes in the run up to operation. The risk of investing in the proposal would be minimised as far as possible in order to safeguard community funds, seeking financial investment at point of operation. However, the applicant hopes to offer a return in the region of 7% per annum.

5.13 A community benefit fund is proposed which would receive an annual payment at the rate of £5,000 per installed megawatt for the operational life of the project. This would result in a community benefit fund from the wind farm of £315,000 per annum, although it is acknowledged that the community payments and fund are not material planning matters.

5.14 A draft proposed unilateral undertaking was submitted by the applicant, and provides for the use of the proposed wind farm access by the landowner in relation to vehicles transporting felled timber from the Limekiln estate. This means that vehicles transporting felled timber from the estate will no longer have to travel through the village of Reay. The draft unilateral undertaking also provides for various improvements to the Limekiln estate which will be of benefit to the local area including the construction of a cattle grid to improve access for visitors and the development of a mountain bike trail.

The main points for the John Muir Trust

5.15 If approved, this wind farm would contribute to the further visual degradation of the wider landscape potentially resulting in a negative socio-economic impact. Caithness relies heavily on tourism in its broadest sense for employment and income. The NC500 tourist route has been hugely successful and anything which could affect this must be seriously questioned and properly evaluated.

5.16 There is increasing evidence that as the number of wind farms and turbines increases so does the negative view of these developments by resident and visitor alike.

JMT cite a YouGov poll, commissioned by the Trust in September 2012, of 2269 people throughout the UK which found that 43% of the 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. A YouGov poll of 1119 Scots adults for the John Muir Trust in June 2013 found that 51 per cent 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)'.

5.17 However, studies into tourist/ visitor perception of wind farms and their impact on tourism have not specifically addressed remote areas such as this and the most recent by BIGGAR Economics Ltd, July 2016, 'Wind Farms and Tourism Trends in Scotland' is a highly flawed analysis. The Trust is of the view that no credence can be placed on such reports and that in order for a definitive view to be reached, the only way forward is a fully independent study to be commissioned.

5.18 The EIA report does not adequately assess the development's likely individual and cumulative effects on the NC500 route. One reason is because it was published in 2016, and so the phenomenal success of the NC500 route in increasing tourism was not anticipated.

5.19 There is a real risk of there being adverse effects on tourism activities that focus on or that rely on the value and key characteristics of the landscape in this area. There is a serious risk that either or both Limekiln 2 and Drum Hollistan wind farms would impact significantly on the rapidly increasing tourism business associated with the NC500.

5.20 Whilst there are very clear and very real concerns held by various parties on tourism effects, it is considered that there are no specific percentage-impact related policy conclusions which can be provided. It would now be very difficult to undertake an objective, robust study of the effects of a particular wind farm or combination of wind farms on the particular tourism economy of a particular area. This simply reflects the absence of consistent historic data streams, the difficulties in finding comparative 'control' areas with no wind farms, and the challenges of separating out the impact of one factor from the various factors, including macroeconomic factors, influencing the performance of a local tourism economy.

5.21 The Scottish Government and the Scottish planning system need to consider the potential benefits of trying to secure better data and better assessments, notwithstanding the significant problems, prior to consenting any more wind farms in environmentally sensitive areas that are heavily reliant on outdoor tourism.

5.22 There remains a policy-based need in this case to properly and objectively assess (as far as possible) the net economic impact of the proposed development in accordance with the provisions of paragraph 169 in SPP. Possible tourism impacts should be part of that net impact assessment.

The main points for RAWOG

5.23 Paragraph 169 of SPP confirms that net economic impact is a material consideration in the determination of wind farm proposals. The SPP actually uses the wording "net economic benefit" but that is clearly wrong as it pre-supposes the outcome of the net assessment. In terms of the net economic effects of the schemes individually and in terms

of cumulative impact, neither the Limekiln 2 applicant nor the Drum Hollistan applicant has yet produced a net economic impact assessment. Such a net assessment would address all of the costs of the proposals, including the costing of the environmental effects, as well as the benefits of the proposals.

5.24 In the meantime, it is considered that the reporters do not have the necessary information to reach any positive conclusions on the net economic impact of either or both proposals.

5.25 The NC500 initiative has apparently resulted in additional tourists being attracted to the area with additional spend and with additional pressures on facilities. It is not known whether there has been a net increase in numbers. It would also appear that there has also been an associated increase in publicity and awareness about the area through the NC500 marketing.

5.26 It is assumed that NC500 visitors are attracted by both the scenery and by the 'cache' of completing the round trip.

5.27 The assessment of effects of the wind farms on the NC500 could only be carried out, properly, by a geographically specific economic impact study overseen by a neutral peer review group. Neither applicants' EIA report contains such a study, and so there is no specific evidence that would allow the reporters to set aside the concerns of RAWOG about the potential adverse effects of the wind farms on the NC500 initiative.

Reporters' conclusions on economic impacts, tourism and recreation

5.28 In paragraph 169 of SPP, when assessing proposals for energy infrastructure developments, the first of the bullet-point considerations is "net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities". The considerations listed in paragraph 169 are not ranked by importance, but we consider this is nevertheless an important aspect of the Limekiln 2 proposal.

5.29 The John Muir Trust (JMT) and RAWOG have been critical of the applicant's assessment of net economic impact. The JMT in particular has asserted that the economic assessment does not establish the overall net effect, because it has failed to take account of factors such as constraint payments, whole system costs and environmental externalities.

5.30 We find that the approach to assessing the net economic impact of the scheme, set out in the applicant's EIA report and accompanying supplementary information, appropriately focuses on the scheme-specific socio-economic effects. These quantify the anticipated level of investment/ expenditure at the local, regional and national level and anticipated employment generation. The applicant makes qualitative judgements on the overall significance of effects on the economy and employment, and tourism and recreation.

5.31 We would tend to agree with JMT that, taken more holistically, this does not take account of every aspect of economic effect at the national, regional and local level. We are not persuaded however that it is necessary to attempt such a complex and detailed assessment for an individual proposal. Some of the factors would be highly variable over time, and the applicant and/ or the proposed development would have no control or

influence over many economic considerations. There is also a danger that the large number of assumptions required to undertake such a 'whole economy' assessment of net economic impact could in itself bring the robustness of the assessment into doubt.

5.32 We agree with the applicant's statement that the proposed community benefit fund is not a material planning consideration. However, it can be legitimately secured as a condition of section 36 consent, and we have included a condition in Appendix 1 of this report on this basis. We return to this matter in chapter 8.

5.33 The applicant's proposal to offer up to 10% shared ownership to community organisations and social enterprises is a positive aspect of the proposed development, which if ultimately taken up, would make a positive contribution to the local economy. This is particularly so, given that there are parts of the Caithness area, centred on Thurso and Wick, which experience social deprivation, defined by income, employment, health, education, housing, crime and geographic access to services. We are satisfied that this proposed offer aligns with the principles outlined in the 'Scottish Government good practice principles for shared ownership of onshore renewable energy developments' (2015). If Ministers are minded to grant consent, we recommend that this offer be secured by a condition of Section 36 consent (as specified in Appendix 1). However, the weight we attach to this shared ownership offer is tempered because, to date, whilst local organisations have expressed a desire to progress the shared ownership option, there is no firm commitment from any third parties to invest in the development.

5.34 It is evident to us that the local economy of north Caithness and Sutherland places considerable reliance upon tourism. The rapid growth in visitors to the area, who have been attracted by the NC500 initiative, appears to have had a marked, positive effect on the local visitor economy. There is a clear enthusiasm to capitalise upon the popularity of the NC500 route locally, and we note the concern expressed by parties and in representations that the Limekiln 2 proposal could be detrimental to the experience the NC500 offers, and to the appeal of the local area more generally to visitors.

5.35 The position of Limekiln 2, south of the village of Reay, is such that it would be seen locally from various points along the A836, which the NC500 also follows here. Despite the proposed wind farm's relative proximity to the route, it would be set back from it, and there is no evidence to suggest that its presence would alter the overall visitor experience or appeal of the route. We find it highly doubtful that a single development of this nature, given the highly localised impact it would have in the context of the route as a whole, would have a bearing on one's decision to follow the route or visit the area, or whether or not they would return to the area. Even considering all other operational, consented and proposed wind farms, we are of the same view. There is no evidence before us to support a conclusion that the development would be significantly detrimental to the visitor economy. On the contrary, the weight of evidence available shows no correlation between wind farm development and visitor numbers in an area.

5.36 For the development to be detrimental to the visitor economy, the effect would have to be so substantial as to outweigh the area's draw. Whilst we acknowledge that there may be a 'tipping point' at which the proliferation of wind farms could detract from an area's overall appeal as a visitor destination, there is no basis to conclude that such a point would be reached in this case.

5.37 We note the poll results cited by the JMT, but these must be balanced against the weight of evidence and studies referred to by the applicant. Having reviewed the submissions by the Drum Hollistan applicant which the applicant also relies upon, the overwhelming thrust of available evidence is that the presence of wind farms and a thriving visitor economy are not mutually exclusive in an area.

5.38 Whilst we consider the measures proposed in the draft unilateral undertaking are positive aspects of the proposal, in particular the creation of a mountain bike trail within the Limekiln estate, we consider that the enhancement to recreational opportunity would not be of a scale or nature that would justify it having a notable bearing on our overall assessment.

5.39 Overall, based on the submitted evidence, we agree with the applicant that the development would have a beneficial effect on the economy and employment during the construction and operational phases and we find that that the development would provide a net economic benefit. There is no evidence to suggest that the level of economic benefit would be tempered by harm to the visitor economy of the area.

5.40 The final value of the anticipated net economic benefits is reliant upon the level of uptake of the shared ownership opportunity, but we are nevertheless satisfied that the development can draw support from SPP paragraph 169 in regard to its net economic effect. We are satisfied also that there is no evidence to suggest that the development would conflict with the provisions of NPF3 and SPP in regard to tourism, both of which place emphasis on the importance of the visitor economy in Scotland.

CHAPTER 6: CARBON BALANCE AND PEAT MANAGEMENT

Summary of evidence

6.1 The applicant's assessment of the climate change, carbon balance and peat management implications of the proposal is set out in chapter 5 of the EIA report, and in chapter 4 of the supplementary information. These chapters are supported by a series of technical appendices including: preliminary ground investigation; peatslide risk assessment; and outline peat management plan (PMP).

6.2 SEPA are satisfied that the peat survey information indicates that deep peat is not a significant issue for this site and that if micro-siting minimises peat disturbance in specific areas, the proposal will not have a significant effect on deep peat. SEPA are generally content with the information provided in the latest outline peat management plan (PMP) in respect of peat disturbance and management. However, it requests a condition to be applied to any consent, to require a finalised PMP which follows recognised best practice at the time of its production.

6.3 SEPA welcome the proposal for a habitat management plan (HMP) and request that its provision is subject to a condition. The HMP should identify specific areas proposed for peatland restoration (or restoration of other habitats), using any disturbed materials. It should also outline the proposed methods for achieving these aims.

6.4 The consultancy CH2M were commissioned by the Scottish Government's Energy Consents Unit (ECU) to technically assess the original peatslide risk assessment submitted by the applicant. CH2M advised in July 2016 that whilst it addressed some of the concerns they had previously raised in relation to the peatslide risk assessment which accompanied the Limekiln 1 application, outstanding issues remained with regard to on-site receptors and the representation of an exposure scale. On this basis, CH2M concluded that the submission did not present a sufficiently robust assessment of peatslide risk.

6.5 The supplementary information provided by the applicant sought to address these outstanding concerns expressed by CH2M. In the interim, the Scottish Government's contractual arrangements had changed to the consultancy AM Geomorphology Ltd, and not CH2M, for advice relating to peatslide risk. As part of the formal consultation process, the applicant issued the supplementary information on 16 January 2018 for its comment. No response was received.

6.6 In the note of the pre-examination meeting, we provided an opportunity for parties to submit further written submissions in relation to the applicant's carbon calculations. A response by Mr Batten was received. We also allowed Mr Batten to make further submissions on the peat aspect of the Highland spatial framework within the council's adopted Onshore Wind Energy supplementary guidance (OWESG). The applicant responded to Mr Batten's submissions in December 2017.

6.7 We also allowed Mr Batten to make a supplementary written submission, which was submitted on 08 March 2018, to enable the Scottish Government's publication of the Onshore Wind Policy Statement and Climate Change Plan to be taken into account (given they were in draft form at the time of the earlier submissions). Mr Batten relied upon these submissions and did not attend the inquiry.

The main points for the applicant

6.8 The carbon balance calculation provided by the applicant, using the Scottish Government's online carbon calculator tool indicates that the carbon payback predicted for the proposed development is 1.6 years for the expected case; 0.9 years for the minimum (best) case and 2.2 years for the maximum (worst) case. Those periods stand to be compared to the expected operational lifetime of the development.

6.9 The proposed site layout has been determined through an iterative design process involving consideration of the distribution and depth of peat across the site to minimise disturbance to peat and peaty soils. A 50 metre micro-siting allowance is proposed to micro-site infrastructure away from deeper areas of peat wherever possible. Micro-siting is to be informed by detailed pre-construction ground investigations. Existing forest tracks are to be used where possible to minimise disturbance to peat and peaty soils, and floating road construction is proposed where peat depths are greater than one metre. Cable trenches are to follow the on-site access tracks, and cables will be trenched into the track verges, adjacent to floating tracks, avoiding the need to excavate and disturb peat at these locations.

6.10 An outline peat management plan (PMP) has been prepared, which calculates excavated volumes of peat, and identifies proposed re-uses of the excavated peat. All excavated peat would be reused on site, for uses including reinstatement of the working area around turbines, reinstatements of batters at crane hardstandings and compounds, infill of cable trenches, reinstatement of verges along tracks and full reinstatement of the temporary construction compound. The PMP describes methods for handling and storing excavated peat to ensure its reuse potential is maximised and any carbon losses are minimised. Prior to construction, the outline PMP is to be updated and included in the construction environmental management plan (CEMP) which will require approval by the council prior to works commencing.

6.11 The peatslide risk assessment identifies the likely distribution of peat and carbon-rich soils within the site, based upon desk study supplemented by field investigations. The majority of the site is covered by peaty soils (soils with an organic horizon less than 0.5 metres deep) and shallow peat (depth 0.5 – 1.0 metre). There are some localised areas of deeper peat (greater than 1 metre depth) which are located across the site and along the western site boundary (as shown in figure 4 in Appendix 4.A of the supplementary information). Within these areas of deeper peat, the maximum probed depth was 4.2 metres.

6.12 A qualitative peatslide risk assessment has been undertaken. This uses a peat hazard rating system (PHRS), which scores the site's characteristics at different locations, to provide an assessment of the perceived hazards associated with the various characteristics of the blanket peat.

6.13 The combination of PHRS scores represent the assessment of peatslide risk and is a means of identifying areas of the site where there is a risk of peatslides occurring in order that preventative measures may be prioritised at an early stage of the proposed development. Cumulative ratings of less than 200 are identified as areas of low susceptibility (or risk), cumulative ratings of between 200-400 are identified as areas of moderate susceptibility and cumulative values over 400 are identified as areas of high peatslide susceptibility (or risk) for the site.

6.14 With the exception of two probe locations, each sampling point at the site provided a PHRS score of less than 200, equating to a low peatslide risk. A PHRS score of 112 was calculated as the average for the entire site. Therefore, the likelihood of peatslides across the site can be considered as low. The applicant acknowledges that in areas of low peatslide susceptibility, further investigation, assessment and mitigation measures will be required to reduce the risk of peatslide occurring.

6.15 Addressing Mr Batten's submissions, two phases of peat probing were undertaken at the site in order to inform the design layout and all excavated peat and carbon rich soils can be beneficially re-used on site. The Outline Habitat Management Plan (HMP) includes an objective to "enhance and replace blanket bog and other wetland habitats where conditions are amenable". The applicant also advises that SEPA confirm that deep peat is not a significant issue for this site and that if micrositing issues are addressed, the development will not have a significant effect on deep peat. The applicant therefore maintains that the proposal is not in conflict with SPP or the council's supplementary guidance.

The main points for Mr Batten

6.16 It is asserted that the Scottish Government's online carbon calculator is unfit for purpose at a public local inquiry, because of the difficulties in scrutinising the inputs used the outputs claimed by the applicant.

6.17 Mr Batten has researched Limekiln 2 using an earlier version of the carbon calculator, which is spreadsheet-based. Mr Batten's spreadsheet calculations accompany his submission. The applicant's carbon calculations, which have been approximately replicated using the spreadsheet-based calculator, indicate that the proposal would be contrary to the direction of travel of Scottish Government climate change policy.

6.18 Reference is made to the Scottish Government's Second Report on Proposals and Policies (RPP2) which introduced a target to reduce the carbon intensity of electricity generation in Scotland. Mr Batten submits that this document sets a more appropriate benchmark for carbon intensity of electricity generating stations in Scotland.

6.19 It is noted that the draft Climate Change Plan's proposed policy outcome of negative carbon intensity in electricity generation by 2030 appears to have been withdrawn in light of the current prospects for carbon capture and storage. This essentially supersedes earlier submissions made in regard to carbon intensity and policy direction, as these most recent publications suggest that the merits of peatland wind farm applications should continue to be considered on a case-by-case basis.

6.20 SPP Table 1 and the Onshore Wind Energy supplementary guidance (paragraphs 4.34(b) and (c)) require applicants to use siting and design (e.g. avoiding deep peat) to mitigate adverse effects on carbon rich soil, deep peat and priority peatland habitat. In proposing turbine locations on some of the deeper peat areas of the site, the applicant has failed to build such mitigation into the design and it is contrary to the above provisions of these documents.

Reporters' conclusions on carbon balance and peat management

6.21 The carbon calculations presented in the applicant's EIA report and supplementary information, and which are derived from the Scottish Government's online carbon calculator, indicate a favourable carbon payback period of between 0.9 and 2.2 years, which would lead to substantial net carbon savings over the operational lifespan of the development.

6.22 Mr Batten's evidence identifies a number of difficulties with the online carbon calculator. We acknowledge that there will inevitably be some limitations in such an approach, because the calculation it makes must apply various assumptions. Whilst we understand the basis for Mr Batten using an earlier spreadsheet-based version of the carbon calculator, given there are underlying differences between this and the more recent online version used by the applicant, we find the outcomes of the respective calculations cannot be safely compared.

6.23 In any event, there is no dispute that the development would provide carbon savings, and we find that these savings would be of an order that clearly weighs in favour of the development. There is no evidence to suggest to us that the development would not offer substantial carbon savings. Whilst noting the limitations of any such calculations as referred to above, we conclude the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

6.24 Overall, we find the development aligns with the relevant provisions of national policy and guidance in respect of carbon emissions and savings, including the recently published Climate Change Plan (2018). We have had regard to this favourable aspect of the proposal in our overall conclusions in chapter 9.

6.25 Due to the presence of deep peat within the proposal site, the development falls to be considered as being within group 2 ('areas of significant protection'), as defined by SPP table 1. We are satisfied that the applicant has had proper regard to the presence of deep peat and has sought to avoid areas of deep peat within the site as far as practicably possible. Whilst we note that the EIA report and SI (2017) do not predict significant effects related to peat, we consider the applicant has nevertheless minimised the effects on peat through siting and design. On this basis, we find the application accords with the provisions of table 1 and paragraph 205 of SPP relating to peat. It is also consistent with policy 55 ('Peat and soils') of the local development plan, as it has been demonstrated that unnecessary disturbance to peat would be avoided.

6.26 In reaching the above conclusion, we draw support from the fact that, subject to conditions, SEPA does not object to the application. We draw further support from SEPA's acknowledgement that deep peat is not a significant issue at the site and that if micro-siting minimises peat disturbance in specific areas, the proposal will not have a significant effect on deep peat.

6.27 We are satisfied that the applicant has addressed the concerns of CH2M in the revised peatslide risk assessment contained within the supplementary information, with the inclusion of information within the assessment in relation to on-site receptors and the representation of an exposure scale. Based on the applicant's evidence regarding peatslide risk, we do not find this issue to present a particular constraint to

development. We are satisfied that any residual risk relating to peat stability would be appropriately addressed by the construction environmental management plan which we recommend be required by condition (in Appendix 2 of this report) if Scottish Ministers are minded to grant consent.

6.28 In reaching the above conclusions in respect of carbon emissions and the effects upon peat, we note our findings align with the position of the applicant, the council and SNH as outlined in the submitted statement of agreed matters. In this document, the parties confirm that, subject to appropriately worded conditions, the application is acceptable in relation to climate change, carbon emissions and peat.

CHAPTER 7: OTHER RELEVANT ISSUES

Traffic and Transport

7.1 The traffic and transport impacts of the proposed development are assessed in chapter 7 of the EIA report and in the subsequent supplementary information which provides an update in order to reflect the proposed reduction in turbines from 24 to 21 and the removal of associated infrastructure. The supplementary information also includes an updated cumulative impact assessment in order to take account of the Drum Hollistan application.

7.2 The applicant has produced revised traffic generation figures in response to the revised site layout. Due to the reduction in turbine numbers, the revised maximum traffic impact associated with the proposed development - worst case scenario (where road stone requires to be imported rather than sourced from borrow pits), excluding concrete deliveries, sees an average 105 HGV movements per day (circa 53 in and 53 out).

7.3 In percentage terms, it is predicted that for this scenario there would be an increase in total traffic flows during the assessment period of:

- A836 (Dounreay): increase in total traffic by 6.52% and an increase in HGVs of 41.02%;
- A836 (West of the A9): increase in total traffic by 2.54% and an increase in HGVs of 25.49%;
- A9 between Thurso and Scrabster Docks: increase in total traffic by 3.74% and an increase in HGVs of 30.70%.

7.4 In terms of concrete deliveries, the revised maximum daily traffic stands at 117 HGV movements (circa 59 in and 59 out). This equates to an average of between four and five deliveries/ return journeys to the site per hour over a 12 hour day (Monday to Friday 07:00-19:00). The number of concrete delivery months has increased from four (as per the 2016 EIA report) to six, spreading and reducing the impact.

7.5 The cumulative assessment shows an overall low percentage increase in total traffic with the addition of the Drum Hollistan construction traffic. The percentage increase of HGV traffic is higher, though the low HGV baseline exacerbates the percentage increase. The cumulative assessment assumes that the peak construction months for the two sites will coincide. Whilst there can be no certainty about this matter, the applicant considers this highly unlikely to occur and on this basis considers that the actual impact is expected to be lower than presented.

7.6 The council does not object to the proposal on transport grounds. The council's transport planning team has made a number of recommendations in relation to improvements to existing road infrastructure, the requirement for a construction traffic management plan detailing temporary and permanent road mitigation measures. Transport Scotland does not object to the application but seek conditions in order to secure detailed routes and mitigation for abnormal loads using the trunk road network and quality assured traffic management.

7.7 The community council has expressed concern about the impact on the village of Reay as a result of this proposal and has requested that conditions are sought in order to

secure traffic management, including the provision of footbridges to the east and west of the village in the interests of pedestrian safety.

Noise

7.8 The applicant submitted a noise impact assessment in chapter 8 of the EIA report for the proposed wind farm, which at that time comprised 24 turbines. The noise impact assessment derived noise limits for the proposed wind farm using the methodology specified in 'ETSU-R-97: The Assessment and Rating of Noise from Wind Farms'. The applicant subsequently presented an updated noise impact assessment in chapter 6 of the supplementary information, in order to account for the reduced 21 turbine layout. The supplementary information also presented a cumulative noise impact assessment taking into account the Drum Hollistan proposal which was not considered in the earlier assessment.

7.9 According to the applicant, the predicted noise levels from the proposed development on its own, lie below the limits set by the ETSU-R-97 guidelines at each receptor assessed. Similarly, when considering the cumulative impact of the proposed development in addition to the Drum Hollistan proposal, the predicted noise levels lie below the limits set by the ETSU-R-97 guidelines at each of the receptors assessed.

7.10 The applicant and the council, in the statement of agreed matters, agree that subject to application of appropriately worded conditions, the proposal is acceptable in relation to infrasound, low frequency noise, the effects of wind shear and overall noise impacts during construction, operation and decommissioning.

Cultural heritage

7.11 The cultural heritage impacts of the proposal are assessed in chapter 10 of the EIA report. There are no designated cultural heritage assets within the site boundary. Non-designated cultural heritage assets have been identified within the site boundary, primarily in the northern part of the site and there is potential for previously unknown or unrecorded features to be present. The proposal has the potential to directly affect two non-designated cultural heritage assets and the applicant has suggested that in order to mitigate impacts, an appropriate programme of archaeological works is put in place and agreed with the council in advance of construction works.

7.12 Within the wider area (5 kilometres from the site boundary) there are a number of scheduled monuments and listed buildings. The proposal is not considered to directly affect any designated sites although there is potential for indirect effects on three sites. However, it is considered that there will be no greater than a slight level of adverse effect on the setting of these assets which is considered not significant in EIA terms.

7.13 Historic Environment Scotland do not object to the application. Similarly, the council does not object to the application on cultural heritage grounds. The council's historic environments team has advised that the mitigation set out in the EIA report is required and it recommends that a condition is attached to any consent given to secure a programme of work for the preservation, evaluation and recording of historic features affected by the development.

7.14 The applicant and the council, in the statement of agreed matters agree that, subject to appropriately worded conditions, the application is acceptable in respect of cultural heritage and archaeology.

Ecology (other than birds)

7.15 The applicant's assessment of the ecological implications of the proposal is set out in chapter 11 of the EIA report. This chapter is supported by a series of technical appendices including: Phase 1 habitat survey; national vegetation classification survey reports; survey reports for otter, water vole, pine marten, bat, fresh water pearl mussel, freshwater invertebrate, fish; a fish habitats report; and a survey of the proposed access road and a habitat management plan.

7.16 The application site is not covered by any designations of ecological interest and therefore there would be no direct impacts on any designated areas. The site is however, adjacent to the Caithness and Sutherland Peatlands Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site, and East Halladale Site of Special Scientific Interest (SSSI). The Caithness and Sutherland Peatlands SAC is designated for its internationally important peatland habitats, rare plant species and otter.

7.17 Desk study, field work and consultation with relevant nature conservation organisations have all informed the EIA report findings. The applicant considers that as a result of the scheme design and the proposed mitigation measures outlined in the EIA report, the proposal would not have significant effects on habitats or species interests from a nature conservation perspective.

7.18 The Caithness and Sutherland Peatlands SAC lies up-gradient of the proposed wind farm and therefore there are not considered to be any indirect effects on the habitats and plant communities for which the SAC is designated. Survey work confirmed that the site supports an otter population. The western boundary of the otter survey area abuts directly onto part of the Caithness and Sutherland Peatlands SAC. Given the large home range of otters, it is probable that individual otters using the application site will also range onto the SAC and vice-versa. The EIA report advises that adequate mitigation to avoid impacts on the otter population is incorporated into the design through the avoidance of known laying up sites and holts, and through the inclusion of pre-construction surveys. SNH advise that the proposal will not be detrimental to the maintenance of the otter population.

7.19 Signs of damage to bog habitats as a result of deer activity were noted during NVC surveys. SNH requested a condition in respect of deer-proof fencing in order to prevent an influx of deer from the site onto the SAC. This is in order to avoid damage to blanket bog through increased trampling and grazing. The applicant proposes visual inspections of deer fencing surrounding the site with repairs to damaged fencing undertaken.

7.20 The design layout of the proposal takes account of the distribution of water vole colonies and optimal water vole habitat across the site. None of the proposed watercourse crossings are located in areas in use by water vole and all watercourse crossings affect sub-optimal habitat. Minor loss of riparian habitat is not expected to have any negative impact on water voles, provided that no barriers to migration are created. Pre-construction surveys are proposed in order to update appropriate mitigation and to determine any licensing requirements.

7.21 Pine martens have been confirmed to be present and widespread at the site and a number of ground-level structures with potential to be used as den sites were identified. SNH raised a concern in its consultation response regarding the proposed pre-construction mitigation measures set out in the EIA report. SNH recommend any potential den sites are identified and form part of a watching brief.

7.22 The recorded low levels of common pipistrelle bat activity suggest the site is not used by large numbers of bats. Overall, the use of the site is consistent with most bats entering from a roost (or roosts) to the north of the site boundary. On-site trees and structures were assessed as being largely unsuitable for supporting roosting bats. Further surveys would be undertaken prior to development works to update the current knowledge of how bats are utilising the site, to ensure appropriate mitigation and to determine any licensing requirements. Pipistrelles are unlikely to be at risk of turbine collision given the low bat activity throughout the site, and given the highest levels of bat activity are in the north, which is some distance away from the locations of the proposed turbines. SNH acknowledge that bat use of the site is limited and that the proposal will not be detrimental to the maintenance of the bat population.

7.23 Surveys for freshwater pearl mussels were carried out and none were found in the burns or channels draining the proposed development site. Freshwater invertebrate sampling was undertaken with invertebrate communities largely consisting of common and widespread species, typical of Scottish upland watercourses, and no rarities were identified. The relative proportions of invertebrate groups indicated healthy and well-oxygenated water conditions and no significant organic pollution in the watercourses. The Reay Burn provides habitats that are well suited to trout production and they were present in surveys. Electrofishing confirmed the presence of salmon in the Achvarasdal Burn although they were scarce and only present at two survey sites. Mitigation measures identified in chapter 13 of the EIA report (Hydrology and hydrogeology) would prevent adverse effects on watercourses (in particular the Reay Burn, Achvarasdal Burn and their unnamed headwaters) to the extent that effects on watercourses would not be significant.

7.24 Specialist surveys for badger, red squirrel, wildcat, reptiles and amphibians were scoped out of the assessment on the basis of the absence of records and (in the case of badger, red squirrel and wildcat) due to the sub-optimal nature of the habitats present to support these species.

Ornithology

7.25 The potential impacts of the proposal on birds are assessed in chapter 12 of the EIA report. This is supported by a confidential appendix on golden eagle surveys. The applicant provided supplementary information in October 2017 (chapter 7) which provided an update on golden eagle flight activity (also including a confidential appendix), and further ornithological surveys updating data on all species presented in the EIA report.

7.26 The additional surveys complemented the results from the previous surveys whereby no flights by golden eagle were within 500 metres of the proposed turbine locations. Therefore, the applicant advises that there is no change to the conclusions drawn from that baseline. Other species of conservation concern recorded were overall very similar to those reported on in the environmental statement (in 2012) which accompanied the Limekiln 1 application. According to the applicant, other than for hen harrier which showed a small increase in the duration of flights over the 500 metre buffer of the proposed

development, there was no discernible increase in levels of activity or breeding by any species of conservation concern from those previously reported.

7.27 SNH, in its consultation response, advises in regard to the Caithness and Sutherland Peatlands Special Protection Area (SPA):

- The proposal site adjoins the SPA which is designated for its internationally important peatland birds.
- There will be a likely significant effect on hen harrier and merlin through predicted collision mortality and on golden eagle due to loss of foraging habitat.
- The predicted collision mortality figures for hen harrier and merlin are very low and will not affect the viability of the populations.
- The loss of golden eagle foraging habitat is approximately 0.5% of the foraging range of the closest pair. This is well below the figures for range loss known to have had an adverse impact on breeding eagles at other development sites. Therefore, SNH's advice is that the loss of range is small and peripheral to the main modelled hunting range and it will not affect the viability of the population.
- SNH's advice with regards to hen harrier, merlin and golden eagle is that there will be no adverse impact on the integrity of the SPA site.

7.28 In regard to the Caithness Lochs Special Protection Area (SPA), SNH advises that:

- The proposal is likely to have a significant effect on greylag geese, a qualifying interest of the site.
- In SNH's view, the predicted mortality is at a level that can be accommodated by the population without affecting its viability.
- Due to the distances to the component lochs of the SPA, SNH does not consider that there will be any other likely significant effects.
- Therefore, there would not be an adverse effect on the integrity of the site.
- SNH does not consider that there will be likely significant effects on any of the other qualifying interests of the SPA.

7.29 The RSPB has no objection to the application, as confirmed in the consultation responses of 21 July 2016 and 3 November 2017. Despite not objecting to the proposal, the RSPB express concern about the impact of the proposal on golden eagles within the adjacent Caithness and Sutherland Peatlands SPA. The RSPB comment that the opening up of the forest to accommodate the proposed development, and future planned felling, may greatly increase the attractiveness of Limekiln forest to foraging golden eagles.

7.30 Further information in relation to golden eagle activity was submitted by Mr Maughan on 13 July 2018. Mr Maughan drew attention to a change in the perceived home range and territorial behaviour of the pair of golden eagles that have been holding territory in the area, south of the village of Reay. He advised that this pair have built a second nest within their home range which is closer to the application site. According to Mr Maughan, it is normal behaviour for eagles to have more than one eyrie within their home range which they will alternate between in differing years and advises that the 'new' second nest site is approximately 1,800 metres from the application site boundary. Ordnance Survey grid references for this second nest site were provided by Mr Maughan to relevant inquiry

parties, to enable further consideration of this new evidence, on the basis that this information would be treated confidentially.

7.31 The applicant acknowledges in its response to this submission that it is normal behaviour for golden eagles to have different nests within their territory which may be used for breeding. However, the applicant considers that they do not necessarily alternate use, year on year, as suggested by Mr Maughan. The applicant advises that eagles often have a favoured location which is only occasionally not utilised. The applicant advises that the second nest is 2,600 metres from the nearest proposed wind turbine which does not signify a significant change.

7.32 The applicant asserts that the habitat in the vicinity of the proposed development is commercial conifer plantation, which golden eagles are well-known to avoid, and which has been confirmed by many hours of field surveys in the vicinity of the proposed development. Given the habitat in and around the development is habitat which golden eagles do not use, then any modification or loss of that habitat will make no difference to golden eagles. The applicant concludes that none of the assessments of potential adverse impacts of the proposal, included in the EIA report, are altered by the inclusion of the second nest location in the territory of the pair of golden eagles.

7.33 SNH provided comments on the information submitted by Mr Maughan on 13 August 2018. SNH advise that, based on the grid references provided, the second nest site is approximately 800 metres from the previously known nest site and is approximately 2.6 kilometres from the nearest turbine at the proposed wind farm. SNH comment that there is no evidence that the second nest site has been used for breeding to date, and SNH are of the view that the pair of eagles may continue to favour the established nest site they have been known to use successfully.

7.34 SNH accept that, even if the new nest site is used in the future, disturbance at the nest from construction activity remains unlikely, due to the distance from the wind farm site being greater than the accepted disturbance distance for golden eagle. SNH also consider that even if the new nest site is used in the future, it is very unlikely that there would be a significant increase in flight activity over the wind farm site. SNH reach this conclusion because the new and known nest sites are relatively close together (suggesting a similar foraging range) and given the proposed wind farm is located within forestry, which golden eagles do not favour for foraging.

7.35 SNH refer to the proposed key-holing of turbines into the forest and conclude that this would not substantially change the attractiveness of the wind farm site for foraging over the lifetime of the wind farm. SNH advise also that wind farm avoidance behaviour has been observed in golden eagles. The previous assessment showed that this may lead to displacement from a small amount of foraging habitat. SNH advise that foraging habitat loss would not be expected to increase substantially if eagles used the new nest site.

7.36 The RSPB, whilst continuing to not object to the application, expressed increased concern in light of the information submitted regarding a second nest site for the pair of golden eagles within the SPA.

Hydrology and Hydrogeology

7.37 The potential impacts of the proposal on hydrology and hydrogeology are considered in chapter 13 of the EIA report. The assessment has identified a number of potential effects, primarily during the construction phase but potentially also during the operation phase and during decommissioning. These effects are associated with a range of activities, most notably access track construction. The most serious potential effects are associated with sediment-laden run-off from exposed ground entering watercourses.

7.38 The assessment proposes mitigation measures, to be implemented in accordance with current best practice, which will help to ensure that there are no significant effects on hydrological or hydrogeological receptors. The mitigation measures focus on preventing water pollution and maintaining existing site drainage patterns to minimise the impact on existing flow pathways and associated receptors (e.g. groundwater dependent terrestrial ecosystems (GWDTEs)). Detailed construction method statements would be produced for all aspects of site work including a drainage management plan, as well as a pollution prevention plan, which would be incorporated into the construction environmental management plan (CEMP) which would require approval from the council following consultation with SEPA prior to commencement of site works.

7.39 The design of the proposed development has reduced the potential for effects by minimising the number of watercourse crossings and avoiding, where possible, development in proximity to water features on site.

7.40 The adoption of mitigation measures will ensure that there are no significant effects on the hydrology and hydrogeology of the site as a result of the proposed development.

7.41 SEPA confirms in its consultation response on the application and accompanying EIA report that it has no objection to the proposed development subject to the imposition of a number of conditions. These relate to: construction environmental management; pollution prevention; the delivery of mitigation set out in the schedule of mitigation; micro-siting; peat management; habitat management; forestry residues management; buffers to watercourses; decommissioning and restoration and flood risk.

7.42 Marine Scotland Science does not object to the application but recommend that: electrofishing surveys are extended; pre-construction surveys should include macroinvertebrate sampling; in-stream workings are avoided between October and May; monitoring of water quality is carried out pre and during decommissioning; impacts of felling on water quality are considered; and a programme of integrated water quality, macroinvertebrate and fish population monitoring is undertaken.

7.43 Scottish Water, and Caithness District Salmon Fishery Board, do not object to the application.

7.44 The applicant and the council, in the statement of agreed matters agree that, subject to appropriately worded conditions, the application is acceptable in respect of hydrology and hydrogeology, including controlled waters, flood risk and surface run-off from the site during construction and operation.

Shadow flicker

7.45 Shadow flicker is addressed in chapter 14 of the EIA report. The Scottish Government's 'online guidance on onshore wind turbines' advises that: "….where separation is provided between wind turbines and nearby dwellings (as a general rule 10 rotor diameters), shadow flicker should not be a problem." The council's Onshore Wind Energy supplementary guidance (2016) details the use of 11 rotor diameters for assessment purposes where a property is not involved with the proposed development. This increase in distance from the widely accepted 10 times rotor diameter to 11 is to account for the northern latitudes of Highland. The proposed wind turbines have a rotor diameter of 82 metres. There are no properties located within 11 rotor diameters (902 metres) of any of the proposed turbines (even allowing for a micro-siting distance of 50 metres around each turbine) and therefore there are no predicted shadow flicker effects associated with the proposed development. The council does not anticipate that shadow flicker will be an issue for this development either individually or cumulatively given the location of the development in relation to residential properties.

7.46 The assessment of shadow flicker presented in the EIA report is unaffected by the revision of the proposed development from 24 to 21 turbines.

Infrastructure (telecommunications, utilities, aviation and radar)

7.47 The potential effects of the proposal upon existing infrastructure including telecommunications, utilities, aviation and radar are considered in chapter 15 of the EIA report. Wind turbines have the potential to be a physical obstruction that could affect communications networks and aviation activities. Wind farms can affect telecommunication systems, including television reception, mobile telephone network coverage and other transmissions such as those used by emergency services. No objections have been raised by consultees in relation to potential interference with radio/ television networks in the locality. The Joint Radio Company, acting on behalf of utility companies who operate radio systems to support operational requirements, advised that it did not foresee any potential problems with the proposal, based on known interference scenarios and confirmed that the proposal is 'cleared' with respect to radio link infrastructure operated by the local electricity utility. BT conclude that the proposal should not cause interference to its current and planned radio networks.

7.48 In respect of aviation activities, wind farms can cause interference with radar systems. The height of structures relative to flight paths (including low-flying military aircraft) is also an important consideration. Consultation responses from the Civil Aviation Authority, National Air Traffic Services, Highlands and Islands Airports Limited and the Ministry of Defence – Defence Infrastructure Organisation do not raise any objections to the proposal. The Ministry of Defence have, however, requested that infra-red aviation warning lighting be installed, and request to be notified of the commencement and completion of the development, the maximum height of construction equipment and the latitude and longitude of each proposed turbine.

Forestry

7.49 Chapter 16 of the EIA report describes the forestry aspects of the proposed development and how the management of the woodland within the site would be affected

by it. SEPA welcomed the inclusion of the forestry residues management plan (FRMP) in the EIA report and requested a condition requiring felling works to be carried out in line with the FRMP. Forestry Commission Scotland (FCS) recommended conditions be included with any consent in order to secure a site for compensatory planting and a forest plan for the forestry study area in order to demonstrate appropriate woodland management.

7.50 The applicant subsequently provided an updated forestry assessment in the supplementary information (chapter 8), in October 2017, in order to take account of the removal of three turbines and their associated infrastructure from the proposal and to reflect these changes in the felling and restocking plans. In order to comply with the requirements of the Scottish Government's Control of Woodland Removal Policy, the applicant identified a site for compensatory planting.

7.51 Submissions were made by FCS in response to the supplementary information. FCS raised concern about the scale of felling proposed to accommodate the wind farm and requested that the applicant reduce felling in the first phase in order to balance the felling programme, to increase structural diversity and to reduce impacts on adjacent areas. FCS did confirm in email correspondence with the applicant that it was content with the restocking proposal and the level of compensatory planting. FCS concluded that it would be appropriate for a condition to be imposed as part of the deemed planning permission to prevent the commencement of development until a final forestry scheme has been approved.

7.52 The applicant and the council, in the statement of agreed matters agree that, subject to appropriately worded conditions, the application is acceptable in respect of the management of forestry.

7.53 Three forestry related conditions which incorporate the requirements of SEPA and FCS have been agreed with the council.

Reporters' conclusions on other relevant issues

7.54 We acknowledge that there would be an increase in traffic on the local road network as a result of the proposal with the greatest increase during the 18 month construction phase. Whilst the overall percentage increases in HGVs appear significant, these are relatively small in the context of the actual number of HGV movements. We are satisfied that the A836 is capable of accommodating this increase in traffic. In reaching this conclusion, we are mindful that the revised 21 turbine proposal, overall, has a lower impact than the original 24 turbine scheme which both Transport Scotland and the council (transport planning) found acceptable in terms of traffic impact, subject to appropriate mitigation.

7.55 We are conscious of the concerns of local residents in respect of the impact of construction traffic through Reay. We do not consider it necessary to seek a condition for the provision of footbridges in the village. The evidence shows that the total number of traffic movements through Reay on the A836 would, even at the busiest times, be at a level somewhat below the point at which road safety, particularly for pedestrians, would become a concern. The linear form of Reay would also mean that the provision of footbridges would be unlikely to negate the need for pedestrians to cross the road at various locations, and we do not consider footbridges to be necessary or effective mitigation.

7.56 However, we do see the benefit in the production of a construction traffic management plan to manage the impact of construction on the road network. Similarly, we see the benefit in the establishment of a community liaison group to ensure effective dialogue between the developer and local residents on all transport related mitigation measures. Taken together, we consider that these measures would provide necessary and proportionate safeguards. Conditions to this effect appear in Appendix 2 of this report. Furthermore, the terms of a draft unilateral undertaking, provided by the applicant, propose the creation of an alternative access track to Limekiln forest. We see benefit in this given vehicular movements associated with felling operations would not pass through the centre of Reay. We discuss this further in chapter 9 below.

7.57 We attach weight to the positon of no objection, subject to conditions, by both Transport Scotland and the council's transport planning function. We conclude that the development would not individually or cumulatively give rise to any significant adverse effects on the road network and its users.

7.58 We are satisfied that the predicted noise levels from the proposed development will comply with the council's target limits for daytime and night-time derived in accordance with ETSU-R-97 guidance. The noise limits recommended by ETSU-R-97 for residential receptors, together with the methodology for calculating these, are well established and widely accepted as appropriate requirements for wind farm proposals. We are also satisfied that the proposal is capable of operating both individually, as well as alongside Drum Hollistan wind farm within specified noise limits at the nearest noise-sensitive properties identified in tables 6.3 - 6.6 of the updated noise impact assessment (in chapter 6 of the supplementary information). In order to address any risk of noise limits being exceeded and given that a number of representations have highlighted concerns regarding noise, we agree with the wording of the conditions proposed by the applicant and the council, to specify noise limits and action to be taken in the event of an actual or alleged breach. This is set out in Appendix 2.

7.59 There is no evidence before us which leads us to question the cultural heritage assessment. We do not consider that direct impacts will occur on any designated site and we accept that those indirect effects on designated sites are no greater than 'slight' and therefore not significant in EIA terms. We acknowledge that two non-designated archaeological assets will be directly affected by the proposed construction works and without mitigation, the effects will be adverse but not significant. A programme of archaeological works, secured by condition, provides an opportunity to reduce these effects (in part) and provides an opportunity to achieve a greater understanding of the archaeological resource in the area, particularly as it is acknowledged that there is potential for previously unrecorded assets in the area. In reaching our conclusion on this matter, we are reassured that neither Historic Environment Scotland nor the council object to the application on cultural heritage grounds.

7.60 Several representations submitted in response to the application raised concerns in respect of impacts of the proposal on wildlife and fauna. We have had regard to these representations in our consideration of ecology.

7.61 We are conscious that the proposal site adjoins the Caithness and Sutherland Peatlands SAC, designated for its internationally important peatland habitats, rare plant species and otter. We are satisfied that there would not be any indirect effects on the habitats and plant communities for which the SAC is designated, because the SAC is

upstream of the wind farm. Therefore, any effects upon the watercourses arising from the development would not impact upon the hydrology or water quality within the SAC. Similarly, we are satisfied that appropriate mitigation measures including pre-construction surveys would ensure that significant effects on the otter population in the area are avoided. We are reassured in reaching these conclusions that SNH confirmed that the proposal could be progressed without adversely affecting the Caithness and Sutherland Peatlands SAC and that the proposal would not be detrimental to the maintenance of the otter population.

7.62 We see the merit in a condition requiring the preparation of a deer fence management plan, to mitigate the risk of deer causing damage to the blanket bog (by grazing and trampling), which is the subject of the SAC designation. We are satisfied that condition 22 contained in Appendix 2 of our report is justified, and sufficient in respect of this matter.

7.63 We note the concerns of SNH regarding the proposed pre-construction mitigation measures contained in the EIA report in respect of pine marten dens. Whilst it would be an offence under the Wildlife and Countryside Act (1981, as amended) to disturb pine marten dens, we nevertheless consider it would be appropriate to impose safeguards through conditions of any consent. Condition 25 in Appendix 2, would require a pre-construction survey for pine marten. The survey results and any subsequent mitigation measures would then be set out in a species protection plan, to inform construction activities. Condition 24 meanwhile would require an ecological clerk of works to be appointed to monitor compliance with commitments contained in various documents including the species protection plan. Taking these safeguards together, we conclude that any residual risk to the local pine marten population would be low.

7.64 More widely, we are satisfied that subject to mitigation measures including the pre-construction surveys for protected species and the subsequent species mitigation and management plan required by condition in Appendix 2, that there would be no significant effects on protected species.

7.65 In reaching our conclusions on ecology, we find it significant that SNH do not object to the proposal on ecological grounds. We also note that no other consultees with an ecological remit have objected to the proposal on such grounds. In the statement of agreed matters it is agreed between the applicant, the council and SNH that, subject to application of appropriately worded conditions, the proposal is acceptable in relation to ecology including impacts on protected species and designated sites. Based on the evidence before us, we reach the same conclusion.

7.66 We are satisfied that the EIA report, supplementary information and accompanying appendices provide a sufficient assessment of ornithology.

7.67 We note the RSPB's concerns particularly in respect of the potential impact on golden eagle activity. However, we find no evidential basis to doubt the validity of the survey results provided by the applicant. With respect to golden eagle activity, we note the extent of survey hours and the observations made during these surveys. We find it significant that there were no observations of golden eagles within 500 metres of the proposed development and during dedicated watches towards the territory centre, there were no records of birds heading towards the development site.

7.68 Placing particular reliance on the advice of SNH in this regard, we are satisfied that the loss of foraging habitat, representing approximately 0.5% foraging range of the closest pair of eagles, is below the figures for range loss known to adversely impact on breeding eagles at other developments. We are further reassured by the advice of SNH, that the loss of range is small and peripheral to the main modelled hunting range and that it will not affect the viability of the population. The new and known nest sites are relatively close together and SNH suggest that this new nest site would involve a similar foraging range. We do not therefore envisage that foraging habitat available from the new nest site would be lost to the development, to any meaningful extent.

7.69 We note that the distance between the second nest site and the nearest proposed turbine is approximately 2,600 metres. We are satisfied that this represents a sufficient distance, based on research, to avoid disturbance to nesting during the construction phase. In any event, we are satisfied that disturbance could be further avoided by the timing of construction works nearest the nest, secured by condition. Condition 16 contained in Appendix 2 of this report would ensure that no development commences until a construction environmental management plan (to include a bird protection plan) had been submitted to and approved by the council.

7.70 We acknowledge that the predicted collision mortality figures for hen harrier and merlin are very low and we adopt the position of SNH that this would not affect the viability of these populations. On this basis, notwithstanding the predicted significant effects, we conclude that the integrity of the Caithness and Sutherland Peatlands SPA would not be compromised.

7.71 Similarly, noting that the collision mortality of greylag geese is not expected to be at a level which would compromise the viability of its population, we are satisfied that the integrity of the Caithness Lochs SPA would endure.

7.72 In reaching our conclusions on ornithology, we attach weight to the positions of SNH and the RSPB, neither of which object to the proposed development on ornithological grounds, subject to conditions. We are further reassured in this regard by the statement of agreed matters between the applicant, council and SNH, where it is stated that subject to the application of appropriately worded conditions, the proposal is acceptable in relation to ornithology including impacts on designated sites. We have no evidence before us which would lead us to challenge that agreed position.

7.73 In regard to any potential effects of the development upon hydrology and hydrogeology, we place considerable reliance on the position of SEPA, which has no objection to the proposed development, subject to certain conditions. These relate to construction environmental management, pollution prevention, the delivery of mitigation set out in the schedule of mitigation, micro-siting (with specific requirements related to the minimisation of peat disturbance and buffers to water courses), peat management, habitat management, forestry residues management, buffers to watercourses, decommissioning and restoration and flood risk.

7.74 We are satisfied that in the event that Scottish Ministers are minded to grant consent, the conditions listed in Appendix 2 of this report align with the position of SEPA in regard to providing necessary safeguards for the water environment. SEPA are also content that there are no groundwater drinking water supplies within 250 metres of any proposed new

infrastructure. We conclude that the proposal's impact upon the water environment would, subject to conditions, be limited and effectively mitigated.

7.75 Given that there are no properties located within 11 rotor diameters (902 metres) of any of the proposed turbines, this separation distance would be sufficient to ensure that shadow flicker would not affect any properties. We therefore do not consider it necessary to require a condition to secure any mitigation measures in respect of this matter.

7.76 No objections have been received in respect of telecommunications and based on the consultation responses received on this matter, we are satisfied that the proposal is acceptable in this regard.

7.77 In light of the consultation responses received in respect of aviation, there is no basis for us to have any concern that unacceptable effects on air safety would arise. We note that, following correspondence from the applicant, the Ministry of Defence does not maintain its request for visible red lighting, with infrared lighting meeting its needs regarding aviation safety. This is beneficial given the visual impact visible red lighting would have upon night skies. The request to be notified of construction start and end dates, the maximum height of construction equipment and the precise locations of each turbine, are adequately addressed in the conditions listed in Appendix 2.

7.78 We acknowledge that given the nature and scale of the proposed development and the fact that the site is located entirely within a commercial forestry plantation, there will be a significant loss of trees. However, we are satisfied, in accordance with the Scottish Government's policy on the Control of Woodland Removal, that a compensatory planting plan can be secured by condition which would provide for the planting of woodland commensurate with the level of woodland lost as a result of the proposed development. Similarly, we are satisfied that concerns regarding the phasing of felling, structural diversity and impacts on adjacent areas can be adequately addressed by condition requiring the preparation of a felling plan.

7.79 We are satisfied that the conditions contained within Appendix 2 in relation to forestry matters, ensure that the council has the necessary control over the final forestry scheme which would be delivered as part of the proposed development.

7.80 As stated in chapter 3, during the inquiry session, the subject of the 'key holing' of the plantation woodland to accommodate the wind farm and associated infrastructure was discussed, to consider whether there was a means of reducing the potential visual impact of this technique. The applicant suggested that there were various landscape planting techniques that could be employed in order to minimise this impact including the use of a feathered technique for felling trees in turbine locations.

7.81 The applicant subsequently prepared a draft condition for consideration by parties in respect of this subject. We support the principle of such a condition and have adapted the suggested wording, to incorporate it within condition 28, in order to ensure any adverse visual effects of the felling technique are minimised as far as is practicable.

CHAPTER 8: PROPOSED CONDITIONS AND LEGAL AGREEMENT

Conditions

8.1 A schedule of conditions has been prepared and submitted by the applicant and council, and also reflecting input from SNH. The schedule identifies which of the conditions are agreed between them, with the majority being agreed. Only two conditions are not agreed, and we consider these further below.

8.2 The first four conditions in the submitted schedule relate to consent being sought under the Electricity Act. Conditions 5 – 36 would relate to the deemed planning permission. The applicant subsequently also provided suggested wording for a condition (which could stand alone or be incorporated into condition 27) to require a scheme to be agreed to mitigate the visual effects of tree removal where the turbines would be located. We have incorporated the thrust of the suggested wording into condition 28 (noting that the numbering of conditions in Appendix 2 differs from that in the schedule provided by the applicant and council, due to the addition of condition 5 in Appendix 1. We return to the matter of this additional condition in paragraph 8.7 below.

8.3 In Appendix 1 of this report we have set out a list of Section 36 consent conditions, which is followed in Appendix 2 by a list of deemed planning conditions. These lists, which we recommend should be applied in the event that Scottish Ministers determine that consent should be granted, are based on the submitted schedule, together with our review of consultation responses and answers to questions during the policy and conditions hearing session held on 06 March 2018. We have also made a small number of minor changes to wording in order to improve clarity, consistency and enforceability.

8.4 The applicant and council are not in agreement over the provisions of a condition in regard to decommissioning and restoration plans. Having reviewed both suggested forms of wording, we consider the applicant's wording to be the more appropriate, by requiring a scheme to be agreed and thereafter implemented. We are not persuaded that the council's request for an interim decommissioning and restoration plan is justified, as there is no obvious benefit given it is the final agreed scheme which would be implemented. SEPA has requested that the scheme be submitted at least 2 years in advance of final decommissioning. We consider this reasonable given the likely complexity of the scheme, and potential time needed for negotiations and revisions in advance of its agreement.

8.5 The second (and final) condition which is not agreed between the applicant and council relates to the applicant having to provide a planning monitoring officer, to enable the development to be adequately monitored to ensure compliance with the consent. The applicant considers this to be a function of the council, and so the conditions is unnecessary, unreasonable and onerous.

8.6 We are aware that this condition has been used in a number of other cases, and has essentially become a 'standard' condition that is sometimes applied to consents for development of this nature. That said, and whilst we appreciate that being able to resource the monitoring of complex developments such as this may at times be challenging for any council, we do not consider that the council's proposed condition satisfies all six tests for conditions within Circular 4/1998. Specifically, we agree with the applicant that the requirement fails the test of reasonableness. A developer has a responsibility to carry out any development in accordance with the terms of the consent it is implementing, and so

strictly speaking, active monitoring should not be necessary for compliance to be ensured. Any monitoring deemed to be necessary by the council falls within its established remit. We have not included the condition on this basis.

8.7 In chapter 5 above, we have noted the applicant's proposal to make community benefits payments in line with the electrical output of the wind farm. Whilst this is not capable of being a material planning consideration (and therefore cannot be appropriately required by a condition of deemed planning consent), it can be secured using a condition of the Section 36 consent. We therefore recommend this be added to the schedule of conditions, in Appendix 1, to ensure these benefits are realised in the event that Scottish Ministers grant consent. We have based this additional condition on the wording agreed between the council and the Drum Hollistan applicant, but we have added some flexibility, to enable the most appropriate geographical area for monies to be spent to be agreed.

Unilateral undertaking

8.8 The applicant has provided a draft unilateral undertaking. This, if registered, would make provision for an alternative forestry access route. This would offer some benefit by enabling felling and timber removal to take place without the need for HGVs to pass through the centre of Reay.

8.9 Improvements to the estate in which the development would be located are also provided for in the draft undertaking. Provisions include the improvement of private roads within the estate, and the development of a mountain bike trail in the vicinity of the development.

8.10 Whilst we consider aspects of the unilateral undertaking to offer public benefit, and are potentially favourable aspects of the development, until registered this commitment is not secured. We would advise that if Scottish Ministers are minded to grant consent, this should be subject to the prior registering of the unilateral undertaking (or, at least, its submission for registration).

CHAPTER 9: OVERALL CONCLUSIONS AND RECOMMENDATIONS

9.1 Scottish Ministers are required to decide whether or not to grant consent for the Limekiln 2 wind farm proposal under Section 36 of the Electricity Act 1989. If this consent is granted, Scottish Ministers must also decide whether or not to grant deemed planning permission under Section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended).

9.2 Schedule 9 of the Electricity Act 1989 requires Scottish Ministers to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological and physiographical features of special interest and of protecting sites, buildings and other objects of architectural, historic or archaeological interest. It is also necessary to have regard to the extent to which the applicant has sought to mitigate the effects of development on those interests.

9.3 In order to establish the extent to which the considerations set out in Schedule 9 would be satisfied, this report provides an assessment of the environmental information before us. This is in the context of relevant national and local policy and guidance, with this policy and guidance essentially providing the parameters and requirements against which an overall judgement may be made. We acknowledge that Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) is not engaged under the Electricity Act 1989 and as such the development plan does not have primacy in decision making. However, the development plan is capable of being a significant material consideration.

9.4 Having regard to current knowledge and methods of assessment, we are satisfied that the reasoned conclusions within the applicant's EIA report (including supplementary information), provided in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, address the likely direct and indirect significant effects of the development.

9.5 We have considered all the topics referred to in the EIA report and supplementary information, and set out our conclusions in relation to these in the preceding chapters of this report. Based on our findings and conclusions therein, we consider the main issues in this case to be:

- the landscape and visual impact of the development;
- the development's impact upon the East Halladale Flows wild land area 39;
- the benefits of the development, including its renewable energy generation, carbon emissions savings and net economic impact; and
- the degree to which it would be in conformity with national planning policy, the local development plan and other relevant guidance.

9.6 Our conclusions below are made having had careful regard to all parties' submissions, consultation responses, and representations received, together with oral evidence presented during the inquiry, hearing and evening sessions. These are outlined in chapter 1 of this report.

<u>Landscape and visual impact</u>

9.7 We have considered the landscape and visual effects of the Limekiln 2 wind farm, including residential visual amenity and cumulative effects, in chapter 3 of this report.

9.8 The wind farm would be located entirely within the Coniferous Woodland Plantation landscape character type (LCT 14) which is a subset of the Sweeping Moorland LCT (LCT 1), delineated by the Caithness and Sutherland Landscape Character Assessment (1998). This LCT is part of LCT CT4: 'Central Caithness', as defined by the Caithness Landscape Sensitivity Appraisal (CLSA), which itself is part of the council's adopted Onshore Wind Energy supplementary guidance.

9.9 The CLSA categorises CT4 as the least susceptible to change from large scale wind farms, relative to all other landscape character types in Caithness. We similarly conclude in paragraph 3.77 that this type of landscape can often lend itself well to large-scale wind turbines, with the simplicity and scale of such landscapes often assisting in satisfactorily accommodating such development.

9.10 Whilst significant landscape effects would arise, in paragraph 3.89 we concluded that these would be confined to an area not exceeding a radius of approximately 6 to 7 kilometres from the application site. This conclusion is shared by the council, SNH and the applicant. However, the council has also found that, within this radius, significant effects would arise at LCT 6 (Beaches, Dunes and Links: Sandside) and LCT 11 (Open Intensive Farmland: Sandside), both of which are adjacent to the coast. However, we find the association these LCTs have with the coast, together with the separation distances between these LCTs and the Limekiln 2 wind farm would ensure that these LCTs would not be subject to significant effects.

9.11 More broadly, we find the development would not have a strong influence upon the character of the coast and coastal landscapes, even in wider and longer range views, owing largely to the separation distance from it, but also the presence of intervening development and landforms. We find this to be beneficial, given the coastal landscape's generally more complex or otherwise more settled and smaller scale character would, in our view, potentially present greater challenges for satisfactorily accommodating a development of the size and scale proposed.

9.12 Overall, whilst there would be some significant landscape effects, we find these to be relatively localised, and we conclude that both the immediate (host) and surrounding landscape is capable of satisfactorily accommodating the Limekiln 2 development.

9.13 Similarly, we conclude that significant visual effects would not occur beyond a 6 to 7 kilometre radius from the proposed development. The council and applicant are in agreement over which of the representative viewpoints would be subject to significant visual effects, but are in disagreement over the sensitivity of the principal visual receptors and/ or the magnitude of visual effects.

9.14 We agree with the council that it is important to account for how sensitivity of different receptors may vary. The value placed on the visual and associated recreational amenity of the area has also been highlighted in numerous representations. All told however, we do not find the Limekiln 2 development would overwhelm views, nor would it unduly detract from the visual amenity of the area more widely, which we consider to be derived more strongly from views of the coast and sea, rather than the relatively unremarkable landward views from along the A836, and from the north side of the application site more broadly.

9.15 We are satisfied that there is no prospect of the development having an overbearing effect at any residential property, given the nearest properties are over 2 kilometres away. 'Achins' and 'Borlum House' would experience the greatest effects upon outlook, but we are satisfied that both properties would continue to benefit from a high level of visual amenity overall, and no property would be affected to an extent that residential amenity would be materially reduced.

9.16 In regard to cumulative effects, overall, we find that none of the significantly affected LCTs (in either scenario) would become a 'wind farm landscape' as wind turbines would not become a defining characteristic.

9.17 Limekiln 2 would bear some visual association with Baillie Hill wind farm, and to a lesser extent, Forss wind farm. Whilst this would give rise to some significant cumulative effects, we find Limekiln 2 would relate well to Baillie Hill and we consider this broad clustering of wind farm development offers some advantages, in terms of visual coherence and restricting the overall geographical extent of landscape and visual effects.

9.18 For the same reasons, we consider Limekiln 2 could co-exist with Drum Hollistan wind farm. We are also satisfied that the cumulative effects of both schemes would not lead to an overwhelming sense of encirclement of the village of Reay.

Wild land

9.19 In chapter 4, we assessed the effects of the Limekiln 2 wind farm upon the East Halladale Flows wild land area 39 (WLA 39), having regard to the physical attributes and perceptual responses (present in all areas of wild land), together with the wildness qualities which are specific to WLA 39.

9.20 Limekiln 2 would be positioned wholly outwith the boundary of WLA 39. Consequently, most of the provisions of SPP relating to wild land do not apply. Paragraph 169 of SPP does however identify the effects on wild land as a relevant consideration in wind farm cases. This must be read in the context that NPF3 and SPP also recognise wild land as of national importance and we consider its value can justifiably be considered to be high on this basis.

9.21 Given the variable visibility of the development within the wild land area and the variable characteristics of the wild land area, across its full extent, we initially assessed effects on the attributes, responses and qualities of WLA 39 on the basis of three 'sub-areas', identified by the applicant. This informed our conclusions in regard to the overall effect on WLA 39 as a whole.

9.22 We consider the overall strength of wildness in sub-area (ii), which forms part of the interior of the wild land area, to be particularly high. Viewpoints in this sub-area are located on modest summits, which the applicant points out represent a worst-case scenario in terms of the extent of visibility of Limekiln 2. However, we also find that these summits and other areas of relatively high ground comprised within sub-area (ii), are locations where qualities 1, 2 and 4 as outlined in SNH's published description of WLA 39, are all strongly present. Of particular pertinence is that we found limited other locations, across the whole of the wild land area, where these qualities are comparably strong and where Limekiln 2 would not also have a significant effect upon wildness.

9.23 For the overall integrity of WLA 39 to be compromised, we consider adverse effects upon wildness would need to be more widespread, and/ or they would need to reduce the highest strength of wildness available anywhere within its boundary. We are left in no doubt that Limekiln 2 would have a significant effect upon a large proportion of this area of strongest wildness (which would be intensified further in a cumulative scenario where Drum Hollistan was to also exist), but the ability to experience this same level of wildness would not be lost from WLA 39 altogether, whether considered in isolation or cumulatively with Drum Hollistan.

Benefits of the development

9.24 We have considered, in chapter 5 of this report, the net economic impact of the development, having regard to any adverse impacts upon tourism and recreation as well as the benefits of the proposal.

9.25 SPP (paragraph 169) identifies net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities, as a relevant consideration.

9.26 We find that the approach to assessing the net economic impact of the scheme, set out in the applicant's EIA report and accompanying supplementary information, appropriately focuses on the scheme-specific socio-economic effects.

9.27 We conclude, in paragraph 5.39 above, that the development would have a beneficial effect on the economy and employment during the construction and operational phases and we find that the development would provide a net economic benefit. There is no evidence to suggest that the level of economic benefit would be tempered by harm to the visitor economy of the area, which we recognise to also be of high importance. The development can therefore draw support from SPP paragraph 169 in regard to its net economic effect.

9.28 The wind farm would have an estimated installed capacity of up to 63 megawatts, saving approximately 61,029 tonnes of carbon dioxide per annum. In chapter 6 of this report, we have considered the proposal's carbon payback period as well as the effects upon peat within the site. We find that the development would offer substantial net carbon savings over the operational lifespan of the development. We are also satisfied that the applicant has minimised the effects on peat through siting and design. Overall, we find the development aligns with the relevant provisions of national policy and guidance in respect of carbon emissions and savings, including the recently published Climate Change Plan (2018).

9.29 Overall, the net economic benefits, the renewable energy contribution and carbon savings that would arise from the development, weigh strongly in favour of the proposal.

Conformity with national and local planning policy

9.30 National energy policy articulates a clear commitment to renewable energy and makes clear that onshore wind farms continue to be recognised as important contributors to the achievement of targets for renewable energy generation and the reduction of greenhouse gas emissions. These targets have been renewed by the Scottish Energy Strategy (2017) which are ambitious and look ahead to 2030.

9.31 The seriousness of climate change and its potential effects and the seriousness of the need to cut carbon dioxide emissions is agreed by parties. We are equally left in no doubt that energy policy provides an unequivocal position of support, in principle, for renewable energy development. This is despite the John Muir Trust's assertion that support for such projects may be wavering. Financial incentives aside, we find UK energy policy remains strong, whilst Scottish Government energy policy is resolute.

9.32 National Planning Framework 3 (NPF3) is reflective of the wider energy policy context and recognises the role of the planning system in achieving aims and targets relating to renewable energy and reducing carbon emissions. It also recognises both the importance of protecting and sustaining environmental assets and wider socio-economic benefits of developments. We find the in-principle support NPF3 gives to the development to be a significant consideration, whilst noting that it relies largely on SPP to direct such proposals to appropriate locations. We also find the provisions of SPP to be an important material consideration in this case.

9.33 SPP provides a similarly positive in-principle stance, which is encapsulated in its presumption in favour of development which contributes to sustainable development. In this sense, we consider a development would be 'sustainable' in the round where it accords with SPP's provisions read as a whole; it is not enough, however, to simply state that a wind energy development is inherently sustainable.

9.34 Paragraph 169 of SPP identifies the range of considerations which must be balanced to be able to reach an overall conclusion over whether renewable energy proposals, including onshore wind farms, are acceptable on a case by case basis. We consider it is principally this balance which also determines whether or not a wind energy proposal would be a sustainable form of development.

9.35 Table 1 of SPP also establishes a spatial framework for wind farms. The Limekiln 2 site falls within group 2: areas of significant protection, due to the presence of deep peat. We are, however, satisfied that the proposed wind farm would not compromise the peat resource significantly, by virtue of the proposal's siting and design and so this resource does not require protection from the development to the extent that would warrant refusal of consent. The proposal site would not be classed as group 2 by virtue of its impact on wild land, as it is located outwith wild land. Thus, the matter of wild land effects fall to be considered against paragraph 169 of SPP, as part of the overall balancing exercise.

9.36 There has been some debate over whether the development plan is sufficiently up to date, which principally consists of the Highland-wide Local Development Plan (HwLDP), adopted in 2012, together with associated supplementary guidance. In the context of this being an application under the Electricity Act 1989, the development plan does not have primacy in decision making, regardless of whether or not it is up to date, although this matter is capable of having a bearing on how the plan's provisions are taken into account.

9.37 Overall, although the HwLDP is more than five years old, we do not find the relevant provisions of the plan to be out of date, with the exception of its references to wild land in policy 57, which we find should be disregarded. We find this to be of little consequence overall, as we conclude policy 67 can be relied upon almost exclusively given it provides the council's adopted policy position specifically in respect of renewable energy development. Compliance or otherwise with policy 67 largely dictates the degree of compliance against

the relevant provisions of other policies, but to take those other relevant policies in isolation would run the risk of applying their requirements out of context.

9.38 Despite policy 67 (and the HwLDP as a whole) pre-dating the current SPP, the considerations it identifies are broadly consistent with those identified in SPP paragraph 169. Whilst there are some differences in their scope and emphasis, we cannot envisage a situation where conclusions drawn against either SPP paragraph 169 or HwLDP policy 67 would contradict one-another. We find the development may draw support overall from both policy 67 and SPP paragraph 169, but noting that there is some tension between their provisions and the development's effect upon wild land.

9.39 In terms of supplementary guidance, the Highland Council Onshore Wind Energy supplementary guidance (adopted November 2016) including the Caithness Landscape Sensitivity Study (adopted December 2017) is of relevance. We have noted the ten criteria and 'thresholds' it sets out, which are intended to guide the assessment of wind farm proposals against policy 67. Whilst these criteria add some depth to the policy's provisions, they are not in themselves requirements (which is made clear by the document) and the document does not raise the policy bar.

9.40 Having had regard to the terms of the supplementary guidance, we find it to be consistent with policy 67, and so a forensic assessment of the proposal using the supplementary guidance would offer little value to our consideration of the scheme's merits. Similarly, we find the capacity study to be a helpful strategic guide, but we do not consider its findings to be capable of being pivotal to our assessment.

Overall conclusions

9.41 In paragraph 9.5 above, we set out what we consider to be the main issues in the determination of this application. Returning to these matters we find:

- the landscape and visual impact of the development would be significant locally, but Limekiln 2 would satisfactorily relate to its surroundings,
- there would be significant adverse effects upon parts of wild land area 39, which is a negative aspect of the proposal, but it would retain its overall integrity;
- Limekiln 2 would provide net economic benefit, and its renewable energy generation and associated savings of carbon dioxide emissions are all significant factors in its favour; and
- the proposal accords with all relevant national planning policy and development plan provisions.

9.42 We are satisfied that overall this would be a sustainable form of development, and we consider that all environmental matters have been adequately addressed in line with Schedule 9 of the Electricity Act. We conclude that the benefits of the development would outweigh its adverse effects.

Recommendations

9.43 We therefore recommend that consent under Section 36 of the Electricity Act 1989 should be granted subject to the list of conditions in Appendix 1 of this report. Should Scottish Ministers grant consent under the Electricity Act, we further recommend that they direct that planning permission shall be deemed to be granted under Section 57 of

the Town and Country Planning (Scotland) Act 1997 (as amended), subject to the conditions in Appendix 2 of this report.

9.44 We recommend that this should be subject to the registering of a unilateral undertaking pursuant to Section 75 of the Town and Country Planning (Scotland) Act 1997, in respect of an alternative forestry access route and other proposals detailed within the draft supplied by the applicant.

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Appendix 1 – Section 36 consent conditions

Duration of the Consent

1. The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of the date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after the event.

Reason: To define the duration of the consent.

Commencement of Development

2. The Commencement of the Development shall be no later than five years from the date of this consent, or such other period as the Scottish Ministers may direct in writing.

Reason: To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

Non-assignation

3. 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 Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

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

Shared Ownership

4. The Company, or other Company to whom this consent may be formally assigned, shall keep open the offer of shared ownership up until placement of the turbine supply contract based on a shared revenue model of up to 10% of the Development. The Company shall actively market the shared ownership opportunity until placement of the turbine supply contract and the Company shall accept community investment of up to 10% should commercial terms be reached between the Company and the community or community body. The Scottish Ministers may from time to time require the Company to disclose information regarding the progress of securing community or community group investment in the Development.

Reason: In the interests of securing community ownership and as consistent with s.36(5) of the Electricity Act 1989 (as amended).

Community Benefit

5. The Company, or other company to whom this consent may be formally assigned shall, from the Date of First Commissioning until the Date of Final Commissioning, pay to a community benefit fund and/or a body of similar purpose ('the Fund/s') the annual sum of

five thousand pounds sterling for each megawatt of electricity generated by the Development, the said annual payments to be varied on each anniversary of the Date of First Commissioning according to any corresponding increase in the Retail Price Index for the operational lifetime of the Development and to be held and distributed from the Fund/s for benefit of projects in a geographical area to be agreed in writing by the Planning Authority, conform to Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments published by the Scottish Government in November 2013.

The Scottish Ministers may from time to time require the company to disclose information regarding the processes established for the payment and distribution of such community funds.

Reason: In the interests of securing payment of community benefit and as consistent with s.36 (5) of the Electricity Act 1989 (as amended).

Appendix 2 – deemed planning permission conditions

Decommissioning and Site Restoration

6. Upon the expiration of a period of 30 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 7 of this permission.

Reason: To ensure the development is decommissioned and the site restored at the expiry of the permission.

7. Not later than 2 years before the expiry of the 30 year period referred to in Condition 6 and in any event prior to decommissioning occurring, a decommissioning and site restoration scheme shall be submitted to the Planning Authority for its written approval. The scheme shall make provision for the removal of the wind turbines and the associated above ground equipment and turbine foundations to a depth of at least 1 metre below the ground. The scheme shall detail the lengths of the access road to the site and the lengths of access tracks within the site boundary which are to be retained following decommissioning and site restoration. The scheme shall also include the management and timing of any works together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land from which the turbines and any ancillary equipment and structures have been removed together with the appointment of an Ecological Clerk of Works. The approved scheme shall be implemented as approved.

Reason: To ensure appropriate provision is made for turbine(s) requiring repair or for turbine(s) which require decommissioning.

Supply of Electricity to the National Grid

8. The Company 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 one or more (up to eleven) of the wind turbine generators hereby permitted cease to export electricity to the grid for a continuous period of 6 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning Authority for its written approval within 3 months from the end of that 6 month period for the repair or removal of those turbines. The scheme shall include either a programme of remedial works where repairs to the relevant turbine(s) are required, or a programme for removal of the relevant turbine(s) and associated above ground works approved under this permission and the removal of the turbine foundations to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine(s). The scheme shall thereafter be implemented in accordance with the approved details and timetable;

ii. twelve or more of the wind turbine generators hereby permitted cease to export electricity to the grid for a continuous period of 12 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning

Authority for its written approval within 3 months of the end of that 12 month period for either the repair of those turbines, including a programme of remedial works, or decommissioning of the development in accordance with Condition 7. The approved scheme shall then be implemented in accordance with the programme contained therein.

Reason: To ensure appropriate provision is made for turbine(s) requiring repair or for turbine(s) which require decommissioning.

Financial Guarantee

9. There shall be no Commencement of Development until a scheme to provide financial security for the commitments set out in Condition 7 has been submitted to and approved in writing by the Planning Authority. Thereafter the scheme shall be implemented as approved.

Reason: To ensure that there are sufficient funds to secure performance of the decommissioning and restoration conditions.

Appearance

10. No wind turbine shall be erected on site until details of the external finish and colour of the towers, nacelles, blades, any external transformer and anemometer mast have been submitted to and approved in writing by the Planning Authority. Thereafter, development shall progress in accordance with these approved details and the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

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

11. None of the wind turbines, any external transformers, anemometers, substation building, control building 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 character and appearance of the area.

12. The wind turbines hereby permitted shall have three blades and all wind turbine blades shall rotate in the same direction. The overall height of the wind turbines numbered 22, 27, 33, 35, 51 and 56 shall not exceed 126 metres to the tip of the blades and the wind turbines numbered 23, 25, 26, 30, 31, 32, 36, 42, 43, 44, 54, 55, 57, 60 and 61 shall not exceed 139 metres to the tip of the blades (wind turbine numbering shown on Figure 1.1 of the Supplementary Information dated September 2017) when the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

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

13. All cables between the turbines and between the turbines and the control building on site shall be installed and kept underground.

Reason: In the interests of visual amenity.

14. No construction of the control building, substation or ancillary infrastructure shall commence until final details of the location, layout, external appearance, any and all external lighting to be used during the operation of the site, 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.

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

Construction Method Statement

15. There shall be no Commencement of Development until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMS, subject to any variations approved in writing by the Planning Authority. The CMS shall include:
a) details of the phasing of construction works;
b) the formation of temporary construction compounds, access tracks and any areas of hardstanding;
c) details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
d) the maintenance of visibility splays on the entrance to the site;
e) the method of construction of the crane pads and turbine foundations;
f) the method of working cable trenches;
g) the method of construction and erection of the wind turbines;
h) dust management;
i) pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
j) details of water crossings;
k) temporary site illumination during the construction period;
l) details of the proposed storage of materials and soils and disposal of surplus materials;
m) details of timing of works;
n) details of surface treatments and the construction of all hard surfaces and access tracks between turbines and between turbines and other infrastructure;
o) details of routeing of onsite cabling;
p) details of emergency procedures and pollution response plans;
q) siting and details of wheel washing facilities;
r) cleaning of site entrances, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the road;
s) details and a timetable for post construction restoration/reinstatement of the temporary working areas, and the construction compound;
t) working practices for protecting nearby residential dwellings, including general measures to control noise and vibration arising from on-site activities, shall be adopted as set out in British Standard 5228 Part 1: 2009;
u) location of fencing to be erected around Milton Township and the associated rig and furrow;
v) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;

w) details of the excavation, use and subsequent restoration of the approved borrow pits; and
x) a Site Waste Management Plan to include details of measures to be taken during the construction period to minimise the disturbance of soil and peat.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

Construction Environmental Management Plan

16. There shall be no Commencement of Development until a Construction Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority. The CEMP shall include:
a) a peat management plan including peat slide hazard and risk assessment and emergency plans for peat slide;
b) a species protection plan;
c) a bird protection plan; and
d) a water quality management plan.
The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

Traffic Management Plan

17. There shall be no Commencement of Development until a Traffic Management Plan ("TMP") has been submitted to and approved in writing by the Planning Authority. The approved TMP shall be carried out as approved in accordance with the timetable specified within the approved TMP. The TMP shall include proposals for:
a) the routeing of construction traffic and traffic management including details of the capacity of existing bridges and structures along the abnormal load delivery route and a risk assessment;
b) scheduling and timing of movements;
c) the management of junctions to and crossings of the public highway and other public rights of way;
d) any identified works to accommodate abnormal loads along the delivery route including any temporary warning signs;
e) temporary removal and replacement of highway infrastructure/street furniture;
f) reinstatement of any signs, verges or other items displaced by construction traffic;
g) banksman/escort details;
h) a procedure for monitoring road conditions and applying remedial measures where required as well as reinstatement measures; and
i) a timetable for implementation of the measures detailed in the TMP.

Reason: In the interests of road safety.

Floating Access Tracks

18. Except with prior written approval of the Planning Authority, floating roads shall be installed in areas where peat depths are in excess of 1 metre. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority. The floating road shall then be implemented as approved.

Reason: To ensure peat is not unnecessarily disturbed or destroyed.

Hours of Construction

19. Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 0700 to 1900 on Monday to Friday inclusive and 0700 to 1300 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection and delivery, 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 amenity to restrict noise impact and the protection of the local environment.

Micrositing

20. The wind turbines hereby permitted shall be erected at the following grid coordinates:

Turbine	Easting	Northing
22	98458	61951
23	98785	61581
25	96988	61338
26	97552	61453
27	98118	61260
30	99161	61256
31	97093	60848
32	97731	60965
33	98265	60800
35	98659	61115
36	99273	60738
42	97270	60386
43	97751	60475
44	98367	60322
51	98779	60595
54	97607	60006
55	98078	59956
56	98809	60117
57	99328	60196
60	98510	59713
61	99015	59669

Notwithstanding the terms of this condition the wind turbines and other infrastructure hereby permitted may be microsited within 50 metres, save that:

- wind turbines numbered 25, 31 and 42 which may be microsited within 25 metres; and
- no wind turbine or other infrastructure may be micro-sited to less than 50 metres from surface water features.

A plan showing the position of the turbines and other infrastructure on the site shall be submitted to the Planning Authority within one month of completion of the Development works.

Reason: To enable necessary minor adjustments to the position of the wind turbines and other infrastructure to allow for site-specific conditions.

Borrow Pits

21. Blasting shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

Ecology

22. There shall be no Commencement of Development until a Deer Fence Management Plan ("DFMP") has been submitted to and approved in writing by the Planning Authority. The DFMP shall include the mitigation measures described within paragraph 11.10.12 of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016. Thereafter the DFMP shall be implemented as approved.

Reason: To protect ecological interests.

23. No development shall take place until a Habitat Management Plan ("HMP") has been submitted to and approved in writing by the Planning Authority. The HMP shall include the mitigation measures described within Appendix 11.L of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016. Thereafter the HMP shall be implemented as approved.

Reason: In the interests of nature conservation.

24. There shall be no Commencement of Development until an independent Ecological Clerk of Works ("ECoW") has been appointed, such appointment to be approved in writing by the Planning Authority. The terms of appointment shall:

(a) Impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016 and Supplementary Information dated

September 2017 lodged in support of the application and the Construction Environmental Management Plan, Peat Management Plan, Habitat Management Plan, Species Protection Plan, Bird Protection Plan, Water Quality Management Plan and other plans approved in terms of the conditions of this permission ("the ECoW Works");

(b) Advise on micrositing proposals issued pursuant to Condition 20;

(c) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the construction project manager; and

(d) Require the ECoW to report to the appropriate statutory body 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, during any period of post construction restoration works approved as part of the Construction Method Statement and during the establishment of the Habitat Management Plan.

Reason: To protect ecological interests.

25. There shall be no Commencement of Development until surveys have been carried out at an appropriate time of year for the species concerned, by a suitably qualified person, comprising:
i. otter surveys at watercourses and adjacent suitable habitats and within a 250m radius of each wind turbine and associated infrastructure;
ii. water vole surveys at watercourses and adjacent suitable habitats up to 200m upstream and downstream of watercourse crossings;
iii. pine marten surveys at suitable habitats prior to tree felling, vegetation removal and dismantling of log and rubble piles;
iv. bat surveys between May and September to include surveys at all structures within 30m of proposed works;
v. breeding bird surveys, particularly for breeding waders and raptors, of any land upon which construction takes place, plus an appropriate buffer as agreed with the ECoW to identify any species within disturbance distance of construction activity (only required if construction work is carried out during the bird breeding season from 15 March to 31 August inclusive); and
vi. electrofishing surveys at Sandside Burn and Achvarasdal Burn.

The survey results and any mitigation measures required for these species on site shall be set out in a species mitigation and management plan, which shall inform construction activities. The plan shall be submitted to and approved in writing prior to the Commencement of Development by the Planning Authority and the approved plan shall then be implemented in full.

Reason: In the interests of nature conservation.

Forestry

26. The Forestry Residue Management Plan contained in Chapter 16 of the Environmental Impact Assessment Report entitled Environmental Statement dated June 2016 shall be implemented unless otherwise approved in writing by the Planning Authority.

Reason: In the interests of nature conservation.

27. There shall be no Commencement of Development until a Compensatory Planting Plan ("CPP") has been submitted to and approved in writing by the Planning Authority. The CPP shall provide for the planting of woodland commensurate with the level of woodland lost, to be carried out across an area in the vicinity of the application site, and shall set out a timetable for implementation. Thereafter the CPP shall be implemented as approved.

Reason: To enable appropriate woodland removal to proceed, without incurring a net loss in woodland related public benefit, in accordance with the Scottish Government's policy on the Control of Woodland Removal.

28. No development shall commence until a scheme has been submitted to and approved in writing by the Planning Authority which describes proposals for the felling of trees to enable the construction and operation of the Development, and for the mitigation of the visual effects of tree removal, together with a timetable for all works. The scheme shall be implemented as approved unless otherwise approved in writing by the Planning Authority.

Reason: To enable attention to be given to issues of the structural diversity of the woodland and to manage the relationship with adjacent coupes already planned for felling.

Access

29. There shall be no Commencement of Development until an Access Management Plan ("AMP") has been submitted to and agreed in writing by the Planning Authority. The AMP should ensure that public access is retained in the vicinity of Limekiln 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 public access rights.

Archaeology

30. There shall be no Commencement of Development until the Company has secured the full implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation ("WSI") which has been submitted to and approved in writing by the Planning Authority. This written scheme shall include the following components:
a) an archaeological evaluation to be undertaken in accordance with the agreed WSI; and
b) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed WSI.

Reason: To protect and/or record features of archaeological importance.

Peat

31. Prior to Commencement of Development, the Company shall appoint an independent and suitably qualified geotechnical engineer as a Geotechnical Clerk of Works ("GCoW"), the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority. The terms of appointment shall impose a duty to monitor compliance with the Peat Management Plan.

Reason: To ensure a satisfactory level of environmental protection.

Air safety

32. No turbine shall be erected until a scheme for aviation lighting for the wind farm consisting of Ministry of Defence accredited infra-red aviation lighting has been submitted to and approved in writing by the Planning Authority. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission.

Reason: In the interests of aviation safety.

33. There shall be no Commencement of Development until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so:

- the date construction starts and ends;
- the maximum extension height of any construction equipment; and
- the latitude and longitude of every turbine.

Reason: In the interests of aviation safety.

Community Liaison Group

34. There shall be no Commencement of Development until a public awareness scheme has been submitted to and approved in writing by the Planning Authority. The scheme shall set out how the community is to be kept informed of project progress, how it will allow advanced dialogue on the provision of all transport-related mitigation measures and keep under review the timing of the delivery of turbine components. This shall 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 scheme shall be implemented as approved.

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.

Private Water Supplies

35. There shall be no Commencement of Development until a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to

properties which are served by private water supplies at the date of this consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the development.

Hydrology

36. There shall be no Commencement of Development until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Third Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the First Export Date.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

Noise

37. The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The Company 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 Company 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.

b) No electricity shall be exported until the Company has submitted 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.

c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified 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.

d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

f) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

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

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Achins	35	35	35	35	35	35	35	35	35	35
Reay	35	35	35	35	35	35	35	35	35	35
Borlum House	35	35	35	35	35	35	35	35	35	35
Milton	35	35	35	35	35	35	35	35	35	35
Loanscorribest	35	35	35	35	35	35	35	35	35	35
Achunabust	35	35	35	35	35	35	35	35	35	35
Water Plant Houses	35	35	35	35	35	35	35	35	35	35
Rathlin	35	35	35	35	35	35	35	35	35	35
Shebster	35	35	35	35	35	35	35	35	35	35

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Achins	38	38	38	38	38	38	38	38	38	38
Reay	38	38	38	38	38	38	38	38	38	38
Borlum House	38	38	38	38	38	38	38	38	38	38
Milton	38	38	38	38	38	38	38	38	38	38
Loanscorribest	38	38	38	38	38	38	38	38	38	38
Achunabust	38	38	38	38	38	38	38	38	38	38
Water Plant Houses	38	38	38	38	38	38	38	38	38	38
Rathlin	38	38	38	38	38	38	38	38	38	38
Shebster	38	38	38	38	38	38	38	38	38	38

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
Achins	295877	964090
Reay	296167	964440
Borlum House	297199	964065
Milton	297861	964470
Loanscorribest	298508	964010
Achunabust	299559	964415
Water Plant Houses	300551	964205
Rathlin	301008	964000
Shebster	301405	963875

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions

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

accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) Values of the LA90,10 minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Company shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

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

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. 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 Guidance Note 1. In specifying such conditions the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10-metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

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

(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

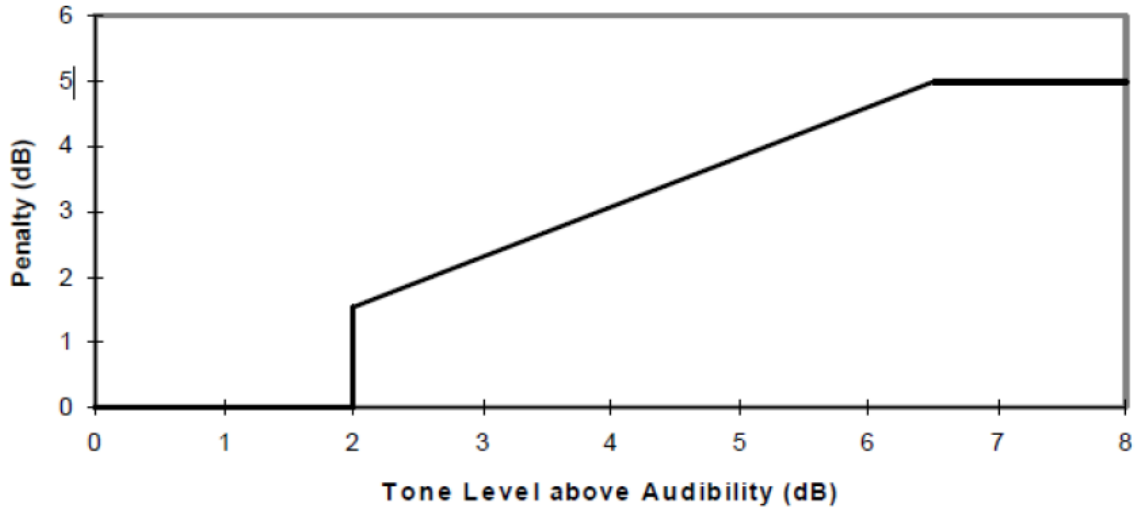
(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed

then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

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

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

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

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

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

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

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Appendix 3 – Document lists

Core documents list

Limekiln 2 applicant's documents list

Drum Hollistan applicant's documents list

The Highland Council documents list

Scottish Natural Heritage documents list

Consolidated documents list – submissions by all parties

Appendix 4 – Appearances

The Limekiln 2 applicant (Infinergy Ltd on behalf of Limekiln Wind Ltd)

Marcus Trinick QC called:

- James Welch – Director, Optimised Environments Limited

The Highland Council

James Findlay QC called:

- Mark Steele – Landscape architect, Mark Steele Consultants Limited

Scottish Natural Heritage

James Findlay QC called:

- Catherine Harry – Policy and Advice Officer, SNH

The John Muir Trust

Ian Kelly – Head of Planning, Graham and Sibbald, called:

- Helen McDade – Head of Policy, John Muir Trust
- Dr Steve Carver – Director of the Wildland Research Institute, University of Leeds

Reay Area Windfarm Opposition Group (RAWOG)

Ian Kelly – Head of Planning, Graham and Sibbald, on behalf of RAWOG

Appendix 5 – Hearing participants and statements

The Limekiln 2 applicant (Infinergy Ltd on behalf of Limekiln Wind Ltd)

Marcus Trinick QC
David Bell – Director, Jones Lang LaSalle LLP

The Highland Council

James Findlay QC
Simon Hindson, Principal Planner – Major Projects, The Highland Council

Scottish Natural Heritage

James Findlay QC
Simon Brooks - Policy and Advice Manager, SNH

The John Muir Trust

Ian Kelly – Head of Planning, Graham and Sibbald
Andrew Bachell – CEO, John Muir Trust

Reay Area Windfarm Opposition Group (RAWOG)

Ian Kelly – Head of Planning, Graham and Sibbald, on behalf of RAWOG

The Drum Hollistan applicant (Drum Hollistan Renewables LLP)

Dr Martin Sales – Consultant, MacRoberts LLP
David Stewart – Chartered town planner

Appendix 6 – Closing submissions

The following closing submissions were received in writing subsequent to the close of the inquiry:

The Limekiln 2 applicant

The Highland Council and SNH

The John Muir Trust

Reay Area Windfarm Opposition Group

The Drum Hollistan applicant