

Agenda Item	<b>6.6</b>
Report No	<b>PLN/095/21</b>

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 7 December 2021

**Report Title:** 21/03750/S36 : Limekiln Wind Ltd  
Land 2870M SE Of Borlum House, Reay

**Report By:** Area Planning Manager - North

### Purpose/Executive Summary

**Description:** Limekiln Wind Farm - Application under Section 36 of the Electricity Act 1989 to vary the consented Limekiln Wind Farm to increase the blade tip height from 15 turbines at a maximum blade tip of 130m and 6 turbines with a maximum blade tip height of 126m to 21 turbines with a maximum blade tip height of 149.9m

**Ward:**02 - Thurso And North West Caithness

**Development category:** Major Development

**Reason referred to Committee:**Major Development, Community Council objection

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

### Recommendation

Members are asked to agree the recommendation to **RAISE NO OBJECTION** to the application subject to the removal of turbines as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

- 1.1 The Highland Council has been consulted by the Scottish Government's Energy Consents Unit (ECU) on an application made under Section 36C of the Electricity Act 1989 (as amended) for an increase in blade tip height of the consented, but not yet fully constructed, Limekiln Wind Farm. The consented blade tip height is a combination of 126m and 139m to blade tip height, the new proposed blade tip height is 149.9m across the whole site.
- 1.2 The Limekiln Wind Farm was consented in 2019 and comprises of 21 wind turbines, six turbines at 126m to blade tip and fifteen turbines at 139m to blade tip and ancillary infrastructure including approximately 19.4km of on-site access tracks and a permanent metrological mast. A copy of the original Section 36 consent is attached to this report as Appendix 2. The pre-commencement conditions have been satisfied and construction commenced on 14 January 2021. Construction paused on the site in June 2021, albeit tree felling programme has continued in line with the felling plan between the landowner and Scottish Forestry.
- 1.3 The applicant has set out that the amendments to the proposed development are related to two matters:
- Availability of access solution – The applicant had previously proposed to utilise a section of the Limekiln Forest Core Path (CA11.03) for its construction access. The Council refused the application under Section 11 of the Land Reform (Scotland) Act 2003 for closure of the path for the duration of the construction process. This access solution was therefore no longer available to the applicant and an alternative access solution was required to enable the consented development to be built out; and
  - Changes in available technology – The availability of technology has changed since the previous application was submitted meaning that some smaller turbines were no longer available and that larger turbines could be utilised to increase the renewable energy production from the development.
- 1.4 As submitted, the number and location of the turbines remain the same between the consented and proposed varied schemes but the on-site access tracks have changed. Table 4.1 of the Environmental Impact Assessment Report (EIAR) sets out the changes to each element of the proposal. This table has been summarised below:

Infrastructure element	Consented Scheme	Proposed Varied Scheme
Number of Turbines	21	21
Tip Height	6 Turbines at 126m 15 Turbines at 139m	149.9m
Rotor Diameter	up to 82m	up to 133m

Hub Height	6 Turbines at up to 84.6m 15 Turbines at up to 125.6m	83.4m
Energy Generation	72MW	88.2MW
Access Track Length	19.4km	18.4km (3.1km has already been constructed)
Turbine Foundations	400m <sup>3</sup>	645m <sup>3</sup>
Crane Hardstandings	880m <sup>2</sup>	1400m <sup>2</sup>
Borrow Pits	2	1
Control Building and Substation	No change	No change
Construction Compound	located at the entrance to the site near the base of the hill Creag Leathan	located adjacent to proposed turbine 22
Permanent Met Masts	1	0
Construction rock volume requirements	118,000m <sup>3</sup>	170,100m <sup>3</sup>
Watercourse Crossings	5	7
Operational lifetime	30 years	40 years

- 1.4 While not a requirement for applications under S36 of the Electricity Act, the applicant has undertaken public consultation in advance of submission of their application. This has included, distribution of newsletters to local residents; updates to the project website including delivery of an online consultation page; advertisement of a freephone telephone number and dedicated email address to allow people to contact the developer about the project; virtual meeting with the Caithness West Community Council and virtual community engagement live chat session with opportunity thereafter for written feedback. Between 11 May and 4 June 2021.
- 1.5 The applicant stated in the application for the consented development there were two potential access routes to the site. The first was from Scrabster Harbour via the A9 and A836 before reaching the site entrance to the east of Reay. The second option was from Scrabster Harbour via the A9, B874 and A836 to the site entrance. The applicant has now chosen option one as its preferred option and this will be confirmed in due course by their abnormal load contractor. A grid connection route has been subject to an application under Section 37 of the Electricity Act 1989, the Council raised no objection to that application and a decision is awaited from Scottish Ministers.

1.6 The applicant has requested a micro-siting allowance of 50m for site infrastructure, tracks and turbine locations to accommodate unknown ground conditions, whilst also maintaining environmental buffers (e.g. set back from watercourses). The final design of the turbines (colours and finish), substation and control buildings/compounds/ancillary electrical equipment, landscaping and fencing etc. are expected to be agreed with the Planning Authority, by condition, at the time of project procurement. Whilst typical drawings for these elements are set out in the application, turbine manufacturers regularly update designs that are available, thereby necessitating the need for some flexibility on the approved design details. The details of these matters had however previously been agreed with the applicant via the satisfaction of conditions on the consented scheme.

1.7 The applicant utilised the Council's **Pre-Application Advice Service for Major Developments** in early 2021. The summary of key issues provided to the applicant at that time is set out below:

“Whilst the Council is supportive of renewable energy developments in principle, this must be balanced against the environmental impact of development.

The principle of a wind energy development on the site has been established through the S36 Consent issued by Scottish Ministers in 2019 for which development commenced in late 2020.

It is noted that the future application is anticipated to be a Section 36C application, seeking a number of changes to the previously consented scheme. The existing consent for Limekiln windfarm established a proposed scheme for which, on the balance of considerations, Scottish Ministers were able to support development. The focus is therefore anticipated to be on assessing the effects of the differences between the consented scheme and the proposed amended scheme, taking into account any new policies and amendments to policies that have been introduced since consideration of the scheme that was subsequently consented (and on which construction has started) and taking account of more recent wind energy developments in the area as part of cumulative assessment. Mitigation identified for the original scheme may not be sufficient or appropriate for the amended one. Whilst noting that the consented scheme though under construction is as yet not complete (and the proposal now is that an amended scheme would be completed instead), the Planning Authority will be mindful of paragraph 174 of Scottish Planning Policy which says:

“Proposals to repower existing wind farms which are already in suitable sites where environmental and other impacts have been shown to be capable of mitigation can help to maintain or enhance installed capacity, underpinning renewable energy generation targets. The current use of the site as a wind farm will be a material consideration in any such proposals.”

While there will be benefit in the increased production of renewable energy from the redesigned development and reduction of impact of tracks and borrowpits, of primary concern will be the landscape (wild land) and visual impact of the larger turbines

within the site from residential receptors in Reay and the surrounding area to the north, west and east of the site as well as impacts on road based receptors and recreational users of the outdoors.

The consented mix in scale of turbines within the consented scheme was considered appropriate by Scottish Ministers but it is considered that further work needs to be taken forward to address the likely increased visual impact of the development at this larger scale both individually and cumulatively with the proposed Limekiln Wind Farm Extension. This will include consideration of the impacts of the proposals on the adjacent Wild Land Area.

If you decide to proceed towards application, detailed information and comprehensive assessment will be required in order to establish the significance of any impacts and you are encouraged throughout the process to explain the design iterations and how they have responded to assessment of impacts. The assessment should also clearly set out the benefits of the proposed development and you should clearly set out how, in your view as the applicant, the significant impacts of the development would be outweighed by the benefits of the proposed development.

Based on the submitted information and the information presented at the meeting it is unlikely that the Council would be in a position to support the proposed larger scale turbines across the whole of the wind farm site should it be brought forward as an application. There may however be opportunity to accommodate some turbines of the scale proposed within some areas of the site subject to the location. We recommend that you review the visual and landscape impacts (in particular wild land impacts) of the proposed blade tip increase through an iterative design process to establish areas where the larger scale turbines could be accommodated taking into consideration the advice within this response pack.”

- 1.8 The application is supported by an Environmental Impact Assessment Report (EIAR) which considered the environmental effect of the varied development, which is the approach required by the regulations and supported by Scottish Government guidance. The EIAR submitted with the application contains chapters on: Socio-economics, Tourism and Recreation, and Land Use; Traffic and Transport; Climate Change and Carbon Balance; Landscape and Visual Impact; Cultural Heritage; Ecology; Ornithology; Geology, Hydrology and Hydrogeology; Forestry; Infrastructure; Health and Safety; Noise; and Shadow Flicker. Further, the application was also supported by a Design and Access Statement; Pre-Application Consultation Report; Planning Statement; Peat Landslide Hazard Risk Assessment Checking Report.
- 1.9 Since the application was validated no variations have been made to the application but the applicant has submitted a number of clarifications related to the submissions made by consultees and third parties.

## **2. SITE DESCRIPTION**

- 2.1 The wind farm site extends to approximately 1140ha with the built development occupying 13.33ha (0.09ha greater than the consented development). The turbines which form the development are set within an area of commercial forestry on a

slightly undulating area of ground between Creag Leathan (127m Above Ordnance Datum (AOD)), Beinn Ratha (251m AOD), Clachgeal Hill (219 AOD) and Cnoc Luachair (218m AOD). The ground on which the turbines sit varies between approximately 80m in height and 120m in height above ordnance datum (AOD).

2.2 The site is located approximately 1.55km south of Reay, 12.3km west of Thurso. Small housing groups in this area include those at Isauld (1.6km) and Fresgoe (3.3km). The immediate area to the south and west of the turbine envelope is sparsely populated.

2.3 The site is not within any areas designated as important for natural heritage but there are a number of sites within a 20km radius study area of the site: including the following:

#### Special Areas of Conservation

- Caithness and Sutherland Peatlands
- Broubster Leans

#### Special Protection Areas

- Caithness and Sutherland Peatlands
- Caithness Lochs
- North Caithness Cliffs

#### Sites of Special Scientific Interest

- East Haladale
- Sandside Bay
- Loch Caluim Flows
- Broubster Leans
- Red Point Coast
- Caithness and Sutherland Peatlands

2.4 A number of archaeological records exist within and in proximity of the site. The applicant has considered that due to presence of known archaeology in the area the area of the application site has potential for further finds.

2.5 There are a total of 18 Scheduled Monuments within 5km of the site. There are three listed buildings within 5km of the site, these include Sandside House, Sandside Harbour and Reay Parish Church.

2.6 A number of watercourses are present within the development site. The Reay Burn drains the western part of the site and the Achvarasdal Burn drains the eastern part of the site. These watercourses ultimately feed into the sea. Lochan nan Eun is the main waterbody within the site and is located toward the centre of the site.

- 2.7 Within the site there are a number of Ground Water Dependant Terrestrial Ecosystems (GWDTEs) which are protected under the Water Framework Directive. The Phase 1 Habitat Survey which accompanies the application identifies that the application site includes grassy marshland as the most prominent GWDTE on the site with smaller elements of other wet grassland communities and acid flushes.
- 2.8 The bedrock on the site is classified as Strath Halladale Granite. Peat probing has been undertaken which has identified peat depths of between 0m and in excess of 2m albeit the areas of deeper peat over 2m in depth are limited.
- 2.9 A variety of valued habitats are present across the application site. The EIAR reported the results of the surveys for Otter, Water Vole, Pine Martin, Bats, Freshwater Pearl Mussels, Freshwater Invertebrates, Fish and Red Deer. The surveys, both desk and on-site, identified that the site has the potential habitat, both within the site and around it, to attract these species.
- 2.10 Surveys have been carried out which identify the site (including its immediate surrounds) is frequented by a varied range of birds.
- 2.11 The turbine area is characterised as Sweeping Moorland and Flows Landscape Character Type (LCT) as set out in the NatureScot National Mapping. The track is within an area of Farmed Lowland Plain LCT.
- 2.13 The site is not located within any international or regional landscape designations. The site lies in proximity (within 35km) to the following landscape designations:
- National Scenic Areas
- Kyle of Tongue.
- Special Landscape Areas
- Farr Bay, Strathy and Portskerra;
  - Ben Griam and Loch Nan Clar;
  - Flow Country and Berriedale Coast; and
  - Dunnet Head.
- 2.14 The turbines sits immediately adjacent to East Halladale Flows Wild Land Area (WLA) (WLA34) as identified on SNH's Wild Land Areas Map 2014. The application site is in proximity of the following wild land areas:
- WLA 35 - Ben Klibrek - Armine Forest;
  - WLA 36 - Causeymire-Knockin Flows; and
  - WLA 38 - Ben Hope - Ben Loyal.
- 2.15 The key recreational interests in this area are mountaineering, walking, and cycling. There are a number of low level walks in the area, including those around Reay which form part of the Core Path Network. As set out earlier in this report a core path also runs through the site. Some higher level walks are also available in the area including those around Beinn Ratha and Beinn Dorrey.

2.16 When assessing a wind farm proposal, consideration of similar developments in proximity of the proposal for cumulative effects is required. The list below sets out the projects in the wider area (25km) that are operational, approved or have been submitted but not yet determined.

#### Operational

- Baillie – 21 turbines at 110m to blade tip height (4.2km north east)
- Bettyhill - 2 turbines at 119m to blade tip height (23.3km west)
- Strathy North – 33 turbines at 110m to blade tip height (16.5km west)
- Forss 1 – 2 turbines at 76m to blade tip height (8.2km north east)
- Forss 2 – 4 turbines at 78m to blade tip height (7.9km north east)
- Achlachan - 5 turbines at 115m to blade tip height (17.6km south west)
- Causeymire – 21 turbines at 101m to blade tip height (18.5km south west)
- Bad a Cheo – 13 turbines at 112m to blade tip height (19.1km south west)
- Halsary – 15 turbines at 120m to blade tip height (19.9km south west)

#### Consented / Under Construction

- Limekiln – 21 turbines at 126-139m to blade tip height (within application site)
- Dounreay Tri Offshore – 2 Turbines at 201m to blade tip height (13.9km north)
- Hill of Lybster – 1 Turbine at 99.5m (6.9km north west)
- Strathy South – 39 Turbines at 135m to blade tip height (17.7km south east)

#### In Planning

- Ackron – 12 turbines at 149.9m to blade tip height (4.8km west)
- Forss 3 – 2 turbines at 100m to blade tip height (8km north east)
- Tormsdale - 12 Turbines at 149.9m to blade tip height (19.3km south east)
- Strathy South Variation – 35 turbines at 200m to blade tip height (17.7km south east) (THC Raised No Objection - awaiting decision by Scottish Ministers)
- Strathy Wood – 13 turbines at 180m to blade tip height (14.6km west) (THC Raised Objection - awaiting decision by Scottish Ministers)
- Limekiln Extension – 5 turbines at 149.9m to blade tip height (land adjacent to east of site) (THC Raised Objection - awaiting decision by Scottish Ministers)
- Drumholliston 2 – 7 Turbines at 125m to blade tip height (4.3km north west) (THC refused application - awaiting decision by Directorate for Planning and Environmental Appeals Scottish Ministers)

#### Scoping

- Armadale
- Kirkton

- Pentland Offshore
- Hollandmey

2.17 In addition to the above, a number of proposals for onshore and offshore wind energy are at EIA Scoping stage in vicinity of the site. This includes Armadale, Kirkton, Hollandmey and Pentland Offshore wind farms.

### 3. PLANNING HISTORY

3.1	27.10.2021	21/04712/PNO - Upgrade of forestry private way	Prior Approval Not Required
3.2	23.04.2021	21/01373/SCOP - Limekiln Wind Farm - Amendments to Section 36C application: increase to the blade tip height to make all turbines a maximum blade tip height of 149.9m; relocating internal tracks and the construction compound; removal of one borrow pit	Scoping Response Issued
3.3	08.04.2021	21/00791/PREMAJ - Limekiln Wind Farm - Amendments to Section 36C application: increase to the blade tip height to make all turbines a maximum blade tip height of 149.9m; relocating internal tracks and the construction compound; removal of one borrow pit	Closed
3.4		20/01905/S36 - Limekiln Extension Wind Farm - Erection and Operation of a Wind Farm for a period of 30 years, comprising of 5 Wind Turbines with a maximum blade tip height 149.9m, with access tracks, hardstanding areas, substation, battery storage facility, control building compound, borrow pits and cabling	Awaiting decision from Scottish Ministers (THC raised objection)
3.5	27.02.2020	20/00279/SCOP - Limekiln Wind Farm Extension - Erection of 7 wind turbines and associated infrastructure	Scoping Response Issued
3.6	11.09.2019	19/03277/PREMAJ – Proposed Wind Farm of Up to 10 Turbines	Closed
3.7	21.06.2019	16/02752/S36 – Limekiln Wind Farm - Erection of 21 Wind Turbines	Approved by Scottish Ministers
3.8	13.05.2020	12/04781/S36 - Erection of 24 5mW wind turbines up to a maximum tip height of 139m. a mix of turbines with tip height of 139m and 126m are proposed for Limekiln Wind Farm	Refused by Scottish Ministers

#### 4. PUBLIC PARTICIPATION

4.1 The application was advertised by the applicant in The Herald, The Edinburgh Gazette and the John'O Groats Journal.

Representation deadline: 14 September 2021

Representations received 0  
by The Highland Council

Representations received 3 (3 objections)  
by Energy Consents Unit

4.2 Material considerations raised are summarised as follows:

- Increased adverse landscape and visual impact – individual and cumulative with other wind energy development (particularly due to increased rotor diameter);
- Viability of development being given too much weight;
- Planning history of the site and wider development;
- Adverse impact on residential amenity.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam).

#### 5. CONSULTATIONS

##### Consultations undertaken by The Highland Council

5.1 **Caithness West Community Council** object to the application. They highlight the planning history of the development and the impact of the consented scheme. It raises particular concern with regard to visual impact, residential amenity, impact on peat, proximity of the turbines to the core path, safety of turbines, impacts of turbines on the environment. It also raises concerns over the applicant's consideration of economic viability of the development.

5.2 **Access Officer** does not object to the application. It states that the requirement for a Recreational Access Management Plan will remain and should be secured by an appropriately worded condition. In doing so it is requested that any condition should set out that the core path should remain open during the construction of the development, and how the access on the track between Bridge of Isauld and the borrowpit search area will be managed. The access officer notes that periods of closure / disruption of this path may be expected during delivery of exceptional loads.

5.3 **Environmental Health** do not object to the application. It notes that the noise assessment can meet the same noise standards as previously agreed cumulatively between Limekiln Wind Farm and the proposed extension.

5.4 **Flood Risk Management Team** do not object to the application.

- 5.5 **Historic Environment Team** do not object to the application. It considers that the EIAR contains mitigation that will limit the impacts of the development to an acceptable range. It requests that the mitigation, including demarcation of assets during construction, be secured by condition.
- 5.6 **Transport Planning** do not object to the application. It requests that proposals are brought forward prior to secure measures to mitigate the impact on the local road network. It recommends that the applicant undertakes a trial run for abnormal loads, early consultation with the Council's Structures Section and consideration of cumulative impacts with other developments. It requests that the conditions attached to the extant permission are carried forward to any consent which may be granted.

#### **Consultations undertaken by the Scottish Government's Energy Consents Unit**

- 5.7 **British Horse Society** do not object to the application. It notes that projects such as this are opportunities to improve connections and resolve problems of access, transport and travel.
- 5.8 **British Telecom** do not object to the application. It notes that the proposal should not cause interference to BT's current and presently planned radio network. It notes that there is an active radio link to the north of the site boundary.
- 5.9 **Crown Estate Scotland** do not object to the application. It confirms that the assets of Crown Estate Scotland are not affected by this proposal.
- 5.10 **Ministry of Defence - Defence Infrastructure Organisation** do not object to the application subject to a condition securing perimeter turbines being fitted with accredited aviation safety lighting comprising 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point. This is due to the location of the development within a low flying area.
- 5.11 **Highlands and Islands Airports Limited** do not object to the application and confirms that the proposal would not impact the safeguarding criteria for Wick Airport.
- 5.12 **Historic Environment Scotland** do not object to the application. It agrees with the conclusions of the EIAR in relation to cultural heritage which concludes that the proposal will not have significant impacts on the setting of any nationally important heritage assets.
- 5.13 **Ironside Farrar for Scottish Ministers (Peat Landslide Hazard Risk Assessment)** notes that the risk assessment has been carried out in a recognised format and appears to be a robust and applicable assessment. It highlights that the assessment shows negligible and low risk of peat landslide for the majority of the site and a small area of medium risk is location on the access road north of turbine 32. It requested minor revisions to the assessment which the applicant has provided.
- 5.14 **National Air Traffic Services - Safeguarding** do not object to the application and notes that the proposal does not conflict with its safeguarding criteria.

- 5.15 **NatureScot** do not object to the application. It requests conditions related to deer management, habitat management plans and implementation of the species protection plan for otters to avoid an impact on the integrity of the Caithness and Sutherland Peatlands Special Area of Conservation.

It does not consider that the proposal would result in new significant effects or the intensification of those existing significant adverse effects of the qualities of the East Halladale Flows Wild Land Area. It advises that if visible aviation lighting is required that this would likely result in significant effects on the qualities of the East Halladale Flows Wild Land Area.

In relation to the Caithness Lochs Special Protection Area's qualifying feature of common scoter, it has concluded that based on theoretical flight energetics then the scoters would take the most energy efficient route to their breeding lochs from the north coast (and vice versa) and therefore would avoid crossing the consented Limekiln wind farm site and the proposed extension area.

It explains that additional felling is required to accommodate the proposals and it welcomes the applicants' proposal for an additional 13.04ha of off-site compensatory planting.

It welcomes the updated protected species survey and the production of species protection plans.

- 5.16 **Royal Society for the Protection of Birds** object to the application. It raises concern over the impact on golden eagles and requests a condition for the monitoring of golden eagle usage of the site during felling, construction and operation of the site. It does not consider that sufficiently up to date data is available and that the greylag goose collision risk has not been assessed on a cumulative basis for the Caithness Lochs SPA. It raises concern over the impact of the proposal on common scoter due to a lack of understanding of the species in the flow country and the difficulty in surveying them due to their migratory nature during hours of darkness. It requests a scheme to be secured to support monitoring and research into this poorly understood species whose population status in the Caithness and Sutherland Peatlands SPA is 'unfavourable declining'. In addition to impacts on ornithology, it raises concerns over the impact on peat as a result of the modified access tracks and recommends that any unnecessary tracks are removed from the scheme. While it is generally supportive of the habitat management plan, it recommends enhancements to the proposal including the provision of additional peatland restoration, compensatory planting, new native woodland planting and sward management.

- 5.17 **Scottish Forestry** do not object to the application. It highlights that compensatory planting of 73.19 ha (previously consented 60.15 ha plus the additional 13.04 ha) will be required to meet the requirements of Scottish Government's Policy on Control of Woodland Removal. It requests conditions to secure a revised felling and restocking proposal for the Limekiln Long Term Forest Plan and compensatory planting of no less than 73.19ha.

- 5.18 **Scottish Rights of Way Society** objected to the application and maintained its objection following submission of clarifications by the applicant. It has concerns over the proximity of the turbines to core path CA11.03.

5.19 **Scottish Water** do not object to the application. It notes that the proposal may impact on existing Scottish Water assets and this requires to be discussed between the applicant and Scottish Water. It notes that there are no drinking water or water abstraction sources that would be affected by the proposed development.

5.20 **Scottish Environment Protection Agency** object to the application due to impacts on peat and carbon loss. It has stated that it will withdraw their objection if either: the development is amended to reduce the volume of peat disturbed; or significantly enhanced restorations proposals are included to mitigate for the larger volume of peat that will now be disturbed by the development. It highlights that the varied proposal would result in the disturbance of an additional 18,520m<sup>3</sup> of peat due to the delivery of new tracks rather than making use of existing tracks. SEPA and the applicant have been in dialogue on this matter and a verbal update on this matter will be provided to committee.

It welcomes the Habitat Management Plan but seeks an update to avoid a comparison of the Baseline Forestry Restocking Plan (Figure 14.3) with the Variation Restocking Plan (Figure 14.5) showing that the areas to be restored on Figure 1 of the Peat Management Plan are as a result of a change in the Long Term Forest Plan and is not additional mitigation to offset the additional peat disturbance caused by the change in layout.

It has set out that the proposal is “capable” of being authorised under the Controlled Activities Regulations authorisation process.

5.21 **Transport Scotland** do not object to the application. It requests conditions to secure the proposed route for any abnormal loads and appropriate traffic control measures being in place during construction.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Highland Wide Local Development Plan 2012

Policy 28 Sustainable Development  
Policy 29 Design, Quality and Place Making  
Policy 31 Developer Contributions  
Policy 51 Trees and Development  
Policy 52 Principle of Development in Woodland  
Policy 53 Minerals  
Policy 55 Peat and Soils  
Policy 57 Natural, Built and Cultural Heritage  
Policy 58 Protected Species  
Policy 59 Other Important Species  
Policy 60 Other Important Habitats  
Policy 61 Landscape  
Policy 63 Water Environment  
Policy 64 Flood Risk  
Policy 66 Surface Water Drainage  
Policy 67 Renewable Energy  
Policy 68 Electricity Transmission Infrastructure

Policy 72 Pollution  
Policy 73 Air Quality  
Policy 77 Public Access

## 6.2 **Caithness and Sutherland Local Development Plan (2018)**

There are no site-specific policies covering the site – therefore the application requires to be assessed against the general policies of the Highland-wide Local Development Plan referred to above. However, the Caithness and Sutherland Local Development Plan identifies Special Landscape Areas within the plan area.

### **Highland Council Supplementary Planning Policy Guidance**

- 6.3 The Onshore Wind Energy Supplementary Guidance provides additional guidance on the principles set out in Policy 67 - Renewable Energy Developments of the Highland-wide Local Development Plan and reflects the position on these matters as set out in Scottish Planning Policy. This document is a material consideration in the determination of planning applications following its adoption as part of the Development Plan in November 2016.
- 6.4 The document includes a Spatial Framework, which is in line with Table 1 of Scottish Planning Policy. The site sits partially within an “area with potential for wind farm development” and “an area with significant protection”.
- 6.5 The document also contains the Landscape Sensitivity Appraisals. The Landscape Sensitivity Appraisal for Caithness was published in 2017 and forms part of the statutorily adopted Onshore Wind Energy Supplementary Guidance. The turbine envelope for this application falls within area CT4 Central Caithness, a landscape area described as flat to gently undulating where the guidance advises “there is some limited potential for further commercial scale development in this LCT, to concentrate and consolidate with existing development.”
- 6.6 The following Supplementary Guidance forms a statutory part of the Development Plan and is considered pertinent to the determination of this application:
- Developer Contributions (November 2018)
  - Flood Risk & Drainage Impact Assessment (Jan 2013)
  - Highland Historic Environment Strategy (Jan 2013)
  - Highland's Statutorily Protected Species (March 2013)
  - Highland Renewable Energy Strategy & Planning Guidelines (May 2006)
  - Managing Waste in New Developments (March 2013)
  - Physical Constraints (March 2013)
  - Special Landscape Area Citations (June 2011)
  - Standards for Archaeological Work (March 2012)
  - Trees, Woodlands and Development (Jan 2013)

## **7. OTHER MATERIAL CONSIDERATIONS**

### **The Highland Council Non-Statutory Planning Guidance**

- 7.1 The Highland-wide Local Development Plan is currently under review and is at Main Issues Report Stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation and National Planning Framework 4.
- 7.2 In addition, the Council has further advice on delivery of major developments in a number of documents. This includes Construction Environmental Management Process for Large Scale Projects (Aug 2010) and The Highland Council Visualisation Standards for Wind Energy Developments (Jul 2016).

### **Scottish Government Planning Policy and Guidance**

- 7.3 Scottish Planning Policy (SPP) advances principal policies on Sustainability and Placemaking, and subject policies on A Successful, Sustainable Place; A Low Carbon Place; A Natural, Resilient Place; and A Connected Place. It also highlights that the Development Plan continues to be the starting point of decision making on planning applications. The content of the SPP is a material consideration that carries significant weight, but not more than the Development Plan, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.
- 7.4 SPP sets out continued support for onshore wind. It requires Planning Authorities to progress, as part of the Development Plan process, a spatial framework identifying areas that are most likely to be most appropriate for onshore wind farms as a guide for developers and communities. It also lists likely considerations to be taken into account relative to the scale of the proposal and area characteristics (Para. 169 of SPP).
- 7.5 Paragraph 170 of SPP sets out that areas identified for wind farms should be suitable for use in perpetuity. This means that even though the consent is time limited the use of the site for a wind farm must be considered as, to all intents and purposes, a permanent one. The implication of this is that operational effects should be considered as permanent, and their magnitude should not be diminished on the basis that the specific proposal will be subject to a time limited consent.
- 7.6 Paragraph 174 of SPP sets out that proposals to repower existing wind farms which are already in suitable sites can help to maintain or enhance installed capacity, under pinning renewable energy targets. It further highlights that the current use of a wind farm site will be a material consideration in any repowering proposal.
- 7.7 National Planning Framework 4 will, in due course, supersede Scottish Planning Policy and form part of the Development Plan. Draft National Planning Framework 4 was published in November 2021. It comprises four parts which are summarised below:
- Part 1 – sets out an overarching spatial strategy for Scotland in the future. This includes priorities, spatial principles and action areas.

- Part 2 – sets out proposed national developments that support the spatial strategy.
- Part 3 – sets out policies for the development and use of land which are to be applied in the preparation of local development plans; local place plans; masterplans and briefs; and for determining the range of planning consents. It is clear that this part of the document should be taken as a whole, and all relevant policies should be applied to each application.
- Part 4 – provides an outline of how Scottish Government will implement the strategy set out in the document.

7.8 The Spatial Strategy sets out that we must embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, build a wellbeing economy and create great places. It makes it clear that new development and infrastructure will be required to meet the net zero targets by 2045. To facilitate this, it sets out that we must rebalance our planning system so that climate change and nature recovery are the primary guiding principles for all our decisions. It sets out that significant weight should be given to the global climate emergency when considering development proposals. The draft sets out that the planning system should support all forms of renewable energy development in principle. Specific to this proposal for re-powering, it states that development proposals to re-power, extend and expand existing wind farms and for the extension of life to existing windfarms should be supported unless the impacts identified (including cumulative effects) are unacceptable. It continues to highlight a range of considerations for renewable energy applications, similar to the existing provisions of Scottish Planning Policy.

7.9 A range of other national planning and energy policy and guidance is also relevant, including but not limited to the following:

- National Planning Framework for Scotland 3, NPF3
- Scottish Energy Strategy (Dec 2017)
- Historic Environment Policy for Scotland (HEPS, 2019)
- PAN 1/2011 - Planning and Noise (Mar 2011)
- Circular 1/2017: Environmental Impact Assessment Regulations (May 2017)
- PAN 60 – Planning for Natural Heritage (Jan 2008)
- 2020 Routemap for Renewable Energy (Jun 2011)
- Onshore Wind Energy (Statement), Scottish Government (Dec 2017)
- Onshore Wind Energy (Statement) Refresh Consultation Draft, Scottish Government (October 2021)
- Siting and Designing Wind Farms in the Landscape, SNH (Aug 2017)
- Wind Farm Developments on Peat Lands, Scottish Government (Jun 2011)
- Energy Efficient Scotland Route Map, Scottish Government (May 2018)
- Assessing Impacts on Wild Land Areas, Technical Guidance, NatureScot (Sep 2020)

## 8. PLANNING APPRAISAL

8.1 As explained, the application has been submitted to the Scottish Government for approval under Section 36 of the Electricity Act 1989 (as amended). Should Ministers approve the development, it will receive deemed planning permission under Section

57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). While not a planning application, the Council processes S36 applications in the same way as a planning application as a consent under the Electricity Act will carry with it deemed planning permission. The principle of a wind farm in this location has been established through the previously granted planning permission. Therefore, the Council are required to consider only the impact of the changes to the development i.e. the increase in blade tip height, changes to track layout, removal of second borrowpit and increase in operational life of the proposed wind farm.

8.2 Schedule 9 of The Electricity Act 1989 contains considerations in relation to the impact of proposals on amenity and fisheries. These considerations mean the developer should:

- Have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
- Reasonably mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

8.3 It should be noted that for applications under the Electricity Act 1989 that the Development Plan is just one of a number of considerations and Section 25 of the Town and Country Planning (Scotland) Act 1997 which requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise, is not engaged.

### **Determining Issues**

8.4 While this is the case the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### **Planning Considerations**

8.5 The key considerations in this case are:

- a) compliance with the development plan and other planning policy;
- b) the variations to the proposed development including consideration of matters related to: Energy and Economic Benefits; Construction; Roads, Transport and Access; Water, Flood Risk, Drainage and Peat; Natural Heritage (including Ornithology); Built and Cultural Heritage; Design, Landscape and Visual Impact (including Wild Land Areas); Noise and Shadow Flicker Telecommunications; Aviation; Forestry; and
- c) any other material considerations.

### **Development plan/other planning policy**

8.6 The Development Plan comprises the adopted Highland-wide Local Development Plan (HwLDP), Caithness and Sutherland Local Development Plan and all statutorily adopted supplementary guidance. There are no site specific policies affecting this

application site within the Caithness and Sutherland Local Development Plan. The principal HwLDP policy on which the application needs to be determined is Policy 67 - Renewable Energy.

- 8.7 Policy 67 sets out that renewable energy development should be well related to the source of the primary renewable resource needed for operation, the contribution of the proposed development in meeting renewable energy targets and positive/negative effects on the local and national economy as well as all other relevant policies of the Development Plan and other relevant guidance. In that context the Council will support proposals where it is satisfied they are located, sited and designed such as they will not be significantly detrimental overall, individually or cumulatively with other developments having regard to 11 specified criteria (as listed in para 6.2). Such an approach is consistent with the concept of Sustainable Design (Policy 28) and aim of Scottish Planning Policy to achieve the right development in the right place; it is not to allow development at any cost.
- 8.8 If the Council is satisfied that the proposal is not significantly detrimental overall then the application will accord with the Development Plan.

### **Caithness and Sutherland Local Development Plan**

- 8.9 The Caithness and Sutherland Local Development Plan does not contain any specific land allocations related to the proposed development. Paragraph 74 of the CASPlan sets out that the Special Landscape Area boundaries have been revised for CASPlan to ensure “key designated landscape features are not severed and that distinct landscapes are preserved.” The boundaries set out in CASPlan are supported by a background paper which includes citations for the Special Landscape Areas. Policies 28, 57, 61 and 67 of the HwLDP seek to safeguard these regionally important landscapes. The impact of this development on landscape is primarily assessed in the Design, Landscape and Visual Impact (including Wild Land) section of this report.

### **Onshore Wind Energy Supplementary Guidance (OWESG)**

- 8.10 The Council’s Supplementary Guidance - Onshore Wind Energy, is a material consideration in the determination of planning applications. The supplementary guidance does not provide additional tests in respect of the consideration of development proposals against Development Plan policy. However, it provides a clear indication of the approach the Council towards the assessment of proposals, and thereby aid consideration of applications for onshore wind energy proposals.
- 8.11 The OSWESG contains a Spatial Framework for onshore wind energy as required by SPP. The area in which the turbines are sited falls within a “Group 3 - Area with Potential For Wind Energy”. The access to the site falls within a Group 2 – “Area of Significant Protection”. In Group 3 areas further consideration is required to demonstrate that any significant effects can be substantially overcome by design, siting or other mitigation. Group 2 features within the site relate to Carbon Rich Soils.
- 8.12 The spatial framework identifies a number of Group 1 Areas. These are areas where wind farms will not be acceptable. There are a number of these in proximity of the site.

- 8.13 The OSWESG provides strategic considerations that identify sensitivities and potential capacity for wind farm development. These are called the Landscape Sensitivity Appraisals (LSA). One of the six areas to be examined is the area of Sutherland and Ross-shire LSA.
- 8.14 The Landscape Sensitivity Appraisal for Caithness was published in 2017 and forms part of the statutorily adopted Onshore Wind Energy Supplementary Guidance. The turbine envelope for this application falls within area CT4 Central Caithness, a landscape area described as flat to gently undulating where the guidance advises “there is some limited potential for further commercial scale development in this LCT, to concentrate and consolidate with existing development.”
- 8.15 Further, the OSWESG approach and methodology to the assessment of proposals is applicable and is set out in the OSWESG para 4.16 – 4.17. It provides a methodology for a judgement to be made on the likely impact of a development on assessed “thresholds” in order to assist the application of Policy 67. The 10 criterion will be particularly useful in considering visual impacts, including cumulative impacts.
- 8.16 The application is seen to accord, in part, with the landscape sensitivity appraisal for Caithness, however it gives a strong steer as to the siting and design of developments a matter which is discussed later in this report.

### **National Planning Policy**

- 8.17 National planning policy remains supportive of onshore wind energy development with the framework for assessing wind farm proposals set out in Scottish Planning Policy (SPP). SPP sets out that areas identified for wind farms should be suitable for use in perpetuity. In determining the original application, Ministers considered that impacts had been minimised or mitigated.
- 8.18 Notwithstanding the overarching context of support, SPP recognises that the need for energy and the need to protect and enhance Scotland’s natural and historic environment must be regarded as compatible goals. The planning system has a significant role in securing appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy. National policies highlight potential areas of conflict but also advise that detrimental effects can often be mitigated or effective planning conditions can be used to overcome potential objections to development.
- 8.19 Criteria outlined within SPP for the assessment of applications for renewable energy developments include landscape and visual impact; effects on heritage and historic environment; contribution to renewable energy targets; effect on the local and national economy and tourism and recreation interests; benefits and dis-benefits to communities; aviation and telecommunications; development with the peat environment, noise and shadow flicker; and cumulative impact. A number of criteria are set out in SPP against which proposals for on-shore wind energy development should be assessed (paragraph 169). These criteria are primarily reflected in Policy 67 (Renewable Energy) of the Highland-wide Local Development Plan. A failure against one of these criteria does not necessarily mean that a development fails, all these criteria must be given consideration.

- 8.20 As a statement of the Government's approach to spatial planning in Scotland, National Planning Framework 3 (NPF3) is a material consideration that should be afforded significant weight in the planning balance. 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. However, it should be noted that the targets set out in NPF3 have now been superseded by legislation which sets the legally binding target of net zero by 2045.
- 8.21 As set out above, National Planning Framework 4 (NPF4) was published in draft form in November 2021. This document is still going through the parliamentary process and consultation therefore the weight to be attached to the document is not at the same as the adopted Scottish Planning Policy, National Planning Framework 3 or the Development Plan. However, it can be given weight in the process of determining applications. It will be up to Scottish Ministers to determine the weight to be afforded to it in reaching their determination depending on the status of the document at the time of reaching their determination on the application.
- 8.22 A number of matters of relevance arise out of the draft NPF4 in relation to this proposal and these are explored further below:
- Draft NPF4 identifies electricity generation from renewable sources of, or exceeding 50MW as national development. The proposed development would therefore be classed as a national development as it would have a capacity of 88.2MW. Such developments have been identified as national developments due to the need an increase in renewable energy production in order to meet net zero targets. It also highlights that Generation is for consumption domestically as well as for export to the UK and beyond, with new capacity helping to decarbonise heat, transport and industrial energy demand. It notes that this has the potential to support jobs and business investment, with wider economic benefits.
  - For the first time in a planning policy document, confirmation has been provided that when considering all developments significant weight should be given to the Global Climate Emergency. As a development that generates renewable energy this proposal has inherent support from this aspect of NPF4, however the impact on the carbon resource as a result of the development will require further consideration to determine whether the impact of the proposed development is positive or negative in this regard. While this is considered further later in this report, the overall carbon payback period is considered to be acceptable.
  - Recognising the Ecological Emergency, the draft NPF4 also sets out that proposals should contribute to the enhancement of biodiversity. The proposed development, includes provision for compensatory planting and peatland restoration which meets with the provisions of the proposed approach in draft NPF4 for the restoration of degraded habitats and the strengthening of nature networks.

- Considerations for green energy applications have been updated and there is no longer an explicit spatial framework for onshore wind energy developments. Instead, it sets out that proposals for new development, extensions and repowering of existing renewable energy developments should be supported. The proposal subject to this application would be considered a repowering proposal so would benefit from this in principle support. However, it goes on to set out that such proposals should be supported unless the impacts identified (including cumulative effects), are unacceptable. The impacts of the change to the proposal are assessed in relation to this application later in this report. Draft NPF4 also highlights a number of matters which must be taken into account in reaching a determination on an application for renewable energy. Subject to some minor wording changes, this is largely reflective of the considerations set out in SPP paragraph 169.

8.23 A number of publications relating to national energy policy have been published by the Scottish Government. In short, none indicate a relevant distinct policy change. Most relevant to this application are as follows:

- Scottish Energy Strategy: The future of energy in Scotland (Dec 2017)
- On-shore Wind Policy Statement (Dec 2017)
- Scottish Government, Securing a Green Recovery on a Path to Net Zero: Climate Change Plan 2018–2032 – update, December 2020;
- Committee on Climate Change, The Sixth Carbon Budget, *The UK's Path to Net Zero*. (including Policy and Methodology) December 2020;
- National Audit Office, Net Zero Report, December 2020;
- HM Government, Energy White Paper, Powering our Net Zero Future, December 2020.

8.24 Further to the above, in late 2019 the Scottish Government's targets for reduction in greenhouse gases were amended by The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. This sets targets to reduce Scotland's emissions of all greenhouse gases to net-zero by 2045 at the latest, with interim targets for reductions of at least 56% by 2020, 75% by 2030, 90% by 2040.

8.25 The statements of continued strong support relating to onshore wind contained within these documents are acknowledged. Support for onshore wind is anticipated to meet with the continued aspiration to decarbonise the electricity network, enable communities to benefit more directly in their deployment and to support the renewables industry and wider supply chain. Larger, more optimal turbines are anticipated as is the expectation that landscapes already hosting wind energy schemes will continue to do so beyond the lifetime of current consents/permissions.

8.26 However, it is also recognised 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. With regard to planning policy, these statements largely reflect the existing position outlined within NPF3 and SPP, a policy framework that supports development in the

justified locations. In addition, it must be recognised that the greenhouse gas reduction targets and the targets in the Energy Strategy are related not just to production of green energy but also related to de-carbonisation of heat and transportation.

8.27 The Scottish Government published Onshore Wind Policy Statement Refresh 2021: Consultative Draft in October 2021. This set out that onshore wind remains vital to Scotland's future energy mix and that we will need additional onshore wind energy toward the target of net zero. In doing so it was clear that additional capacity is not at any cost and it needs to be balanced and aligned with protection of natural heritage, native flora and fauna. The document also highlights the challenges and opportunities faced by the deployment of additional onshore wind energy capacity as well as consulting on a target of an additional 8-12GW of onshore wind energy capacity being delivered. Importantly it notes that the matter of landscape and visual impacts of onshore wind development remains an evolving area. As part of this evolution it considers that while decisive action to tackle climate change will change how Scotland looks Scotland's most cherished landscape are a key part of natural and cultural heritage and must be afforded the necessary protection.

8.28 The proposal is one which would fit the definition of a "re-powering" project under the terms of paragraph 174 of Scottish Planning Policy. This sets out that "proposals to repower existing wind farms which are already in suitable sites where environmental and other impacts have been shown to be capable of mitigation can help to maintain or enhance installed capacity, underpinning renewable energy generation targets. The current use of the site as a wind farm will be a material consideration in any such proposals." In consenting the original application Scottish Ministers concluded that the applicant had regard to the desirability of preserving natural beauty, of conserving flora, fauna, and geological and physiographical features of special interest and protecting sites, buildings and objects of architectural, historic or archaeological interest. Further Ministers considered that the applicant had done what it reasonably could to mitigate the effects of the development on the aforementioned features. Scottish Ministers. In reaching these conclusions, the Scottish Ministers concluded that the development accorded with the provisions of the Development Plan and Scottish Planning Policy subject to the application of conditions to secure mitigation. Of particular note in the Reporters' Public Local Inquiry Report are the overall conclusions set out in paragraphs 9.41 and 9.42, these are copied below for ease of reference:

"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.”

### **Modification of Blade Tip Height, changes to infrastructure and extension of operational life**

- 8.29 The principle of the development of a wind farm in this location has been established. This is an application to modify the scheme through an increase in blade tip height, changes to infrastructure and an extension of operational life of on an existing consent. In order to address the determining issues therefore, the Council must consider the extent to which the proposal, as amended, continues to comply with policy and take into consideration any other material considerations. Consideration is required of the proposals changed construction and operational impacts as a result of the modifications now proposed to the development. The applicant has submitted a Environmental Impact Assessment Report (EIAR) which focuses on the these matters as they relate to: Socio-economics, Tourism and Recreation, and Land Use; Traffic and Transport; Climate Change and Carbon Balance; Landscape and Visual Impact; Cultural Heritage; Ecology; Ornithology; Geology, Hydrology and Hydrogeology; Forestry; Infrastructure; Health and Safety; Noise; and Shadow Flicker. These matters are addressed in turn below.

### **Socio-economics, tourism, and recreation**

- 8.30 Notwithstanding any significant impacts that this proposal may have upon the landscape resource, amenity and heritage of the area, the development could be seen to be compatible with Scottish Government policy and guidance and increase its overall contribution to the Government, UK and European energy targets as it has the potential to generate 88.2MW of electricity, whereas the consented development has the capacity to generate up to 72MW. This is based upon the current candidate turbines but this may change as a result of the applicant’s procurement process. This increase in generation is largely as result of the increased rotor diameter, which will provide a greater energy yield. Each turbine has the potential to generate up to 4.2MW. Later in this report further visual impact mitigation will be outlined which will recommend the removal of two turbines at the south of the scheme. If accepted by Ministers, this will reduce the energy yield by 8.2MW. However, even with this reduction, the increased yield from the development as a result of the proposed variation would be significant and key consideration in relation to the matters set out in paragraph 174 of SPP, where there is support for the enhancement of installed capacity through wind farm repowering proposals, subject to mitigation of impacts. The support for repowering projects is also acknowledge in the draft NPF4, as well as the Onshore Wind Energy Policy Statement and associated refresh consultation draft.
- 8.31 The proposed development anticipates a construction period of 22 months given the enabling works have already commenced, 40 years of operation prior to decommissioning or repowering. Such a project can offer significant

investment/opportunities to the local, Highland, and Scottish economy including businesses ranging across construction, haulage, electrical and service sectors. There will also be economic benefits through the remainder of the enabling works contract which involves felling and replanting of trees related to the Limekiln Forest Management Plan.

- 8.32 There is also likely to be some adverse effects caused by construction traffic and disruption. These adverse impacts are most likely to be within the service sector particularly during the construction phase when abnormal loads are being delivered to site.
- 8.33 The assessment of socio-economic impact by the applicant identifies that the development is unlikely to have a significant adverse impact on tourism. The applicant notes that there will be economic benefits to the local community and economy arising from the community benefit fund and additional expenditure in the local economy. This is based upon national studies. The EIAR explains that based upon their experience of constructing wind farms that the construction of the varied development would generate up to 137.7 full time equivalent jobs in Highland and up to 413.9 full time equivalent jobs in Scotland. The applicant envisages that there would be significant benefit at a local level, but in terms of across Highland and Scotland, this would be classed as not significant effects when balanced against the sensitivity of the receptor and the magnitude of change.
- 8.34 The applicant highlights that the project represents a significant capital expenditure of £19 million spent locally and £57.1m spent across Scotland based upon assumptions made in the RenewableUK report produced by BiGGAR Economics. These are considered by the applicant as significant at a local and Highland level and not significant at a Scotland wide level. This is not disputed.
- 8.35 In relation to operation, the applicant has cited the RenewableUK report and extrapolated from its findings that the proposed development has the potential to have an operational spend of £192 million across the lifetime of the development in Highland and a further £264m across the rest of rest of Scotland. This figure does however include community benefit which is not a material planning consideration. Nor do these figures include business rates payable from the development. Further the development is predicted to generate 39.3 full time equivalent jobs in Highland and 54.1 full time equivalent jobs across Scotland through the operational phase of the development.
- 8.36 As with the consented development, the applicant continues to offer up to 10% of the project for community / shared ownership. This approach is supported by Scottish Government policy. While returns for the community from this would vary depending on a range of factors the applicant has committed to de-risk any community / shared ownership investment in order to safeguard community funds. It is not known if any community group has taken up the offer for community ownership at this time. Given the proposal would have an affect beyond the community, the provisions of Policy 68 ("Community" Renewable Energy Developments) of the Highland-wide Local Development Plan, would not apply.

- 8.37 Specifically, in relation to impact on tourism, the applicant has recognised that the proposal has the potential to indirectly affect tourism and recreational activities as a result of landscape and visual impacts of the development. However, it does go on to assess the proposal in relation to traffic and transport, landscape and visual and cultural heritage. In doing so, the applicant has concluded there are no significant effects anticipated on tourism as a result of the proposed varied development.
- 8.38 One of the key drivers for the modified scheme was ensuring the development did not adversely affect the Limekiln Forest Core Path. The Consented development required the closure of this for health and safety reasons during construction. The Council refused the request for a Section 11 Order under the Land Reform Act, therefore the core path could not be closed. The proposed varied development no longer requires the closure of the core path but will likely require some temporary access restrictions during the construction period when new tracks are being built to cross the core path or during movement of components to the final turbine locations. Both Scotways and Caithness West Community Council have highlighted that the turbines will be in close proximity to existing tracks and both organisations consider that this will make the paths less attractive to use. The applicant has therefore assessed that the proposed varied development would have a beneficial effect on the recreational resource. This is due to the core path no longer requiring to be closed and the delivery of new tracks for recreational use. While, this is not disputed and there is no objection from the Council's Access Officer, there will need to be management of access via an updated Recreational Access Management Plan. This should also safeguard other recreational links within and adjacent to the site including the track between Bridge of Isauld and the borrow pit search area. Such measures can be secured by condition.

### **Traffic and Transport**

- 8.39 The applicant has highlighted the expected impact of this development, particularly through the construction phase, with the port of entry likely to be Scrabster Harbour. The turbines would then travel from the port to the site via the A9 and A836.
- 8.40 The existing site access will be used. It has also been assumed in the applicant's Transport Assessment that the stone required for the development would be sourced from the onsite borrow pit however aggregate required for concrete batching would be sourced from a local quarry. The local quarry is to be confirmed but the Transport Assessment anticipated that the quarry utilised will be to the south east of Thurso. Concrete batching will take place on site.
- 8.41 Across the whole construction period it is anticipated that the peak of vehicle movements will come in month 9 of the construction period, with 110 vehicle movements (this equates to 55 journeys to the site and 55 journeys out of the site) per day. The applicant has broken this down to 26 HGV and 84 car movements per day during month 9 of the construction period. Traffic movements are however anticipated to be at only slightly lower levels between months 6-8 and months 14-18 of the construction period. The applicant's Transport Assessment has found that there would not be potential significant effects as a result of increased vehicle movements but notes that HGV flows on the A836 between Thurso and the site will increase by 37.6%. It explains that the increase is temporary and this would equate

to an average increase of 3 HGVs per hour during the peak of the construction programme. The applicant proposes a range of mitigation such as the delivery of a Construction Traffic Management Plan and an Abnormal Load Management Plan. It is also proposed that the on-site tracks will be upgraded and the junction between the A836 and U4724 (Milton Road) will also be upgraded. In principle this type of mitigation is accepted subject to detailed consideration of the plans and upgrades in due course.

8.42 Both Trunk Road Authority and the Council Transport Planning Team has confirmed that development traffic can be accommodated on the road network, subject to conditions and a requirement for a legal agreement to address “wear and tear” provisions. These will be consistent with current best practice. These need to highlight potential cumulative impacts arising with other major developments. The conditions are to secure:

- A Construction Traffic Management Plan for approval and implementation as agreed highlighting all mitigation / improvement works required for general construction traffic and abnormal load movements, including the timing of such works and appropriate reinstatement / restoration works.
- An un-laden trial run between the Port of Entry and the site access will be required in liaison with the police and both roads authorities.
- Structural assessment of bridges, culverts and any other affected structures along the route in consultation with the Council’s Structures Team.
- Community liaison to ensure the project construction minimises impact on the local community, that construction traffic takes place outwith peak times on the network, including school travel times, and avoids identified community events.
- All traffic management being undertaken by a quality assured contractor.

### **Climate change and Carbon Balance**

8.43 The scheme will produce renewable energy. The energy yield from the development is expected to be 278,147MW hours per year. This figure has been derived from the information gathered through wind monitoring on the site. Based upon the average consumption of a UK home, it is anticipated that the development could generate power equivalent to powering 81,977 homes.

8.44 Based upon a fossil fuel mix in the electricity grid, the applicant anticipates that 124,054 tonnes of carbon could be displaced by the development per year and a total of approximately 4,962,152 tonnes of carbon over the lifetime of the development. There will however also be carbon losses as a result of the development, including those related to felling of forestry, turbine manufacture and impact on peat. These losses would equate to approximately 314,921 tonnes of carbon. This is an increase of 112,059 over the consented development which is largely down to the use of new tracks rather than the upgrade of existing tracks which was proposed by the consented development. The applicant is however in discussion with SEPA on the peat management plan for the site. As part of those discussions the peat disturbance on the site has been reduced via wider use of floating tracks on the site and removal of two turbines which have been requested by Council officers. In detailing this approach, the applicant has reduced peat disturbance down to levels which were similar to the consented scheme. This is welcomed and if supported would be part of a package of supplementary

environmental information submitted to the Energy Consents Unit in due course. With that said, based upon the submitted layout it is anticipated that the estimated carbon payback period for the development would be 2.3 years or a worst case scenario of 4 years, again based on a fossil fuel mix.

- 8.45 Further elements of the carbon offsetting will come in the form of peatland restoration which will occur following the felling of the forestry and erection of the wind farm as part of the habitat management plan. The peatland restoration is seen to be in the public interest, therefore no compensatory planting in those areas would be required based upon the response from Scottish Forestry. There would also be carbon gains through the improvement of felled forestry, removal of drainage from foundations and hardstanding areas as well as reinstatement of peat within borrow pits.

### **Landscape and Visual Impact (including impact on Wild Land)**

- 8.46 A total of 18 viewpoints across a 40km study area have been assessed with regard to landscape and visual impact. These viewpoints are representative of a range of receptors including residents, recreational users of the outdoors and road users. The expected bare earth visibility of the development can be appreciated from the ZTV to Blade Tip with Viewpoint Locations (Figure 4.5b – Viewpoints with ZTV) in the EIA Report. Sufficient information has been provided to undertake an assessment of landscape and visual impact and the quality of the visual information provided is generally of a high standard following submission of corrected wirelines related to the Drum Holliston Wind Farm 2 and production of the visualisations on high quality photo paper.
- 8.47 The methodology for the Landscape and Visual Impact Assessment (LVIA) is sufficiently clear, being generally in accordance with the Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3). The applicant's methodology has been used to enable the Planning Authority to appraise the assessment provided and to come to a view on what combination of effects on the sensitivity of receptor and magnitude of change are leading to a significant effect of the varied scheme. The applicant was asked by the Council to assess the proposals afresh but also include a comparative assessment to allow the Council to come to a view on the effects of the changes to the proposals.
- 8.48 As set out at GLVIA3 Para 3.32 "LVIA should always clearly distinguish clearly between what are considered to be significant and non-significant effects." THC is of the view that Moderate effects can be significant but this needs to be considered on a viewpoint by viewpoint basis.
- 8.49 In the assessment of each viewpoint, the applicant has come to a judgement as to whether the effect is significant or not. In assessing visual impacts in particular, it is important to consider that the viewpoint is representative of particular receptors i.e. people who would be at that point and experiencing that view of the landscape not just in that single view but in taking in their entire surroundings.
- 8.50 A total of 18 viewpoints across a 40km study area have been assessed with regard to landscape and visual impact. These viewpoints are representative of a range of receptors including residents, recreational users of the outdoors and road users. The expected bare earth visibility of the development can be appreciated from the ZTV

to Blade Tip with Viewpoint Locations (Figure 9.8 – Viewpoints with ZTV) in the EIA Report. Sufficient information has been provided to undertake an assessment of landscape and visual impact and the quality of the visual information provided is generally of a high standard following submission of corrected wirelines related to the Drum Holliston Wind Farm 2 and production of the visualisations on high quality photo paper.

- 8.51 The site has a predicted wind resource and is in close proximity to, but not within, any protected area designated for nature conservation, landscape quality, or cultural heritage. The nearest residential receptors are in Reay. In relation to the consented scheme the Reporter concluded that there is no prospect of the development having an overbearing effect at any residential property. The site would be visible from a range of local and trunk roads but predominantly from the A836 and minor roads to the east of the site around places such as Shurrey and Shebster.
- 8.52 The site sits in the same location as the consented Limekiln Wind Farm and to the west of the proposed Limekiln Extension Wind Farm which has been subject to a Public Local Inquiry but on which no decision has been reached by Scottish Ministers. The site is currently forested but the forestry is currently in the process of being felled through the Limekiln Forest Management Plan. The removal of forestry will in itself bring about a landscape and visual change but this is not unusual in the Highland landscape. The development will however sit within forestry in due course with the management of the forest continuing around the wind turbines
- 8.53 The consented Limekiln Wind Farm, consented at a combination of 6 turbines at 126m to blade tip height and 15 turbines at 139m to blade tip height, had been developed through an iterative design process which considered the scheme in the context of the consented and “in planning” development at the time. As part of that process Officers secured the removal of three turbines closest to Reay to reduce the visual impacts of the scheme for residents within Reay and also to reduce the horizontal spread of the wind farm.
- 8.54 It is noted through the NatureScot Siting and Designing Wind Farms in the Landscape Guidance, that it can be particularly challenging to accommodate multiple wind farms in an area but design objectives centred around limiting visual confusion and reinforcing the appropriateness of each development for its location. This can be seen to have been achieved with the proposed wind farm as it sits within a wider cluster, albeit separate from other consented, operational and in planning developments in the area. There are however views from the east and west where the development is seen cumulatively with the Baillie Wind Farm. In these instances, the wind farm will increase the intensity of wind turbines but there will be no further significant effects beyond those identified for the consented development. However, the turbines will clearly be larger in scale in a number of views in closer proximity to the site. However, this is not necessarily problematic given the level of topographic screening and containment provided by the intervening landscape, particularly to the south and west.

- 8.55 The visual influence of the varied wind farm as appose to the consented wind farm is demonstrated by Figure 9.23 Cumulative ZTV with Limekiln Consented. This shows very small increases in visibility of the scheme in areas to the north west near Achreamie, within the East Haladale Flows Wild Land Area to the west and in the Pentand Firth.
- 8.56 In the closer proximity views to the north and east, while the overall finding of significance in EIA terms by the applicant remains the same, the applicant has acknowledged that there will be some changes to the magnitude of change experienced by receptors. Those receptors which are likely to be affected by the increase in scale of the turbines are residents, road users (including tourists) and recreational users of the outdoors. When reviewing the varied scheme, officers have considered the impact on these receptors and recognised that the increase in blade tip height may undermine some of the design rationale for the earlier scheme by exacerbating what were minor design issues when the turbines were smaller to create a much more dominant scheme in the views from the north and east. This is particularly noticeable at viewpoints Viewpoint 1 (Drum Holliston Layby), Viewpoint 3 (Reay Church), Viewpoint 4 (Shebster), Viewpoint 6 (A836 (Dounreay Road Junction), Viewpoint 8 (Loch Calder), Viewpoint 15 (Beinn Ratha) and to a lesser extent Viewpoint 18 (Broubster Forest). As a result of the issues identified, officers entered into a negotiation with the applicant to secure additional mitigation if Members were minded to raise no objection to the varied development.
- 8.57 Recognising that the mitigation required would unlikely change the conclusion of the landscape and visual impact assessment in EIA terms, i.e. it was unlikely to change a significant effect to a not significant effect, it was noted that as a result of the increase in blade tip heights that particular turbines are likely to be dominant in the view and stand out from the rest of the scheme either by virtue of their location as outliers or due to the elevation of the landform on which they sit. A request was made to the applicant to review the proposed development to reduce the impact of turbines 22, 23, 27 and 30 either through a reduction in height or removal of the turbines and all associated infrastructure. In seeking this mitigation consideration was also given to the change in cumulative effects, most notably with the proposed Limekiln Extension. In doing so it is considered that the removal of the turbines would enhance the design of the development and reduce the visual impacts through the relocation or removal of turbines that were creating a dominating effect on receptors at a range of viewpoints in comparison to the remainder of the scheme.
- 8.58 In discussion with the applicant, they have agreed to remove turbines 22 and 23, which are closest to the village of Reay and were of most concern to officers in relation to impact on residential receptors and recreational users of the outdoors in the vicinity of Reay. These turbines also appeared to extend the horizontal spread of the development when the scheme was viewed from the east and west, as demonstrated from Viewpoint 1 - Drum Holliston Layby, Viewpoint 8 – Loch Calder, Viewpoint 15 – Beinn Ratha, as well as the wireline for Viewpoint 2 - Reay Footpath however the current forestry screening limits views toward these turbines. The removal in these turbines would also reduce the perceived dominance of the scheme as a result of the turbines being sited either closer to or on higher ground than the receptor. This is noticeable at Viewpoint 4 – Shebster and Viewpoint 6 – A836 Dounreay Junction where turbines 22 and 23 appear higher than other turbines.

Further at a number of the remaining viewpoints, the removal of turbines 22 and 23 would reduce stacking and overlapping of blades, a matter which has been exacerbated as a result of the increase in rotor diameter.

- 8.59 The applicant did not however agree to remove turbines 27 and 30 due to the impact the removal of four turbines would have on the viability of the development, contribution toward renewable energy and climate change targets. Viability of developments and the contribution toward energy targets and climate change are matters we are required to take into consideration as part of the planning balance when coming to a view on the acceptability or otherwise of a proposal. While it is considered that the removal of turbines 27 and 30 would have also been beneficial to the composition of the wind farm, the removal of turbines 22 and 23 has a similar effect in enhancing the composition of the wind farm and could be seen as having a greater impact as their removal pushes the development back from the village of Reay. It is however noted that the removal of turbines 22 and 23 and retention of turbine 30 would lead to turbine 30 sitting slightly remote from the rest of the turbines in the view from Drum Hollistan Layby (Viewpoint 1) and Ben Dorrey (Viewpoint 9), in the remainder of viewpoints it would remain within or in close proximity to the remainder of the turbines, thus continuing to present a cohesive design.
- 8.60 In a cumulative context, the removal of turbines would also enhance the composition of the scheme alongside the proposed Limekiln Wind Farm Extension, if it were to be consented by Scottish Ministers, by removing stacking and overlapping, particularly as viewed from the east and west of the proposed varied development. Considering other developments within the baseline, while the Reporter on the consented scheme did not consider there to be an issue of encirclement if Limekiln was consented along with other wind farms in the area. However, there remains a concern from the community over the perceived encirclement of Reay and the route of the A836 along the north coast more generally over encirclement by wind energy development. Given the principle of the wind farm on this site has been established through the consented scheme, only consideration to the change to the wind farm can be considered through this application. The increase in blade tip height will moderately increase the dominance of the turbines in some approaches toward Reay but not to a point where it is considered that Reay would be encircled by wind energy development more than the consented scheme. Other forthcoming projects will be required to take into consideration the perception of encirclement and the cumulative impacts with the consented Limekiln Wind Farm or any variation which may, or may not, be granted by Scottish Ministers.
- 8.61 In terms of design of the other infrastructure on the site, these appear to have been well sited and designed, in landscape and visual impact terms. However, the forestry will continue to be managed through the enabling contract and construction of the wind farm. This may increase the visibility of features from some areas but this would likely reduce again once the area is replanted, as per the Limekiln Forest Management Plan. The EIAR has however assessed matters related to design, landscape and visual impact on the basis of the forestry removed and the ground restored to peatland.

- 8.62 The applicant's landscape and visual impact assessment has not identified any further significant effects on landscape character or the designated landscapes beyond that of the consented development.
- 8.63 The applicant has noted that in relation to the East Halladale Flows Wild Land Area there will be a further effect on the perception of wildness qualities where the consented scheme was already visible. This is a concern that has been highlighted by Caithness West Community Council who consider the proposal will increase the impacts on the Wild Land Area. This is a view shared by NatureScot, however, it has not objected to the application. Instead NatureScot have consider that the proposed variation would not result in material additional significant adverse effect on the qualities of the East Halladale Flows Wild Land Area to beyond those already expected as a result of the consented Limekiln Wind Farm. It has however stated that in relation to cumulative impact on the Wild Land Area, that there will be cumulative effects with this proposal and the Limekiln Extension, Drum Hollistan 2 and Ackron (both individually and in combination) which will result in a further reduction in the strength of wild land qualities. It does however note that these cumulative effects are not considered to be materially greater than those already expected as a result of the consented Limekiln scheme, in combination with the same wind farm proposals.
- 8.64 The impact on routes, both roads and recreational routes, has been considered by the applicant. While it appears that the applicant has given greater weight the A836's role as part of the North Coast 500 tourist route, this has not changed the overall assessment outcome where they have identified Significant effects westbound between Dounreay and Reay on the A836. While this is not disputed, it is considered that there are sections of the route slightly further east, between Forss and Dounreay which would also be subject to significant effects. The other significant effects such as those on road through Shebster, are not disputed.
- 8.65 In terms of residential amenity as it relates to visual impact, as set out earlier in this report, the Reporter for the consented Limekiln Wind Farm recognised there would be significant effects on residential amenity but not to a point where properties would be considered to be unattractive places to live. Despite the increase in the scale of turbines, it is considered that this would still be the case. With that said, the mitigation outlined earlier in this report (removal of turbines 22 and 23) would help to reduce the impacts on residential amenity due to the turbines being approximately a further 530m away from properties that lie to the north.
- 8.66 Overall, recognising the increased prominence of the scheme in some views from the east and west toward the site, it is considered that subject to additional mitigation in the form of removal of turbines 22 and 23, that the blade tip height increase across the site is acceptable in landscape and visual terms.

### **Cultural Heritage**

- 8.67 The area in which the wind farm sits contains a limited amount of built and cultural heritage features. The wider area contains a modest number of Scheduled Monuments and Listed buildings. No designated sites will be directly affected as a result of the proposed development, however there is potential for indirect impacts.

These are however negligible. As a result of the re-routed tracks for the varied development the feature known as the Claperon Dyke which lies at the base of the Claperon Hillock within the site, would be entirely avoided. Historic Environment Scotland have not objected. The EIAR identifies known archaeological features within the site, however there is further potential for buried archaeology on the site. It is considered that a scheme for the investigation, preservation and evaluation of archaeological remains is agreed with the Planning Authority prior to the commencement of development. This can be secured by condition as recommended by the Council's Historic Environment Team.

## **Ecology and Ornithology**

- 8.68 The development is not situated within any sites designated for ecological interests but is close to, and has potential connectivity with, a number of sites which are designated at national and international level. As there is a potentially connected sites designated at a European level (Caithness and Sutherland Peatlands SAC and SPA, Caithness Lochs SPA), the proposal needs to be assessed against the 'Habitats Directive' which is translated into Scots law through the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Ministers will require to be satisfied that this is completed prior to making a decision on the application. NatureScot advise that the based upon the information presented there would be a likely significant effect on both of the aforementioned sites but the development is unlikely to have an adverse affect on the integrity of the site for the Caithness Lochs SPA. To avoid impact on the Caithness and Sutherland Peatlands SAC, NatureScot have requested that the development is carried out in strict accordance with the mitigation identified in the NatureScot consultation response.
- 8.69 The conditions on the site support a number of valued habitats and protected species. The Environmental Impact Assessment has identified the ecological receptors present within and outwith the site. Through the design of the development, it is considered that the applicant has avoided or minimised the impact on these ecological receptors. With that said, mitigation is proposed in order to further reduce the potential for adverse effects. This includes undertaking further baseline monitoring of the ecology; implementation of pollution prevention plans; and implementation of species protection plans (if required). A Habitat Management Plan would be produced and implemented. The implementation of a Habitat Management Plan and employment of an Ecological Clerk of Works during construction can be set by condition.
- 8.70 NatureScot have identified potential impacts on the blanket bog which is a qualifying feature of the Caithness and Sutherland Peatlands SAC as a result of deer displacement from the wind farm site. It has recommended that the production and implementation of a deer management plan be secured by condition. Otters are also a feature of the SAC and NatureScot are content that the mitigation measures set out in the EIAR are sufficient to avoid an impact on site integrity.
- 8.71 The Peatlands Partnership have been progressing the case for the designation of the Flow Country as a World Heritage site since the late 1990's. The Peatlands Partnership includes the following bodies / organisations:
- Scottish Natural Heritage;

- Highland Council;
- Forestry Commission (Scotland);
- RSPB Scotland;
- Plantlife Scotland;
- The Environmental Research Institute;
- Northern Deer Management Group;
- Flow Country Rivers Trust;
- The Highland Third Sector Interface; and
- Highlands and Islands Enterprise.

It also liaises with local community groups, the Scottish Government's Rural Payments and Inspections Directorate and the North Sutherland Community Forest Trust.

- 8.72 The reason for seeking designation of the Flow Country as a World Heritage Site relate to the quality and extent of the blanket bog habitat. It is not possible, due to the lack of a formal designation along with supporting qualities / citations, at this stage to assess the potential impacts on any potential World Heritage Site resulting from any current adjacent or proposed developments. Inevitably this means that there is a risk that land use change prior to possible nomination and inscription may compromise areas which might otherwise have been included within the site boundary. However, the impacts on the habitats for which the Flow Country are famed can be minimised through appropriate mitigation.
- 8.73 The applicant has undertaken updated collision risk modelling for ornithological interests based upon the previous survey results. The use of previous survey results had been agreed with NatureScot. The updated modelling has identified that there will be a reduction in the risk of collision for greylag geese from 1.4 per year to 0.3 per year. This is due to the change in rotor size and the lower conflict between flight heights of this species. There are outstanding concerns from the RSPB in relation to golden eagles but it recommends that this can be mitigated through appropriate monitoring and mitigation.
- 8.74 RSPB has raised concerns over the impact of the varied development on common scoter which is a qualifying feature of the Caithness and Sutherland Peatlands SPA. This is due to the lack of wider understanding of the species in the Flow Country. However, NatureScot consider that based on theoretical flight energetics, the scoters would take the most energy efficient route to their breeding lochs from the north coast (and vice versa) and therefore would avoid crossing the consented Limekiln wind farm site and the proposed extension area.
- 8.75 Golden Eagle impacts were considered by the Reporter for the consented Limekiln Wind Farm and Scottish Ministers accepted his view that the proposal would not have a significantly adverse impact on Golden Eagles. The applicant has provided a response to the concerns raised by RSPB disputing their response. These ornithological matters will require to be considered further by Scottish Ministers prior to reaching their determination on the application.

## Geology, Hydrology and Hydrogeology

- 8.76 In order to protect the water environment a number of measures have been highlighted by the applicant for inclusion in the CEMD including the adoption of sustainable drainage principles, and measures to mitigate against effects of potential chemical contamination, sediment release and changes in supplies to Ground Water Dependant Terrestrial Ecosystems. This includes setbacks from water courses. SEPA support this approach however conditions are sought to secure further details of these matters.
- 8.77 The majority of the site contains peat with depths between 0m and 4.9m across the site. In relation to the consented development SEPA considered that based on the information in the EIAR, that peat is not a significant issue for this site. At the time SEPA requested that a peat management plan is to be secured by condition to help ensure the resource is appropriately safeguarded through the construction and restoration period. A Peat Management Plan had previously been submitted and approved prior to the commencement of development of the consented scheme.
- 8.78 As a result of the proposed varied development no longer utilising upgrades to existing tracks to avoid impacts on the core path, there will be a much more significant impact on peat with an additional disturbance of peat of 18,520m<sup>3</sup> beyond that of the consented development. This is a concern raised by a number of parties including RSPB and SEPA. SEPA have set out that the applicant is required to either: amend the development to reduce the volume of peat disturbed; or significantly enhanced restorations proposals are included to mitigate for the larger volume of peat that will now be disturbed by the development.
- 8.79 The applicant have produced a draft updated peat management plan which they are discussing with SEPA. This seeks to reduce to the amount of peat disturbed by the proposed varied development through the removal of turbines 22 and 23 which the applicant has agreed to subject to the Council raising no objection to the application, reduction in cut track and increase in floating access tracks. The applicant has now identified an increase of 61 m<sup>3</sup> of peat disturbance beyond that of the consented development. The applicant now anticipates the following differences between the consented development and the now proposed varied development:
- An estimated 15,000m<sup>3</sup> of additional excavated peat will be generated due to:
    - 10,903m<sup>3</sup> from the construction of additional new cut access tracks and the removal of upgraded tracks.
    - 2,997m<sup>3</sup> from wider cable trenches.
    - 1,100m<sup>3</sup> from the increased size of the Temporary Construction Compound.
  - An estimated reduction of 14,949m<sup>3</sup> in excavated peat will be achieved by the removal of turning heads and assist pads from the Revised Consented Development together with the removal of turbines T22 and T23.
- 8.80 While at the time of writing the revised Peat Management Plan is still to be agreed with SEPA, it is considered that the carbon balance will be more favourable and the disturbance of peat more acceptable than that proposed at the time of submission of the variation application. It is anticipated that through the habitat management plan

further offsetting through peatland restoration could be secured. This could also feed into a wider programme of biodiversity enhancement which should be secured via condition (and may include financial contributions) to be delivered as a combination of onsite and offsite enhancement of biodiversity, including restoring degraded habitats and building and strengthening nature networks and the connections between them. This approach is inline with the provisions of the Planning (Scotland) Act 2019 and the draft National Planning Framework 4.

- 8.81 There are three private water supplies within the 2km of the development site. Two of these are springs and will require protection through out the construction period. The third private water supply is a shallow well, as a result of potential impacts on this, the applicant is in dialogue with the owner and Scottish Water to connect the property to the public water supply.
- 8.82 The wider site is home to extensive Ground Water Dependent Terrestrial Ecosystems (GWDTEs). The positioning of the tracks and turbines have generally avoided the most sensitive GWDTEs. All watercourse crossings are to be designed to cope with a 1 in 200 year flood event. The detailed design of these water crossings can be secured by condition.

### **Forestry**

- 8.83 As the development is located within a commercial forestry plantation, it is considered that there will be a significant loss of trees as a result of this development to enable to turbines to be keyholed. The applicant anticipates that 73.19ha of woodland will be removed to facilitate the construction of the turbines, with further removals required for all other infrastructure. The woodland will continue to be managed during the operation of the development.
- 8.84 The level of felling required to accommodate the proposed varied scheme is 13.04ha greater than the consented scheme. Therefore a total of 73.19 ha (previously consented 60.15 ha plus the additional 13.04 ha) will be required to meet the requirements of Scottish Government's Policy on Control of Woodland Removal. A condition can be used to secure a revised felling and restocking proposal for the Limekiln Long Term Forest Plan and compensatory planting of no less than 73.19ha.

### **Infrastructure**

- 8.85 There are no additional impacts on infrastructure (aviation, radio and television links) as a result of the proposed development. The Defence Infrastructure Organisation do however require the perimeter turbines to be lit with approved aviation safety lighting. They have stated that this can be either visible or infrared. Despite the need for only 25 candela lights, infrared lighting would be preferable to avoid extending the visual impacts of the proposed development into hours of darkness.

### **Health and Safety**

- 8.86 As required by the EIA Regulations, the applicant has undertaken an assessment in relation to health and safety of the development. Given the location of the development and the climatic conditions of the area, it is not anticipated there will be

any risks to human health as a result of the proposed development. It has set out that during construction health and safety will be managed through risk assessments and the Construction, Design and Management Regulations.

### **Noise and Shadow Flicker**

- 8.87 It is not anticipated that noise will be a significant issue as a result of this development, both individually and in combination with the proposed extension if approved by Scottish Ministers. This is due to the distance between it and noise sensitive properties. The noise assessment includes a background noise survey which indicates high background levels both for daytime and night time. The assessment demonstrates that predicted noise levels will comply with the simplified ETSU limit of 35dB LA90 at all receptors. That being the case, it is considered appropriate to seek a cumulative noise mitigation and management scheme if an issue arises. By taking this approach, the Planning Authority will retain effective control over the potential noise impacts and have a suitable avenue for investigation should any noise complaints arise from the development.
- 8.88 In terms of shadow flicker, it is not anticipated that this will be an issue for this development either individually or cumulatively given the location of the development in relation to properties. However, it is noted that the applicant has adopted an assessment methodology which utilises a distance for shadow throw of ten times the rotor diameter, rather than the eleven times the rotor diameter which is applied in Highland due to the northerly latitudes and low winter sun casting longer shadows.

### **Other Considerations**

- 8.89 In line with Council policy and practice, community benefit considerations are undertaken as a separate exercise and generally parallel to the planning process.
- 8.90 The applicant has advised that at the end of their operational life, if the decision is made to decommission the wind farm, all turbine components, transformers, substation and associated buildings and infrastructure will be removed from the site. Foundations would remain on site; the exposed concrete plinths would be removed to a depth of 0.5m below the surface, graded with soil and replanted. Cables would be cut away below ground level and sealed. New site tracks and hardstanding areas constructed during development of the wind farm would be reinstated to the approximate pre-wind farm condition, unless otherwise agreed with the landowner and/or Highland Council. The material used to construct the tracks would be taken up, removed to areas identified in the site restoration scheme, backfilled with suitable material and covered with topsoil/reseeded. Backfilling of access tracks would be carefully planned in advance to avoid having to move plant machinery and equipment on freshly reinstated land. Any tracks which were upgraded during the development of the wind farm would be left unchanged from the conditions used during the operation phase of the wind farm.
- 8.91 The applicant acknowledges that these matters will not be confirmed until the time of the submission of the Decommissioning and Restoration Plan (DRP). The DRP would be submitted to and approved in writing by The Highland Council in consultation with NatureScot and SEPA no later than 12 months prior to the final

decommissioning of the wind farm. The detailed DRP would be implemented within 18 months of the final decommissioning of the development unless otherwise agreed in writing with the planning authority.

- 8.92 The requirements to decommission and restore a wind farm site at its end of life is relatively standard and straight forward, with any request for re-powering to be considered with the submission of a relevant future application. SEPA may also require best practices and the removal of buried cables at the time of decommissioning. It is important to ensure that any approval of this project secures by condition a requirement to deliver a draft decommissioning and restoration plan for approval prior to the commencement of any development and ensure an appropriate financial bond is put in place to secure these works.
- 8.93 There are no other relevant material factors highlighted within representations for consideration of this application.
- 8.94 In terms of section 57 of the Town and Country Planning (Scotland) Act 1997 (As Amended), Ministers may on varying a section 36 consent give a direction in respect of planning permission. It is understood that any Section 36 Variation granted would include a varied deemed planning permission. As this is the case, it was considered prudent to review the conditions attached to the consented development to ensure that all relevant matters are addressed. The applicant had prepared updated conditions with their submission to correct references to updated information. Further conditions have been requested by consultees and should Members be minded to raise no objection a set of conditions has been set out at the end of this report.
- 8.95 There are no other relevant material factors highlighted within representations for consideration of this application.

#### **Non-material considerations**

- 8.96 The issues of constraint payments and community benefit are not material planning considerations.

#### **Matters to be secured by Legal Agreement / Upfront Payment**

- 8.97 None. As is standard practice in relation to applications progressed under the Electricity Act, matters related to decommissioning, restoration and roads wear and tear are, in the first instance secured by condition.

### **9. CONCLUSION**

- 9.1 The Scottish Government gives considerable commitment to renewable energy and encourages planning authorities to support the repowering of wind farms where it can be demonstrated that they are on suitable sites and environmental and other impacts have been shown to be capable of mitigation. The varied project would allow for an additional 16.2MW contribution toward Scottish Government renewable energy targets for a period of 40 years. This is a significant contribution which can be realised with limited additional impact. It is considered appropriate to support a scheme where additional value in terms of contribution to renewable energy targets, climate change, socio-economic benefits can be gained with limited additional impact.

- 9.2 The principle of a wind farm has been established in this location. The key consideration therefore is whether the proposed increase in the size of the turbines, modification to access tracks, reduction in borrow pit and increase in operational life is deemed acceptable. The effect of the increase in blade tip height is most obvious when considering matters of landscape and visual impact. For the most part the increase in blade tip height is acceptable. However, there are some concerns with the way in which the increased blade tip height emphasises design issues with the consented turbines through the horizontal extent of the scheme being more noticeable and stacking and overlapping of turbines in some views being exacerbated. While accepting it is not possible to design a wind farm from all angles, it is considered that the composition of the scheme in those views from the north in particular are important to the acceptability of the development in the landscape. As a result it is proposed that the scheme should be reduced in scale through the removal of turbines 22 and 23. If accepted by Ministers, this will reduce the energy yield of the proposed development by 8.4MW. However, even with this reduction, the increased yield from the development as a result of the proposed variation would be supportable.
- 9.3 The application is not however supported by Caithness West Community Council. There are however outstanding matters related to ornithology as highlighted in the objection RSPB. The ornithological impacts of the consented scheme was found to be acceptable by the Scottish Government subject to mitigation being secured by condition. It is however recognised that the impacts of this scheme will be slightly different due to the different scale of the turbines. This is however a matter for Scottish Ministers to consider in the planning balance. The applicant is in the process of reaching an agreement with SEPA on the reduction of impacts on peat, which is in part assisted by the removal of turbines 22 and 23 which has been agreed between officers and the applicant. With the exception of ornithology, and satisfactory agreement between SEPA and the applicant on peat management, all other matters the varied scheme is considered acceptable and the benefit of the increased output is considered to outweigh the adverse effects.
- 9.4 The Council has determined its response to this application against the policies set out in the Development Plan, principally Policy 67 of the Highland-wide Local Development Plan with its eleven tests which are expanded upon with the Onshore Wind Energy Supplementary Guidance. This policy also reflects policy tests of other policies in the plan, for example Policy 28 and those contained within Scottish Planning Policy. Given the above analysis, the application to increase the blade tip heights of the turbines from a combination 126m and 139m to 149.9m is considered acceptable in terms of the Development Plan, national policy and is acceptable in terms of all other applicable material considerations subject to the removal of turbines 22 and 23.

## **10. IMPLICATIONS**

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable

- 10.4 Climate Change/Carbon Clever: the proposed varied development will generate renewable energy and make a meaningful contribution to renewable energy and carbon reduction targets.
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

**Subject to the above actions,** it is recommended to:

- A. RAISE NO OBJECTION** to the application subject to the removal of Turbines 22 and 23 from the proposed development subject to the following conditions and reasons; and
- B.** Members grant delegated authority to the Area Planning Manager - North to respond to any Further / Supplementary Environmental Information related to the removal of Turbines 22 and 23 if consulted by the Scottish Government's Energy Consents Unit.

**Conditions to be attached to any Section 36 consent which may be approved:**

1. **Duration of the Consent**

The consent is for a period of 40 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**

There shall be no further development pursuant to this consent until written confirmation of the intended date of further works being begun has been provided to the Planning Authority and Scottish Ministers, which shall be 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 Assignment**

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment 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 to be attached to deemed planning permission**

5

#### **Approved Details**

The Development shall be undertaken in accordance with the Application and Environmental Statement Impact Assessment Report submitted July 2021, 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 NatureScot, 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 NatureScot.

**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 turbine shall be erected until full details of the proposed wind turbines hereby permitted, including each turbine number and specific height of that turbines (as stated in Figure 4.2 of the EIA Report dated June 2021), 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 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 forty 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 NatureScot 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 NatureScot 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 ten) 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) eleven 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 further development shall take place 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:

<b>Turbine</b>	<b>Easting</b>	<b>Northing</b>
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 micro-sited within 50 metres save that:
- b) wind turbines numbered 25, 31 and 42 may be micro-sited 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 micro-siting 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 Pit – Scheme of Work**

- (1) No further development shall take place unless and until a scheme for the working and restoration the 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 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 pit 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 Pit – 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 further development shall take place 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 NatureScot 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 dated June 2021 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 micro-siting 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 construction, 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.

## **Construction Method Statement**

No further development shall take place 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 routing 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 track s 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 wastewater 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 Environment Management Plan**

No further development shall take place 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. Out with 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 focal environment.

21

### **Traffic Management Plan**

No further development shall take place 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 routing 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 Management Plan**

No further development shall take place unless and until a Deer Management Plan ("DMP") has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The DMP shall include the mitigation measures described as below and those included within Appendix 11.I of the Environmental Impact Assessment Report June 2021:

- Revision to point 42 amended to read: 'The blanket bog vegetation and peatland habitats will be monitored to ensure deer levels are kept at a low level (3-4 deer/km<sup>2</sup>) where damage or negative impacts are unlikely to occur. Habitat impact targets for blanket bog, used in monitoring, will inform subsequent deer management and will include the following, as a minimum: •
  - No more than 10% should be disturbed bare ground and/or show signs of heavy trampling or tracking.
  - No more than 10% of the Sphagnum cover should be crushed, broken, and/or pulled-up.
  - No more than 33% of the last complete growing season's shoots of dwarfshrub species (collectively but excluding *Betula nana* and *Myrica gale*) should show signs of browsing.
- Should blanket bog sample plots/quadrat not pass these habitat targets, then a review of both cull effort and cull target should be identified.'

. Thereafter the DMP shall be implemented as approved.

**Reason:** To protect ecological interests of the Caithness and Sutherland Peatlands Special Area of Conservation.

24

### **Habitat Management Plan**

- (1) No further development shall take place unless and until a Habitat Management Plan ("HMP"), which will include the mitigation measures described within Appendix 11.G of the Environmental Impact Assessment Report dated June 2021, has been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot, 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 NatureScot 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.

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 further development shall take place unless and until a Forestry Residue Management Plan has been submitted to and approved in writing by the Planning Authority. Thereafter, the Forestry Residue Management Plan shall be implemented as approved.

**Reason:** In the interests of nature conservation.

27

### **Replanting of Forestry**

- (1) No further development shall take place 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) Compensatory planting of no less than 70.3ha;
  - b) details of the location of the area to be planted;
  - c) details of land owners and occupiers of the land to be planted;
  - d) the nature, design and specification of the proposed woodland to be planted;
  - e) details of all consents required for delivery of the CPP and timescales within which each will be obtained;
  - f) the phasing and associated timescales for implementing the CPP;
  - g) proposals for the maintenance and establishment of the CPP, including annual checks, replacement planting, fencing, ground preparation and drainage; and
  - h) 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 further development shall take place 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.

### **Outdoor Access**

No further development shall take place until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the planning authority.

The Outdoor Access Plan shall include details showing:

- i. Core path CA11.03 being kept open for access for non-motorised users at all times;
- ii. Provision for the management of access on the track between Bridge of Isauld and the borrow pit search area;
- iii. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site.
- iv. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to buildings or structures.
- v. All proposed paths, tracks and other alternative routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.).
- vi. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the Development (including details of mitigation measures, diversion works, duration and signage).

The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the commencement of development or as otherwise may be agreed within the approved plan.

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

### **Archaeology**

No further development shall take place 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 further development shall take place 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 .
- (2) No further development shall take place 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 further development shall take place 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 further development shall take place 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 emissions from the combined effects of the wind turbines comprising the Limekiln Wind Farm (including the application of any tonal penalty) hereby permitted together with the noise emissions of the wind turbines comprising the Limekiln Extension Wind Farm (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), 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:

The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) of Limekiln Wind Farm when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed 35dB LA90 at the consented dwelling site at grid reference 824550 275303 and:

(a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1 (d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the planning authority on its request, within 14 days of receipt in writing of such a request.

(b) No electricity shall be exported until the wind farm operator 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 wind farm operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise emissions 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) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning authority pursuant to paragraph (f) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

e. Prior to the submission of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph (g) of this condition, the wind farm operator shall submit to the planning authority for written approval a proposed assessment protocol setting out the following:

i. The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.

ii. A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. 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 information provided in the written request from the planning authority under paragraph (c), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating

level of noise emissions shall be undertaken in accordance with the assessment protocol approved in writing by the planning authority and the attached Guidance Notes.

f. Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator 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 emissions 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.

g. The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (c) of this condition unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on the request of the planning authority. 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 emissions.

h. Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator 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.

<b>Property</b>	<b>Easting</b>	<b>Northing</b>
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

## **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.

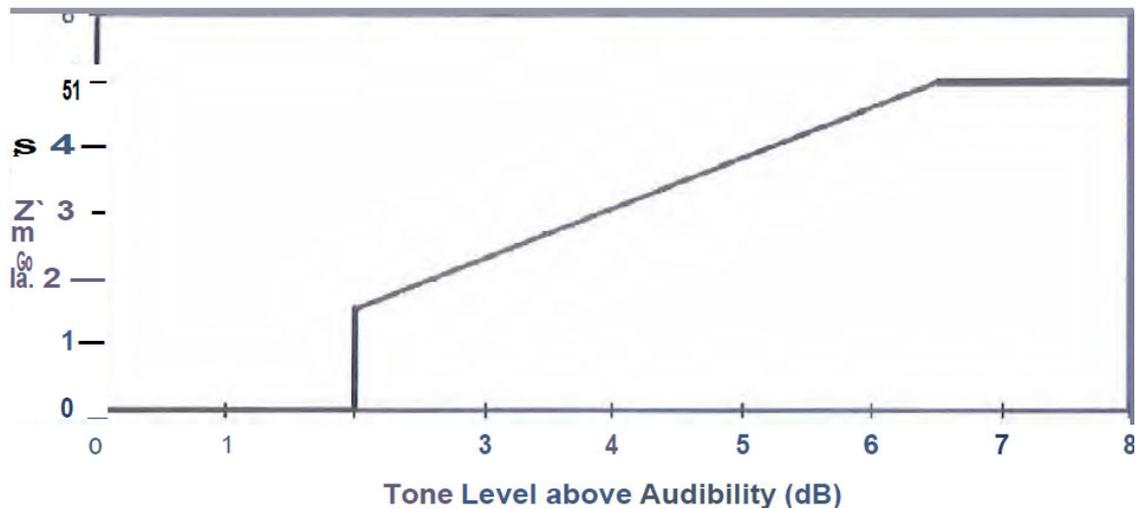
(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(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:

$$= 10 \log[10^{L_2/10} - 10^{L_p/10}]$$

(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 Li 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.

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

36

### **Biodiversity Enhancement**

No development shall commence until a scheme for the delivery of biodiversity enhancement has been submitted to and approved in writing by the Planning Authority. This shall include a suitable financial mechanism for the delivery of the scheme. Thereafter the scheme shall be implemented prior to first export of electricity from the site and maintained throughout the operation and decommissioning of the development.

**Reason:** To ensure that the development secures positive effects for biodiversity.

Signature: Dafydd Jones

Designation: Area Planning Manager North

Author: Simon Hindson

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - Figure 1.2 – Site Location Plan

Plan 2 - Figure 1.3 – Site Layout Comparison between Consented Development and Revised Consented Development

**Appendix – Letters of Representation to The Highland Council**

None

Energy and Climate Change Directorate  
Energy Division

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Nick Sage  
Infinergy Ltd  
16 West Borough  
Wimbourne  
Dorset  
BH21 1NG

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 and 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-assignment**

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment 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 assignment 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 discolouration 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:

<b>Turbine</b>	<b>Easting</b>	<b>Northing</b>
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 micro-sited within 50 metres save that:
  - b) wind turbines numbered 25, 31 and 42 may be micro-sited 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 micro-siting 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 micro-siting 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 routing 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.**

<b>Property</b>	<b>Easting</b>	<b>Northing</b>
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.

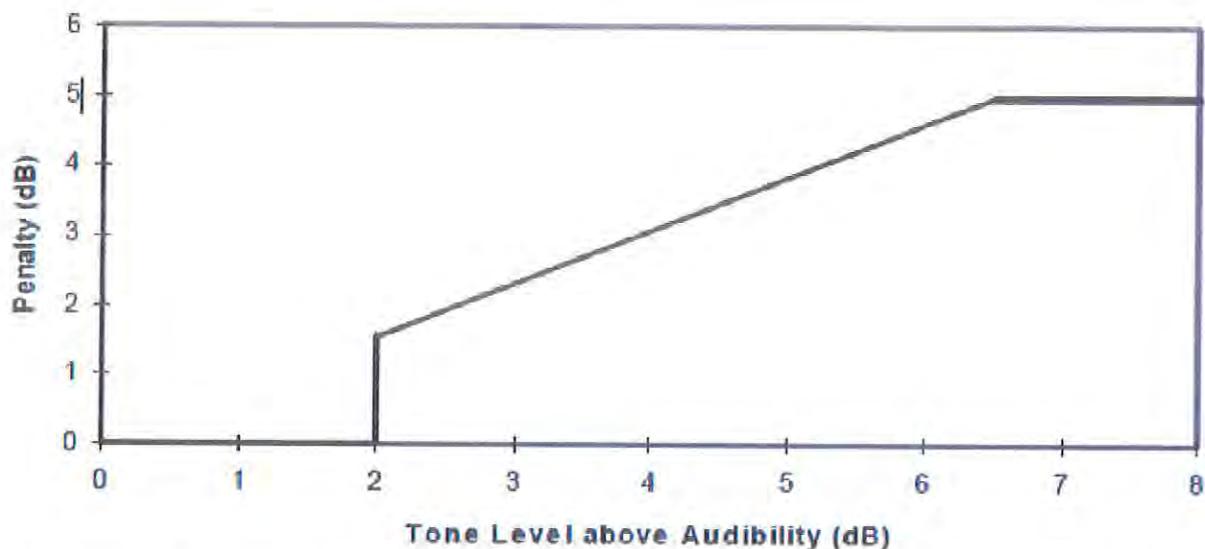
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that 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.

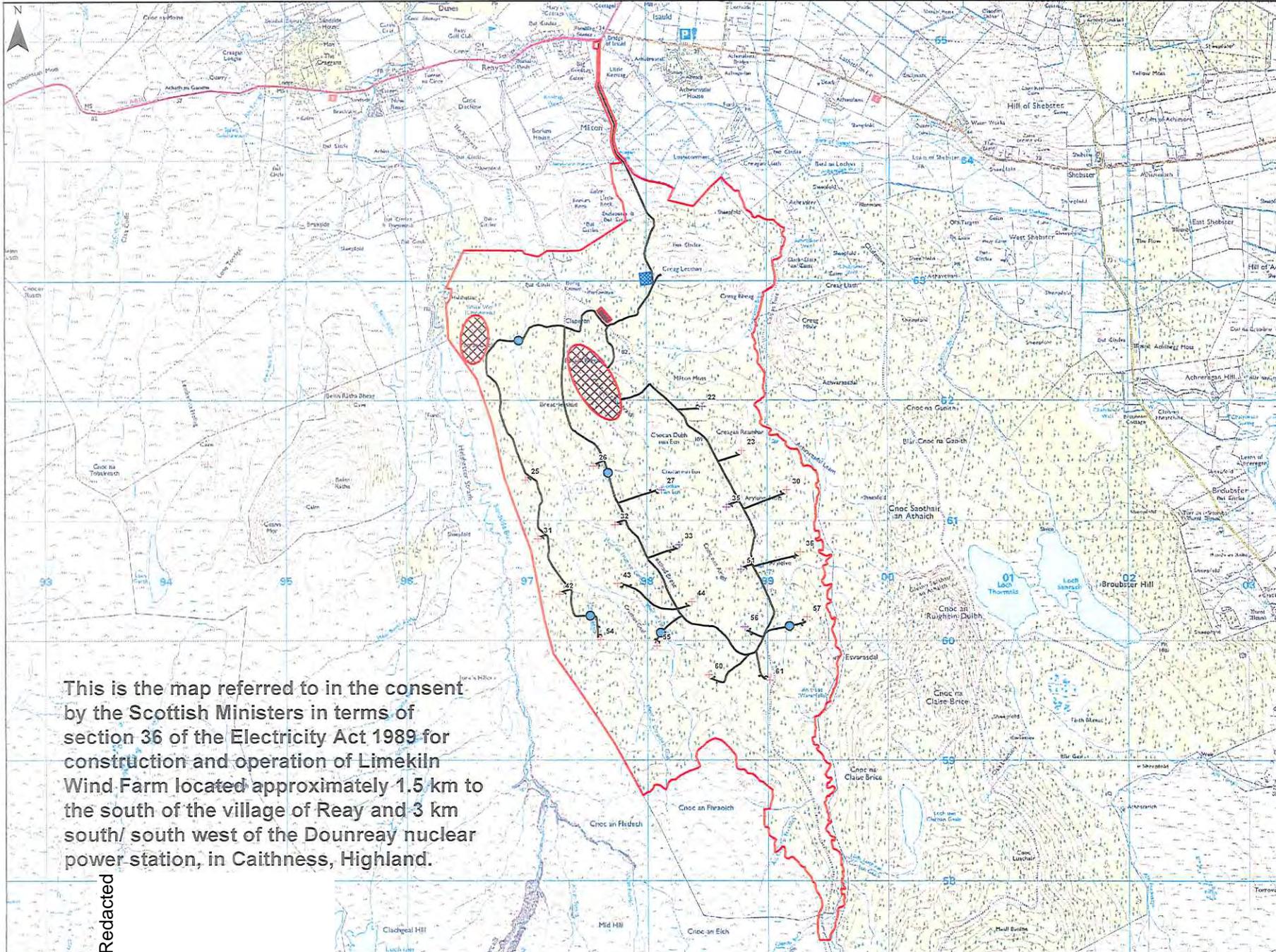
**“Planning Authority”** means The Highland Council

**“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



**Legend:**

- Site Boundary
- + Revised Layout Turbine Location (126m)
- + Revised Layout Turbine Location (139m)
- Access Tracks
- Watercourse crossings
- Crane Pad Hardstandings
- Construction Compound
- Control Building
- Borrow Pit Search Area

Title:  
Revised Site Layout

Project:  
Limekiln Wind Farm SI

Source:  
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Client:  
Infinergy

Drawn by: Doggt	Checked: HughG
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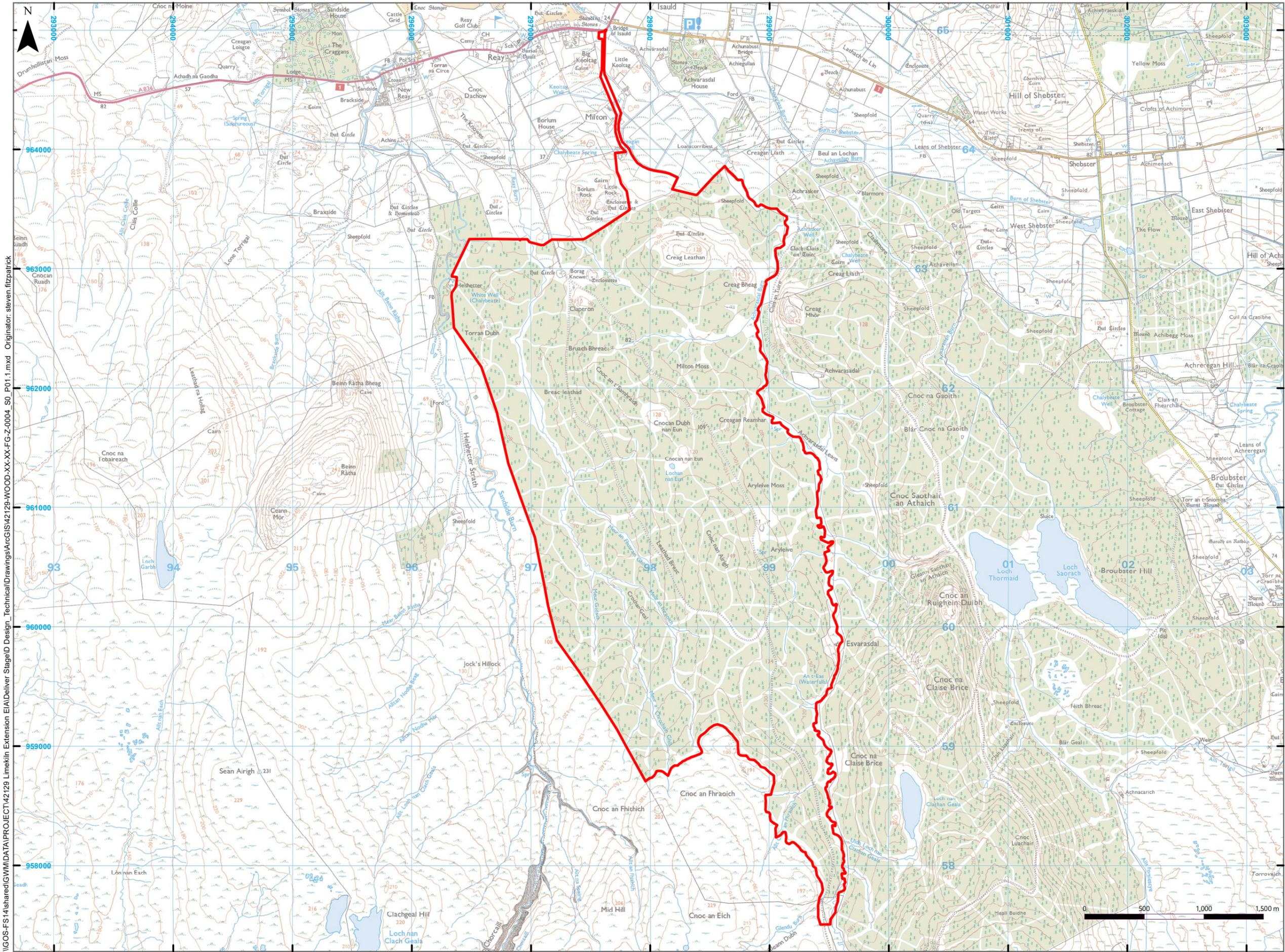
Date: 29/08/2017	Figure: 1.1
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Scale: 0 125 250 500m	Revision No: 1
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This is the map referred to in the consent by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for construction 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 Doune nuclear power station, in Caithness, Highland.

Redacted

Figure 1.2: Site Boundary



**Legend:**  
 Site Boundary

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**Title:**  
 Site Boundary

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**Project:**  
 Limekiln S36C Variation  
 Application EIA Report

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**Source:**  
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 010003167

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**Client:**  
 Infinergy

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<b>Drawn by:</b> panng	<b>Checked:</b> hughg
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<b>Date:</b> June 2021	<b>Figure:</b> 1.2
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<b>Scale:</b> 1:30,000	<b>Revision No:</b>
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**INFINERGY**

Drawing Ref:  
 42129-WOOD-XX-XX-FG-Z-0004\_s0\_P01.1

Figure 1.3: Comparison Between Consented Development and Revised Consented Development



- Legend:**
- Site Boundary
  - Turbine Location
  - Watercourse Crossing
  - Consented Access Track (Constructed)
  - Consented Track no longer proposed
  - Proposed New Access Track
  - Crane Pad Hardstanding
  - Consented Construction Compound to be relocated
  - Construction Compound proposed new location
  - Control Building
  - Borrow Pit Search Area
  - Consented Borrow Pit no longer proposed

**Title:**  
Comparison Between Consented Development and Revised Consented Development

**Project:**  
Limekiln S36C Variation Application EIA Report

**Source:**  
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**Client:**  
Infinergy

<b>Drawn by:</b> panng	<b>Checked:</b> hughg
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<b>Date:</b> June 2021	<b>Figure:</b> 1.3
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<b>Scale:</b> 1:30,000	<b>Revision No:</b>
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