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Ms C Farmer-McEwan
Highland Council
Sent By E-mail

Our ref: PPA-270-2251
Planning Authority ref: 20/00180/FUL

13 April 2022

Dear Claire

PLANNING PERMISSION APPEAL: BAD FEARN WINDFARM LAND AT BRAEMORE ROAD DUNBEATH KW6

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

DPEA is continuing to look at how we can improve the services we deliver and welcomes contributions from all those involved. In this regard I would be grateful if you could take five minutes to complete [our customer survey](#).

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I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

Karen Cowie

KAREN COWIE
Case Officer
Planning And Environmental Appeals Division





Appeal Decision Notice – EIA Development

Decision by Sue Bell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2251
- Site address: Land at Braemore Road, Dunbeath
- Appeal by Energiekontor UK Ltd against the decision by The Highland Council
- Application for planning permission 20/00180/FUL dated 15 January 2020 and validated on 4 February 2020 refused by notice dated 17 June 2021
- The development proposed: Erection of 6 wind turbines with a maximum height to tip of 149.9m and associated infrastructure
- Date of site visit by Reporter: 18 – 21 October 2021

Date of appeal decision: 13 April 2022

Decision

I dismiss the appeal and refuse planning permission.

Environmental impact assessment

The proposed development is described above, and at Chapter 3 of the Environmental Impact Assessment report (EIA report) as amended by Chapter 3 of the Further Environmental Information Report (FEI report). In summary, the proposal entails the introduction of 6 turbines, 149.9 m in height with associated turbine transformers and foundation; hardstanding areas for cranes at each turbine location; on-site tracks; energy storage compound; underground cables; on-site substation; and a temporary construction compound. The proposed operational life of the wind farm is 35 years.

The appealed scheme represents a variation on the scheme initially submitted for approval. Key changes are a reduction in the number of turbines from 8 to 6, relocation of three of the turbines, a reduction in turbine height, and alterations in the position, alignment and orientation of ancillary infrastructure. These variations were made in response to consultation responses.

The appealed proposal is EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”).

I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the EIA report dated December 2019 and submitted 15 January 2020;
- the FEI report dated December 2020, submitted on 10 December 2020;
- consultation responses from Berriedale and Dunbeath Community Council, Latheron, Lybster and Clyth Community Council, Highland and Islands Airport Authority (HIAL),

- Historic Environment Scotland, Ministry of Defence, National Air Traffic Services Safeguarding, NatureScot, Royal Society for Protection of Birds, Scottish Water, Scottish Environment Protection Agency (SEPA) and Transport Scotland;
- representations from members of the public.

I am also required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in Schedule 1 below. My conclusions on the significant environmental effects of the proposal are set out at paragraphs 86 – 92 below.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. The relevant development plan comprises The Highland Wide Local Development Plan (HwLDP) 2012 including supporting Supplementary Guidance and The Caithness and Sutherland Local Development Plan 2018. As there are no policies relevant to the application within The Caithness and Sutherland Local Development Plan 2018, I conclude that the application requires to be determined in accordance with the HwLDP and supporting Supplementary Guidance. This includes the Onshore Wind Energy Supplementary Guidance 2016 (OWESG) adopted by The Highland Council.
3. Having regard to the provisions of the development plan, the main issues in this appeal are:
 - the effects of the proposal on landscape character;
 - the visual impacts of the proposal;
 - the impacts of the proposal on Wild Land Area 36 (Causeymire – Knockfin Flows);
 - the effects of the proposal on historic environment assets; and
 - the benefits of the proposal.
4. In addition, I find that effects on other environmental receptors and national policies in relation to Climate Change and targets for renewable energy generation are material to the determination of this appeal.
5. My assessment is based on the written information, responses to two requests for further written information in respect of various matters and a site inspection. The appellant had originally requested a hearing to consider the effects on historic environment assets. However, having sought and obtained further written clarification on this matter from parties, I determined that a hearing was not required.

Effects of the proposal on landscape character

6. The landscape effects of the proposal are set out in Chapter 6 of both the EIA report and the FEI report.
7. The council considers that the methodology used by the appellant's landscape architects is generally consistent with that set out in 'Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3)', and NatureScot has not raised any concerns about the assessment. Nevertheless, there are differences between the appellant and the council concerning the significance of some of the identified landscape and visual effects. These include differences about the sensitivity of the receiving landscapes; the predicted magnitude of change; and how these factors should be combined to produce a conclusion

of a significant effect. Such differences, including those concerning the use of defined thresholds to assess significance and the degree to which these should be tempered by professional judgement are not unusual. In reaching my conclusions I have considered the reasoning provided by each party to support its position, taking account of the source of any differences, including those based on professional judgement.

8. In line with best practice, the Landscape and Visual Assessment (LVIA) is based on the Landscape Character Areas (LCA) and Landscape Character Types (LCT) identified by Scottish Natural Heritage (now NatureScot) in its 'Landscape Character Assessment of Caithness'. Reference was also made to the Character Types (CT) identified by Highland council in OWESG Addendum Part 2b Landscape Sensitivity Appraisal (LSA).

9. Six LCT were identified within 15km of the appeal site. Representative viewpoints were located within four of these LCT as follows:

- Sweeping Moorland and Flows (CT4 Central Caithness);
- Rounded Hills (east and west of Berriedale Waters);
- Lone Mountains (Morven, Scaraben and East Scaraben);
- High Cliffs and Sheltered Bays (CT8 Rubha Bhra to Dunbeath);
- Strath – Caithness and Sutherland (CT10 Halladale lies outwith study area);
- Coastal Crofts and Small Farms (CT2 Hempriggs to Berriedale).

10. The FEI report concluded there would be significant effects on four LCT:

- Sweeping Moorland and Flows LCT – within 4 – 5km of the proposed turbines;
- Rounded Hills LCT – the summit area of Cnoc na Feadaige within 2 – 3km, which forms as a north-west extension from Newport is included, although this area bears many similarities with the Sweeping Moorland and Flows LCT;
- Lone Mountains LCT: northern slopes and summit of East Scaraben within 5km; and
- Coastal Crofts and Small Farms LCT: the transitional area around Loedebest within 2 – 3 km of the proposed turbines.”

11. The appellant considers that these significant effects are acceptable. The council disagrees citing “significantly detrimental landscape impact cumulatively with existing onshore wind energy development” on the Sweeping Moorland and Flows LCT and the Lone Mountains LCT as part of Reason 1 for refusal of the application.

12. The appeal site is located within the Sweeping Moorland and Flows LCT. The appellant considers that its location, towards the edge of the southern part of the LCT, acts to reduce the sensitivity of the site. This is based on it being influenced by settlement and existing wind farm developments, which reduce the sense of remoteness and wildness when experienced from the A9. However, the proximity of the Lone Mountains LCT and the smaller scale Coastal Crofts and Small Farms LCT to the east provide a contrast to and allow an appreciation of the undulating and smooth landform of the Sweeping Moorland and Flows LCT, making the site more sensitive. Overall, the appellant assesses the sensitivity of the appeal site to be High to Medium. The council disagrees, concluding that the appeal site has a High sensitivity owing to proximity to the lone mountains.

13. In terms of effects, the FEI report assesses that whilst the turbines would create little disruption to the physical landscape and landcover of the Sweeping Moorland and Flows LCT, they would introduce new tall upstanding features “which would affect the LCT’s skylines, pattern and complexity and perceived influences”. This would alter the perception of openness and remoteness and there would be a cumulative effect with other wind farms to reduce the sense of wildness. The changes are assessed by the appellant to be of High to Medium magnitude within 2 – 3km of the development, which would reduce with distance to non-significant levels beyond 5km.

14. The FEI report predicts that effects overall on the Sweeping Moorland and Flows LCT would not be significant, even taking account of cumulative effects. This is based on the overall extent of the LCT and the Medium – High sensitivity of the landscape. The council disagrees with this assessment. It considers that when viewed particularly from the north to south/ south-west, the landscape is experienced as transitioning from Sweeping Moorlands and Flows LCT to Lone Mountains LCT. The proposed development would lie within this transition area and would introduce a new, prominent feature that would act to define the visible edge of the Sweeping Moorlands and Flows LCT. It considers that this would be apparent mainly when viewed from the north, north-east and north-west. The magnitude of the change when considered alongside the High sensitivity of the landscape means that there would be a significant effect from outwith 10km as demonstrated by VP11 (Loch Rangag).

15. The Sweeping Moorland and Flows LCT is large in scale and has a generally smooth landform and broadly uniform appearance. Key characteristics include the long, low and largely uninterrupted skylines and views to the Lone Mountains LCT. This LCT is characterised by individual mountains rising steeply from the surrounding land, which form conspicuous landmarks that are visible over considerable distances of the Sweeping Moorland and Flows LCT. Whilst the Sweeping Moorland and Flows LCT is separated from the Lone Mountains LCT by the Strath – Caithness and Sutherland LCT, the topography is such that it is generally experienced and viewed from the north and north-east as lying adjacent to the Lone Mountains LCT. I find this contributes to a sense of wildness and remoteness. I do not find that the site's location towards the southern edge of the Sweeping Moorland and Flows LCT acts to noticeably reduce this sensitivity as from the south, south-east and east, it is viewed in the context of and establishes the commencement of the gently undulating expanse of moorland and peatland, extending away from the coastline. I therefore conclude that the sensitivity of the site is High.

16. The turbines would introduce new vertical structures within the Sweeping Moorland and Flows LCT, which has a strong horizontal theme. When viewed from the south and-east close to the site (e.g. VP1, VP5), the turbines would be experienced as tall vertical structures in the open and gently sloping landform. As such, I assess that it would be possible to retain an understanding of the landform and smooth landscape character, albeit that they would introduce some distraction from an appreciation of the vast extent of the character type. However, that would not be the case when viewed from the north and north-east. Rather than being viewed against a generally flat, wide-open landscape, the proposal would be viewed in association with and against the backdrop of the Lone Mountains LCT (e.g. VP7, VP11). The turbines would introduce alternative and competing visually compelling vertical features within the landscape. I find that this would alter the perception of the scale of the Lone Mountains LCT, particularly in terms of an appreciation of the mountains rising steeply from the surrounding land to form conspicuous landmarks.

17. Whilst I accept that the appeal site is physically located well inside the 'boundary' of the Sweeping Moorland and Flows LCT, the extent to which the LCT continues beyond the appeal site would be less apparent when viewed and experienced against the backdrop of the lone mountains. The vertical structures would act to provide a visual defining feature, reducing an appreciation or understanding of the extent to which the Sweeping Moorlands and Flows LCT continues beyond the turbines towards the Lone Mountains LCT.

18. There would also be changes experienced from within the Lone Mountains LCT itself. Whilst the proposed development would be viewed in the context of other wind farm development, principally Buolfruich wind farm, these other turbines are smaller in scale than

those proposed and are located much further away from the Lone Mountains LCT. As such, they are clearly appreciated as lying within the Sweeping Moorland and Flows LCT and are experienced as remote from the Lone Mountains LCT. By contrast, the proposed turbines, by virtue of their scale and proximity, particularly to East Scaraben, would act to alter the sense of remoteness as experienced within approximately 5km of the proposal from the northern slopes and summit of East Scaraben.

19. I have considered the appellant's position that the magnitude of change and significance of effects would decrease with increasing distance from the proposal. However, I am not persuaded that the distances quoted by the appellant (2 – 3km) would be sufficient to reduce the effects to not significant levels. Whilst I accept that wind farms are already a characteristic of this area, these are predominantly located further away from the boundary of the Sweeping Moorland and Flows LCT, where they are more readily absorbed within the landscape as a result of being experienced within the expansive landscape that has few defining vertical features. The location of the proposal, visually close to the Lone Mountains LCT, would act to reduce the ability of the landscape to absorb the development and would extend the area over which significant effects would be experienced.

20. There would also be cumulative effects with existing wind farms, notably Buolfruich. Whilst the two developments would be separated by some distance, the proposal would be experienced in conjunction with Buolfruich, particularly from the north, north-east and east. However, the proposal would not concentrate and consolidate with this existing development as required by the council's OWESG. Instead, it would increase the area over which effects were experienced.

21. The Coastal Crofts and Small Farms LCT separates the Sweeping Moorland and Flows LCT from the Moray Firth / North Sea. Again, the appellant and the council differ in terms of their assessment of the significance and acceptability of effects. It is characterised by an undulating landscape and mixed farmland. The council describes it as being experienced by road users as a series of "rooms". During my site inspection I saw that the character of this coastal strip was clearly different, distinguishable and remote from the Sweeping Moorland and Flows LCT. The proposed development would be visible and conspicuous in certain views from this LCT and I consider these further below. I find that the distance and distinct differences in landscape character are such that the proposal would be unlikely to have a significant effect on the character of the Coastal Crofts and Small Farms LCT beyond distances of c. 2 – 3km of the proposal. I accept the position set out in the FEI report that these significant effects on character would be mainly evident along the western edge of the LCT at Loedebest, close to the site boundary.

22. In relation to the Rounded Hills LCT, I find that the addition of the proposed turbines would act to alter perceptions of wildness, but only over a small section of the LCT, lying around 2 – 3km of the proposal. I accept the conclusion within the FEI report that overall effects on this LCT would be not significant.

23. The appeal site does not lie within any areas designated for their landscape importance. However, the Flow Country and Berriedale Coast Special Landscape Area (SLA) lies to the south, west and north of the proposal site, with the boundary lying approximately 1km to the west of the site.

24. The Lone Mountains LCT sits within the SLA boundary and the mountains are identified as part of the special qualities of the designation. The FEI report has assessed the impact on the SLA following draft 'Guidance for Assessing the Effects on Special

Landscape Qualities' SNH, Nov 2018. It concluded that whilst there would be effects on the SLA, these would not be significant or sufficient to affect the integrity of the designation. The council disagrees, considering that in views from the north, the proposal would have significant impacts on key landscape characteristics of the dramatic nature of the mountains arising abruptly from the peatland and the strong sense of wilderness.

25. As discussed above, I find that the proposal would introduce new, tall, vertical structures into the landscape, which when viewed against the backdrop of the mountains, for example from the north, would act to diminish the perception of scale of the mountains. I conclude this would be to the detriment of the special qualities of the SLA.

26. In conclusion, I find that the proposals would have significant effects upon the Sweeping Moorland and Flows LCT and the Lone Mountains LCT over distances of at least 5km. These effects would be to the detriment of the special qualities of the SLA. There would also be significant effects on the Coastal Crofts and Small Farms LCT, within around 2 – 3km of the proposal.

Visual Impacts

27. Visual impacts of the proposal are addressed in Chapter 6 of the EIA report and the FEI report. The Zone of Theoretical Visibility (ZTV) produced as part of the EIA report shows that the proposal would be theoretically visible over a 30km area, mainly to the north, north-west and north-east. There would be some visibility from the coast and sea to the east and north east. Views to the south are more restricted by topography.

28. Visual impacts have been assessed by reference to 14 Viewpoints. The FEI report concluded that significant visual effects were predicted to extend to approximately 5km from the proposed turbines and would be experienced at 5 viewpoints: VP1 (Braemore, Achinavish Hill); VP2 (Balnbruiich); VP5 (Badnagie); VP6 (Dunbeath Water Track); and VP9 (East Scaraben). The council agrees with this overall conclusion, although it differs from the appellant in terms of how the sensitivity and susceptibility of receptors has been assessed at some viewpoints (VP1, VP2, VP5 and VP7). I agree that significant effects would be apparent at those viewpoints closest to the proposed development (VP1, VP2, VP5, VP6 and VP9). Significant effects would also be experienced from parts of the unclassified road to Braemore, close to the proposal site

29. Nevertheless, the council considers that the appellant has underplayed both the magnitude of change and the resulting effect on receptors at a number of viewpoints, including VP3 (Dunbeath Bay), VP4 (A9 Croft Museum), VP7 (A9 north of Latheron), VP8 (A99 Torranreach), VP10 (Morven), VP12 (Lybster) and VP13 (Ben Alisky). The council also disputes the appellant's conclusion that there would not be significant sequential effects for travellers. Consequently, Reason 2 for refusal of the application is on the basis of the proposal having "a significantly detrimental visual impact both individually and cumulatively with existing wind energy development, particularly as viewed by travellers, including tourists, residents, and recreational users of the outdoors in the wider vicinity of the site but particularly to the north, north-east, north-west and east of the proposed development...". The reason states that these effects are illustrated at VP4 (Laidhay Croft Museum), VP7 (North of Latheron) and VP8 (A99 Torranreach). I therefore consider these viewpoints first before turning to a consideration of cumulative effects.

30. VP4 is located by the Laidhay Croft Museum, to the east of the proposal. I accept that the sensitivity of receptors is likely to be High, given the large number of users of the A9 (both tourists and residents). Whilst the car park is likely to receive a high number of

visitors and is a local landmark, I do not find that there is any evidence to support it being treated as a key gateway and I note that this view is not identified as a 'key view' within the OWESG. There is no doubt that the proposal would be visible from the car park (and the A9) at this point. It would be viewed within a much wider panorama that includes the offshore areas, coastal cliffs, and the rural backdrop of the Coastal Crofts and Small Farms LCT. The lone mountains would also form part of this wider panorama. The appellant considers that the scale and location of the turbines relative to the scattered features of the Coastal Crofts and Small Farms LCT is a good match, which allows the turbines to feature as a background element. The council considers that the tips of T1 and T2 would appear disjointed and not form a relationship with the Dunbeath Engineering Turbine, whereas Turbines, 5, 4, 6 and 3 would form a reasonably cohesive grouping.

31. During my site inspection I saw that the existing Dunbeath Engineers turbine would appear more prominent than the proposed development and that the landform would provide some screening of the proposed turbines, which would distract from the apparent separation of T1 and T2 from the Dunbeath Engineers turbine. Given the distances involved, angle of view and screening effects of landform, in addition to the fact that views across to the lone mountains would be interrupted by traffic on the A9, I am persuaded by the appellant's assessment that the proposed turbines would not unduly distract from the existing views of the lone mountains, or the attractions of the Laidhay Croft Museum. Hence, I find that a determination of not significant effects from VP4 is appropriate.

32. VP7 (A9, north of Latheron), is located approximately 8km to the north-east of the proposal site. Parties agree about the sensitivity of receptors, but differ in their assessment of the magnitude of change and hence significance of effects. From this viewpoint, the proposal would be viewed in conjunction with the existing Buolfruich wind farm. Whilst, I accept that the apparent arrangement of turbines would depend on the angle from which they are viewed, I am not persuaded by the appellant's argument that the scale and overall design of the proposal fits reasonably well with Buolfruich and the landscape setting. I align with the council's position that the location of the turbines, directly in front of the lone mountains, when viewed in conjunction with Buolfruich, would act to extend the appearance of wind development laterally across the lone mountains. I find that the juxtaposition of Turbine 4 with turbines of Buolfruich would emphasise the effect of the turbines breaking the skyline. Rather than the presence of the existing wind farm detracting from the effect of the proposed turbines, I find that their inter-relationship would exacerbate effects, leading to a cumulative effect that is significant.

33. VP8 (A99 Torranreach) is located at some distance (16.9km) to the north-east of the proposed turbines. The viewpoint is indicative of effects on views from the A99. Whilst the sensitivity of receptors is considered to be High, the appellant concludes that the revised scheme is an improvement and that the magnitude of change would be Low and that there would not be significant effects from this viewpoint. Consequently, it considers that in concluding that there are significant effects, the council has overplayed the magnitude of change and has failed to acknowledge that the changes to the proposed scheme.

34. During my site inspection I saw the views from this location are expansive, taking in the dramatic coastline, offshore turbines as well as the coastal communities and the lone mountains in the distance. The slightly elevated position of the viewpoint, coupled with the panoramic views act to reduce the apparent scale of built structures. However, whilst the proposed turbines would occupy a fairly narrow horizontal Field of View (estimated by the appellant to be 3 degrees), they would be viewed in front of the lone mountains and the turbines would extend across much of the views of Morven. This means that they would be in a location to which the attention of viewers would naturally be drawn.

35. The scale and location of the proposed turbines is such that they would be compared against the backdrop of the mountains, rather than the wider landscape. I find this would act to alter perceptions of scale and would detract from an appreciation of the skyline of the mountains. Whilst I accept the appellant's comments that this layby does not have a particular 'tourist function', nevertheless, based on my site inspection, I note that it does represent a location where the views begin to "open up" for those travelling south along the A99, allowing the first glimpses of the lone mountains. It is also representative of views that are experienced over a greater distance than just the single location of the layby. For these reasons, I conclude that on balance the magnitude of change would be at least Medium and that effects would be significant.

36. Whilst I have considered the visual effects at VP4, VP7 and VP8 in detail, I am conscious that these viewpoints, together with VP11 (Loch Rangag) have been selected as examples of the views that would be experienced by travellers moving along the A99/ A9. As such, visual changes and effects are not limited to these specific locations. The FEI report includes a detailed sequential assessment. It concludes that there would not be significant effects on views from the A9 or the A99. However, as discussed above in reference to VP7 and VP8, I consider that the appellant has underplayed, to a degree, the magnitude of change and the significance of effects for VP7 and VP8.

37. During my site inspection, I observed the existing wind farms that are already present, which are of differing scales and design. I saw that the proposal would increase the length of road from which onshore wind farm development can be seen, extending this further south towards the boundary between Caithness and Sutherland.

38. The proposal would be visible intermittently and for varying periods of time when travelling along the A9 south from Loch Rangag (VP11) and along the A99 southwards from Torranreach (VP8). The FEI report estimates that the proposed development would be seen in conjunction with the lone mountains for around 15% of the 10km section of route. Views of the proposed development from the A9 would mainly be experienced by those travelling southwards. It would be viewed in conjunction with both the lone mountains and the Buolfruich development when seen from the A9 between Achavanich and Upper Latheron. Further south, e.g. close to the Laidhay Croft Museum, the proposed development would not be viewed in front of the lone mountains and there would be little or no visibility south of Dunbeath.

39. The appellant has assessed the sensitivity of receptors using the A9/ A99 routes to be High and the level of effect to vary between Moderate to Minor. It does not consider that these effects are significant. However, I consider that the appellant has underplayed the level of effect and significance of effects, and in particular the way in which the mountains are experienced whilst the viewer is in motion. As such, the illustrations from viewpoints can only provide a limited impression of how the experience of travelling the road would change as a result of the proposals. They are not able to replicate the experience of viewing the lone mountains whilst the viewer is in transit, including the way in which the mountains are periodically screened by landform, vegetation and existing built structures and then 're-experienced' as they become visible once more. I find that when viewed directly in front of the lone mountains, the proposed turbines, by virtue of their scale, would detract from an appreciation of the remoteness and scale of the mountains. I also find that the appellant appears to have underplayed the cumulative effects of the proposal in terms of extending the length of road over which visitors experience wind farms when travelling south along the A9/ A99. Nor has it taken account of the effects of viewing the proposal in conjunction with the existing Buolfruich wind farm, which is of a different scale and layout.

40. In conclusion, considering the nature of the changes, when viewed in context of the lone mountains, the distances over which changes would occur, the sensitivity of road users and the fact that the A99 and the A9 are identified as Key Routes in the OWESG, I conclude that there would be significant cumulative and sequential visual effects on travellers and users of the A9/ A99.

41. The FEI report has also considered effects on residential amenity and communities. There are no residential properties within 2km of the proposed development. The Residential Visual Amenity Assessment (RVAA) undertaken by the appellant was conducted in support of an earlier iteration of the scheme. The council reports a revised version of the assessment, which takes account of the smaller turbines, for properties that lie within 2 – 2.5km of the proposed turbines, which are unconnected with the proposed development. Whilst the council has suggested some limitations with the methodology in terms of setting descriptors for significance, it concludes that the proposed development would not have an overbearing effect at the 7 residential properties more than 2km from the proposed development. I accept this conclusion.

42. The closest settlement to the proposal is Dunbeath, which lies within 2km of the proposals. Whilst the council is content that there would not be significant effects on residential amenity, it considers that there would be significant visual impacts at VP3 (Dunbeath Bay). Although the council considers that the proposal would result in a low magnitude of impact/change, given the High sensitivity of receptors, it has assessed this as a significant effect. During my site inspection I saw that there would be restricted visibility of the proposed development from Dunbeath. This would be limited to views of tips of 4 turbines, which could be viewed towards the end of the Harbour. These would also be viewed within the context of the bridge carrying the A9 over the Dunbeath Water and other man-made features. Whilst the sensitivity of receptors may be High, I accept that the limited visibility and surrounding context would mean that effects are not significant.

43. In conclusion, I find that the proposal would have significant visual effects close to the proposed development but also at greater distances beyond 5km of the proposal site. The nature of these effects is illustrated by reference to 7 viewpoints: VP1 (Braemore), VP2 (Balnbruiich), VP5 (Badnagie), VP6 (Dunbeath Water Track), VP7 (north of Latheron), VP8 (Torranreach) and VP9 (East Scaraben). I also find that there would be significant cumulative sequential effects on travellers moving south on the A9/ A99.

Effects on Wild Land

44. Reason 3 for refusal of the proposal relates to impacts on The Causeymire - Knockfin Flows Wild Land Area (WLA), which lies to the immediate north and west of the proposal site. The lone mountains, which lie to the south-west of the site also sit within the WLA boundary.

45. A revised assessment of the effects of the proposal on the WLA is provided within the FEI report at Appendix 6.4. This has been prepared in line with NatureScot's 'Technical Guidance: Assessing Impacts on Wild Land Areas' (September 2020). Nevertheless, NatureScot does not agree with the appellant's conclusions and has objected to the proposals on the basis of significant adverse effects on the WLA. It has confirmed that this objection is solely in relation to effects on Wild Land Quality 1: Awe inspiring simplicity of wide-open peatland from which rise isolated, arresting, steep mountains and how this would be appreciated. Consequently, I have focused my attention of the effects of the proposal on this wild land quality.

46. NatureScot considers that the proposals would “compromise the focal prominence and distinctiveness of the lone mountains which are otherwise emphasised by the current simplicity and openness of the surrounding moorland” and because it “would highlight the eastern extent of the WLA boundary which, due to the simplicity of peatland landcover, is otherwise difficult to discern due to the lack of other prominent land based human artefacts.” NatureScot is also unconvinced by the appellant’s approach of considering the effects of the proposal mainly from the perspective of the LVIA viewpoints. It notes that whilst the viewpoints are illustrative, they do not fully capture the range of experiences for which the area is valued. As an example, it refers to the assessment of effects on Quality 1 from VP11, which sits outwith the WLA boundary. NatureScot accepts that this provides a convenient location from which to assess the degree of visual effects. However, it does not consider that any reduction in visual effects as a result of changes to the scheme can be translated into an equal reduction of effects on wild land qualities. That is because these qualities can only be experienced from within the WLA.

47. The appellant considers that the proposed development would only be viewed in front of the lone mountains from one area within the WLA, along the eastern boundary of the WLA, approximately 5 – 10km to the north-east of the proposed development. The appellant maintains that as these areas are closer to the A9 and/or the Buolfruich Wind Farm they are areas where the wild land qualities can be considered to be weaker as they represent the transition into areas that are not wild land. Viewpoints 11 (A9, Loch Rangag) and 7 (North of Latheron) are considered by the appellant to be representative of these effects.

48. Whilst NatureScot has objected to the proposed scheme owing to effects on wild land quality, the appeal site is not within the WLA boundary. Consequently, I sought further information from parties as to the extent to which land around wild land areas should be treated as a buffer to safeguard the special qualities of these areas. The appellant has suggested that “the margins of a WLA may also be assessed as weaker than more central areas, with limited contributions to the wider WLA/ qualities, such that significant change affecting the periphery of a WLA may also be determined as not significantly affecting the integrity of the WLA.” In respect of the current proposal, the appellant has suggested that the experience of wild land qualities would be more affected by the realisation that someone was approaching the edge of the wild land area, rather than by any effects from the proposal.

49. Wild land areas represent the most extensive areas of high wildness. They are based on perceptions of naturalness, landform, remoteness and a lack of human artefacts. As such, I consider that some of these aspects are incremental in nature e.g. a sense of remoteness increasing with distance from a road. Given the nature of the characteristics contributing to ‘wildness’ generally, I would not expect that in stepping over the boundary into the WLA a person would experience a sharp transition from no perceptions of characteristics associated with wild land, to complete immersion in wild land qualities. There must, inevitably be some gradation. Nevertheless, all land within a WLA boundary must meet at least a minimum threshold of ‘wildness’, even if there is some variation in the strength of these characteristics throughout the defined WLA. Thus, whilst I accept that there are no ‘buffers’ for development around a WLA, I cannot accept that any perception of wildness starts and stops at the boundary of the designated WLA and hence that any development close to or around the edge of a WLA, no matter what its nature or scale, cannot be considered to have any effect on the quality of a WLA.

50. I consider that the assessment of significance of effects has to be made on a case-by-case basis in terms of the specific effects of a development on the wild land qualities for which a specific WLA has been identified. Whilst the proposed site lies outwith the boundary of the WLA, it lies very close to it. Indeed, Figure 6.6 of the FEI report appears to show that the western boundary of the site directly abuts the WLA boundary. As the boundary of the WLA describes a curve to the west of the site, there are also parts of the WLA that sit close to the north of the proposal site. The lone mountains, which are located to the south-west of the site also sit within the WLA.

51. Wild Land Quality 1 - awe inspiring simplicity of wide-open peatland from which rise isolated, arresting, steep mountains - is reliant upon a sufficient area of undeveloped peatland to achieve the impression of wide-open areas and to create the space to appreciate the mountains rising above these areas. Thus, any factor that reduces the impression of wide-open spaces or the contrast between the flat or undulating peatland and the steep sided mountains would potentially distract from this quality.

52. NatureScot has indicated that viewpoints can only illustrate the likely visual effects from particular locations and do not provide any indication of how the wild land is perceived or experienced more widely. Nevertheless, I find that viewpoints can be helpful in providing an illustration of the anticipated visual changes and I note that NatureScot has referred to these in its response to assist in explaining its views. During my site inspection I walked through parts of the WLA and hence was able to directly experience Wild Land Quality 1 and appreciate how the perception of this quality could vary between different locations within the WLA and how it is not reliant solely on visual aspects.

53. The appellant has provided a detailed sequential assessment of how it considers that Wild Land Quality 1 would be experienced in 'walking' from the proposal site to Ben Alisky. But this only provides an assessment from one perspective within the WLA; there are other locations and perspectives that also require to be considered. These include experiences and views from the north and north-east as exemplified by VP11 (Loch Rangag) and VP7. Whilst these viewpoints lie outwith the boundary of the WLA, they do provide accessible examples of how the proposal might be viewed in front of the lone mountains, including from within the boundary of the WLA.

54. In terms of Viewpoint 7, I am not persuaded by the appellant's view that the proposal would not distract from the profile of Scaraben. As I have already discussed in relation to landscape and visual effects of the proposals, I find that the location and scale of the proposed turbines would act to alter perceptions of distance and the scale of the mountains. Whilst I agree that landform and topography would provide some screening in some areas, I align with the views of NatureScot that the size and location of the proposed turbines would "compromise the focal prominence and distinctiveness of the lone mountains..." I also find that the introduction of vertical human artefacts in juxtaposition to the lone mountains would detract from the contrast between the flatter moorlands and the steep-sided mountains, to the detriment of Quality 1 of the WLA.

55. I have already noted that the lone mountains themselves lie within the WLA. NatureScot has provided a description of the location of the WLA boundary as it lies between the mountains and the proposed development. During my site inspection I saw that whilst the road to Braemar provides a tangible visible boundary, there are no distinguishing features across the moorland to denote the location of the boundary in the vicinity of the proposal site. The dominant landscape type within the WLA, Sweeping Moorland and Flows, extends beyond the boundary of the WLA and across the proposal site, without any apparent change in appearance coincident with the WLA boundary. As a

consequence, I find that the proposal would act to introduce a feature along the eastern extent of the WLA boundary, providing a tangible marker of the extent of the WLA compared to the current ‘soft’ edge.

56. I do not find that the appellant’s reference to the views from VP9 provides any support for its position that the proposed development would appear in context of other wind farm developments that skirt the edge of the WLA and would appear in relative proximity to the Coastal Crofts and Small Farms LCT. Whilst I saw that other wind farms are visible from the summit of East Scaraben, these are clearly at a greater distance and separate from the WLA. They appear close to the periphery of the moorland areas, in near proximity to forestry or infrastructure. The proposed development, by virtue of its scale, location directly adjacent to the WLA boundary, close to East Scaraben and in an area where there is no discernible difference in land cover, would appear to be encroaching on and reducing the impression of the wide-open peatlands.

57. The appellant has assessed the susceptibility of the landscape to change to be medium to produce an overall sensitivity of the WLA to be High to Medium. However, whilst Wild Land Areas are not a statutory designation they are features of National importance and hence they should be assessed as High value and High sensitivity. The appellant asserts that a wind farm development is not necessarily incompatible with a WLA designation, “providing the wild land qualities (physical attributes and perceptual responses) set out in the WLA descriptions remain sufficiently strong and apparent to maintain the WLA integrity.” For the reasons set out above, I find that the proposal, by virtue of its scale, its proximity to the WLA boundary and location, which would allow it to be viewed in front of the lone mountains that form part of the WLA area, would detract from Wild Land Quality 1, reducing the integrity of the WLA.

Effects on historic environment assets

58. Effects of the proposal on the historic environment and cultural assets are considered within Chapter 7 of the EIA report and the FEI report.

59. It is accepted by all parties that the proposals would not result in direct damage to any known historic or cultural assets; but there would be changes to the setting of some Scheduled Monuments. The FEI report assessed these effects to be no greater than of minor significance for any asset. Whilst HES considers that the appealed scheme would reduce effects on Scheduled Monuments, compared to the scheme as initially proposed, it considers that it would raise issues of national interest for one site (Loedebest, settlement 1300m W of (SM 5189)) and has consequently objected to the proposals. It also advises re-location of Turbines 2 and 6 in order to reduce their likely dominance on a second Scheduled Monument: Loedebest, prehistoric settlement and post-medieval enclosure 1400m WSW of (SM 5254). In addition, the response from HES identifies significant effects on the setting of other Scheduled Monuments, but has not objected on the basis of these effects.

60. The council also has concerns about the effects of the proposals on historic environment assets, citing these in the fourth reason for refusal of the scheme. These concerns relate to effects “to the setting of both nationally and regionally important historical environmental assets.”

61. The objections relate to the effects of the proposal on the setting of cultural heritage assets. Setting is defined in Scottish Planning Policy (SPP, 2014) as “more than the immediate surroundings of a site or building and may be related to the function or use of a

place, or how it was intended to fit into the landscape or townscape, the view from it or how it is seen from areas round about, or areas that are important to the protection of the place, site or building.”

62. Further guidance is available in Historic Scotland’s ‘Managing Change in the Historic Environment: Setting’ (2016): - “Setting” is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced.” Setting often extends beyond the property boundary into a broader landscape context. The guidance lists factors that can contribute to setting, but states that identification of setting of a historic asset will be case-specific, relying on informed judgement.

63. In terms of assessing the potential impact of changes, Paragraph 145 of SPP (2014) introduces the concept of the integrity of a setting. Whilst there is no definition of integrity of setting within either SPP or the HES guidance, I find that there is some commonality between the appellant and HES in terms of how this should be defined. In response to my request for clarification, HES has stated that to maintain the integrity of a setting it is necessary for the key characteristics of the setting (including, for example, key views and the sense of place) to remain intact “so that the cultural significance of the monument and the ability to understand, appreciate and experience it are not adversely affected.” The appellant considers “the integrity of a setting will be maintained if the principal characteristics of the setting that contribute to the cultural significance of the asset are retained, and it continues to be possible to appreciate and understand the Scheduled Monument in its setting.” Historic Environment Policy for Scotland (HEPS, 2019)) explains that “cultural significance can be embodied in a place itself, its fabric, setting, use, associations, meanings, records, related places and related objects.”

64. HES guidance sets out a stepped approach to assessing the impact of change on setting. Stage 1 involves identifying the historic assets that might be affected by the proposed development. Stage 2 requires that the setting be defined and analysed by establishing how the surroundings contribute to the ways in which the historic asset or place is understood, appreciated and experienced. Stage 3 requires an evaluation of the potential impact of the proposed changes on the setting of the historic asset, and the extent to which any negative impacts can be mitigated.

65. The guidance identifies factors to consider when assessing the effects of a proposal on setting. These include, amongst other aspects, whether key views to or from the asset are interrupted; whether the proposed change would dominate or detract in a way that affects the ability to understand and appreciate the asset; and effects on the qualities of the existing setting including a sense of remoteness, current noise levels, evocation of the historical past, sense of place, cultural identity.

66. Loedebest settlement 1300m W of (SM 5189) is located on the lower north-east facing slopes of Wag Hill, to the south of and above the flood plain of the Dunbeath Water. It is of national importance for its potential to contribute to an understanding of post medieval settlement and land use and the process of the clearances. HES has identified the key characteristics of the setting to be “the views out from and across the Scheduled Monument to the opposite side of the Strath and other related scheduled monuments, views to, across, and from the monument which allow an understanding of the settlement and cultivation of the area and surrounding grazing, and the ability to strongly experience the monument as an abandoned place.” It considers that the proximity and location of turbines 1 and 2 would “overwhelm the experience of the settlement as an abandoned place in undeveloped, upland surroundings.”

67. The appellant challenges whether experiencing the assets in an ‘abandoned’ landscape forms a significant element of the setting and cultural significance of the asset. It has referred me to previous appeal decisions, the current and previous version of HEPS and Stage 3 of the HES guidance as support for its view that the way in which a monument is experienced is not a determining factor in assessing potential impacts on setting and hence effects on integrity.

68. I am not persuaded by the appellant’s arguments. ‘Stage 2’ involves the definition and analysis of the setting of an asset. This includes establishing how the surroundings contribute to the way in which the asset is understood, appreciated and experienced. The definition of setting contained within HES’ guidance clearly references experience as contributing to the setting of a historic place or feature. Stage 3 requires an analysis of the potential impact of the proposed changes. Whilst it does not specifically refer to potential impacts on the way in which the asset is experienced, it seems axiomatic that if experience influences understanding and appreciation of a monument and contributes to the definition of setting, then anything that impacts on that experience must also potentially impact on the understanding and appreciation of that asset and its setting.

69. Thus, I conclude that in assessing the effect of the proposals on cultural assets, it is necessary to consider whether and to what extent the cultural significance of those assets is reliant on an understanding, appreciation and experience of those assets as abandoned features and the degree to which this would be altered by the introduction of turbines into their setting. In reaching this conclusion, I note that assessment of effects on the experience of a monument is not inconsistent with the approach taken for the Cnoc an Eas Wind Farm (PPA-270-2155).

70. Turbines 1 and 2 would be located within the setting of SM 5189, at a distance of approximately 244m and 414m respectively. At 149.9m in height, they would be significantly taller than the monument’s structures, and their location on elevated ground would act to increase this apparent height. Whilst I accept that they would not obstruct views between the monument and other cultural assets on the northern slopes of Dunbeath Strath, they would be prominent in views from the monument to the north-west. They would also alter the way in which the monument would be viewed and experienced from other monuments in Dunbeath Strath and from within the strath more widely.

71. I accept the appellant’s position that the proposal would change the setting from open managed moorland to open moorland with wind turbines. Nevertheless, I find that in concluding an impact of low magnitude, the appellant has underplayed the effect of the turbines on the way in which the monument would be experienced. The proposals would introduce contemporary man-made artefacts of a substantial scale into the setting of the monument. The scale and proximity of these to the monument, coupled with their location at a higher elevation, and the introduction of the moving blades, would create a visually arresting new feature. This would detract from the appreciation and experience of the setting as an abandoned settlement, in undeveloped, upland surroundings. I therefore find that the magnitude of change would be moderate. That is, I align with the view of HES and conclude that the proposal would have significant adverse effects upon the integrity of the setting and cultural significance of the Scheduled Monument Loedebest, settlement 1300m W of (SM 5189).

72. The Decision Notice refers to effects on the setting of both nationally and regionally important historic environment assets, but does not identify these. In response to my request for further information, the council has confirmed that it is concerned about cumulative impacts on the historic landscape. It has also clarified that the monuments that

contribute to this landscape are Loedebest, prehistoric settlement and post-medieval enclosure 1400m WSW of (SM 5254); Achorn bridge, settlements 1100NNE of (SM 5150); Loedebest, settlement 650m W of (SM 5145); Loedebest, settlement (SM 5152); and Cairn Liath, long cairn and round cairn (SM 438). These are in addition to Loedebest, settlement 1300m W of (SM 5189), which was the subject of the objection from HES.

73. In reaching its conclusions, the council states it has relied on HES' assessment of impacts on the setting of assets. I am therefore required to do likewise. I note that HES considers that the revised scheme would reduce the impacts to a point where it would not raise issues of national interest, either cumulatively or for other individual monuments. Nevertheless, it has identified that the scheme would have a significant adverse impact on the wider group of monuments' setting and that there would be significant impacts on three individual assets (SM 5254, SM 5145, SM 438) and that there would be some impact on the setting of two others (SM 5150 and SM 5152).

74. In terms of the wider group setting, the council's Historic Environment Team (Archaeology) has described Dunbeath Strath as "what is arguably one of the finest historic landscapes in Highland..." Currently, the Strath has few examples of modern human artefacts. The proposal would introduce modern features into the landscape. These would be focussed towards the southern and eastern flanks of Wag Hill. As such, they would be located on higher ground than the main concentration of monuments along the valley and eastern side of the strath, but as previously discussed, Turbines 1 and 2 would lie in close proximity to SM 5189.

75. Turbines 2 and 6 would sit on higher ground approximately 375m and 355m respectively away from Loedebest, prehistoric settlement and post medieval enclosure 1400m WSW (SM 5254). HES has identified the views to and from the monument, which allow an appreciation of its place in a wider pattern of broadly contemporary land use in both the prehistoric and post-medieval periods, as a key characteristic of the monument's setting. I find that the turbines, which would sit to the west and north-west within the setting of the monument, would introduce prominent and distracting features in fairly close proximity to the monument. They would detract from the open moorland character of the setting and alter how it would be experienced as part of a wider pattern of settlement and cultivation in the strath. The FEI report considers that the proposal would result in a change of low magnitude and that the effects would be no more than minor significance. However, I find that the scale and proximity of the turbines, coupled with the introduction of the moving blades would mean that the magnitude of change would be greater than low, increasing the significance of the effects on the experience and appreciation of the monument to be moderate and therefore significant.

76. Significant adverse effects on the ability to experience and appreciate the monument and its setting have also been identified by HES for Loedebest, settlement 650m W of (SM 5145) and Cairn Liath, long cairn and round cairn (SM 438).

77. SM 5145 is a well-preserved post medieval settlement with related cultivation remains, which is located on a low-lying terrace on the south of Dunbeath Water. Whilst its location means that there is restricted visibility from some angles, HES considers the views to and between broadly contemporary assets on the northern slopes of the strath and with the cemetery are important in understanding the settlement's role within the wider pattern of land use. It also considers that the settlement is experienced as an abandoned place, which forms part of the monument's significance. The closest turbine, T2, would be located approximately 780m away to the west, on higher land. Although there would be limited visibility of the turbines from the monument and they would appear peripheral in views from

the cemetery, HES considers they would act as a distraction and would have a significant adverse effect on the ability to experience and appreciate the monument and its setting. Whilst I accept that the turbines would be a distracting influence, their location within the setting leads me to conclude that they would not alter the ability to understand or appreciate the monument as a settlement adjacent to the river, but would detract from an experience of the monument as an abandoned place. I am therefore not persuaded by the FEI report's assessment that the proposal would have no impact on this monument. Instead, I agree that there would be an effect on the way in which the setting is experienced as part of an abandoned landscape.

78. SM 438 includes the remains of two prehistoric chambered cairns, which are located on level ground to the south-east of Cnoc an Maranaich. HES considers that the open and long views available from Carin Liath are important to an understanding that the monument was designed to be a prominent feature in the landscape. The proposed turbines would be located at some distance from and on the opposite side of the strath to the cairns. The FEI report assesses the impacts of the proposal to be of negligible magnitude and negligible significance. However, I find that this assessment downplays the effects of the proposal on the way in which the monument would be experienced. The proposed turbines would introduce a new distracting feature into views to the west, which would diminish the appreciation of the orientation of the cairn and views out from the monument. I therefore conclude that the magnitude of change and significance would be more than negligible.

79. I have considered effects of the proposal on the setting of the other assets identified by the council as contributing to the group of monuments referenced in reason for refusal 4. Whilst I accept that it would introduce new man-made artefacts into their wider setting, I align with HES' view that these changes would not result in significant effects.

80. In conclusion, when considered individually, the proposal would result in changes to the setting of a number of monuments within the strath. I share the concerns of HES that the effects on one site, Loedebest, settlement 1300m W of (SM 5189) would be significant. I also conclude that there would be significant effects on the setting of an additional three monuments (SM 5254, SM 5145 and SM 438) and that there would be changes within the wider setting of a further two monuments (SM 5150 and SM 5152).

Benefits of the proposal

81. The benefits of the proposal relate to its contribution towards meeting renewable energy targets and effects on the local and national economy.

82. The appellant states that the scheme has an indicative capacity of up to 28.8MW and estimates the carbon dioxide savings as a result of the scheme to be around 47,216 tonnes per annum. The site is also considered to have a capacity factor of 41%, which compares favourably to the 2019 UK average onshore wind capacity factor of 26.4%. However, it is anticipated that there would be carbon losses associated with disturbance of carbon-rich soils during construction. Effects of this would be mitigated through peatland restoration as part of the habitat management plan. I have not been provided with any figures of the net loss/ gain of carbon as a result of the scheme. Nevertheless, taking account of the proposed lifespan of the scheme and projected energy generation, on balance I accept that the scheme would contribute towards a reduction in carbon dioxide emissions.

83. In terms of economic effects, the appellant estimates the capital cost of construction could equate to investment of approximately £36m, of which around 13% (£4.32m) would

be spent in Highland; 26% (£12.96m) in Scotland and 47% (£16.92m) in the UK. An additional estimated £42m would be spent during operation of the development.

84. Dunbeath was identified as a fragile area in 2015, that is, an area in decline or at risk of becoming so as a result of its remote location and socio-economic factors. Construction is estimated to last around 12 months and estimated employment during this period would be up to 51 jobs in Highland and 154 in Scotland. During operation of the scheme, the proposal is anticipated to generate 9 jobs in Highland area and 13 in Scotland.

Other impacts

85. The EIA report also assesses impacts of the proposal in relation to: ecology; ornithology; hydrology, geology and hydrogeology; noise; traffic and transport; and other issues. The council has not based its refusal on any of these impacts and I note that there are no outstanding concerns on the part of statutory agencies, subject to the imposition of appropriate conditions. In addition to those effects relating to landscape and visual impact, effects on the WLA and cultural heritage which are considered above, the EIA report and FEI report identified the following residual significant environmental effects.

86. Ecology: effects on ecological resources are addressed in Chapter 9 of the EIA and FEI reports. I have also taken account of the consultation responses from NatureScot and SEPA. NatureScot has identified potential effects on a number of natural heritage interests, but is content that these could be avoided by appropriate mitigation measures secured by condition. SEPA would also require conditions to secure mitigation in respect of various matters. I am content that following implementation of the proposed mitigation measures, including the Outline Habitat Management Plan, there would be no residual significant effects on ecological features.

87. Ornithology: effects on bird species and populations are addressed in Chapter 8 of the EIA and FIR reports. I have also taken into account consultation responses from NatureScot and RSPB. The FEI report concludes that there would not be any residual significant effects on bird species more widely as a result of the proposals and NatureScot has not objected to the proposals. However, RSPB has objected in relation to the adequacy of supporting information and effects on a number of species. There are links between the proposals and two sites identified of European importance for their bird populations. In line with the requirements of the Conservation (Natural Habitats, and c.) Regulations 1994 as amended, the consequences of the proposals for these sites were considered. Likely Significant Effects were identified in respect of breeding populations of golden eagle, hen harrier, merlin and short-eared owl, which are qualifying features of the Caithness and Sutherland Peatlands SPA. Likely Significant Effects were also identified for herring gulls and great black-backed gulls which are qualifying features of the East Caithness Cliffs SPA. Consequently, the council undertook an appropriate assessment of the proposals. It concluded, that with the adoption of certain mitigation, the proposal would not have an adverse effect on the integrity of either site in light of that site's conservation objectives. Had I been minded to grant the appeal I would have been required to carry out my own appropriate assessment of the proposals.

88. Hydrology, geology and hydrogeology: effects are addressed in Chapter 12 of the EIA and FEI reports. The appellant has also provided a Peat Management Plan and Peat Landslide Hazard Risk Assessment in support of the application. In addition, I have taken account of consultation responses from NatureScot and SEPA. The scheme avoids the areas of deepest peat, but NatureScot has identified an area of high-quality spur mire which should be avoided during micro-siting of turbines 3 and 4. The FEI report identifies a

significant effect in relation to localised alteration of the groundwater regime, including potential adverse effects on Ground Water Dependent Terrestrial Ecosystems during construction and operation of the scheme. I am content that more detailed investigations of individual sites, combined with drainage design would reduce these effects to be not significant. SEPA and NatureScot have also identified a number of mitigation measures to avoid adverse effects on water resources, wetland and peatland habitats and peat soils and to avoid peat slide. I am content these items could be secured by condition.

89. Noise: effects arising from noise are set out in Chapter 10 of the EIA and FEI reports. The FEI report predicts that individually, operational noise levels from the proposal would be in accordance with the simplified noise criterion of 35 db LA₉₀ 10min defined in ETSU-R-97 and cumulatively there would be no significant exceedance of the full noise limits defined in ETSU-R-97. Overall noise effects are assessed as not significant.

90. Traffic and Transport: effects are considered in Chapter 11 of the EIA report. I have also taken account of the consultation responses from Transport Scotland and The Highland Council's roads team. In particular, I note that the council considers that improvement works may be required to Achorn Bridge for it to accommodate construction traffic. Significant effects on Achorn Road during construction owing to severance effects, driver delay and pedestrian delay and amenity would be mitigated through a Construction Traffic Management Plan. Transport Scotland does not object to the proposal, subject to a number of conditions being appended to any permission, including the requirement for the Construction Traffic Management Plan. I am therefore content that implementation of the proposed mitigation would reduce effects to not significant.

91. Other issues: Chapter 13 of the EIA report considers other issues that could be affected by the proposal, namely, infrastructure, aviation and radar, health and safety, human health, telecommunications and television receptors, effects of shadow flicker and effects on recreational users. I have considered consultation responses from Highlands and Islands Airport, Ministry of Defence, National Air Traffic Services Safeguarding (NATS), Highland Council and members of the public. I note that NATS do not object to the proposal and that the Ministry of Defence has requested installation of safety lighting and to be advised on construction periods. Following implementation of the proposed mitigation, including a Recreational Access Management Plan, I am content that the proposal would not give rise to any significant effects.

Compliance with local development plan

92. The council has referenced three policies of the HwLDP in its reasons for refusal: Policy 67 – Renewable Energy; Policy 61 – Landscape; and Policy 57 – Natural, Built and Cultural Heritage.

93. Policy 67 – Renewable Energy sets the context for consideration of renewable energy proposals. The council will support proposals “where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments....” Proposals should be well related to the relevant renewable resource; they should be assessed against other policies within the development plan, the Highland Renewable Energy Strategy and Planning Guidelines; and regard should be had to any other material considerations, including the benefits of the proposal. I understand that the Highland Renewable Energy Strategy is no longer relevant, but that it has been replaced by the OWESG, which has been adopted by the council as Supplementary Guidance.

94. In reaching a conclusion the council will have regard to any significant effects of the proposal on eleven environmental factors including visual impact, impact on landscape character and effects on cultural heritage features.

95. There is no dispute that the proposed location has been selected to utilise wind energy and hence can be considered as well related to the relevant renewable resource. As highlighted above, the main benefits from the scheme comprise a reduction in carbon emissions and creation of employment and associated economic benefits. In addition, the scheme would be accompanied by a community benefit fund, estimated to be in the region of £5.04 m over the lifetime of the project. However, I recognise that such community benefits are not a material planning consideration.

96. I have considered the environmental effects of the scheme above and concluded that with the exception of effects on landscape, visual receptors, wild land and historic and cultural assets, and subject to certain conditions, there would not be significant adverse environmental effects arising from the scheme.

97. The proposal site is identified as lying within a 'Group 2' area of significant protection of the spatial framework of the OWESG. Having sought the views of the council on this matter, I find that there is no dispute between parties that this site was identified as Group 2 mainly owing to the presence carbon-rich soils and peatland habitat. As the proposal avoids these carbon-rich soils it could be treated as a Group 3 area, where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

98. The OWESG also identifies 10 landscape and visual aspects, which will be considered by the council in determining applications. Whilst these do not set absolute requirements, the council anticipates that these criteria would be reflected in the design of proposals. The council and the appellant differ in terms of the degree to which these criteria have been met, with the council considering that the proposal fails all but two of these criteria, whilst the appellant considers the proposal satisfies all but two of the criteria. I have therefore considered compliance with these criteria, drawing on my analysis of the landscape and visual effects of the scheme, which were set out above.

99. Criterion 1 requires the relationship between settlements / key locations and the wider landscape to be respected. I have concluded that the relationship with and views from settlements and key locations such as Dunbeath (VP3) and the Laidhay Croft Museum (VP4) would not be significant. Nevertheless, it would have a significant adverse effect on the Sweeping Moors and Flows LCT and Lone Mountains LCT. Thus overall, I find that criterion 1 is met in relation to settlements, but that the proposal is not respectful to the wider landscape and hence does not meet this element of the criterion.

100. Criterion 2 requires that key gateway locations and routes are respected and that turbines should not overwhelm or distract from landscape characteristics that contribute to the distinctive transitional experience at key gateway locations and routes. Whilst the proposal would not affect any of the identified key gateway locations, it would increase the length of the A9/ A99 North Coast 500 tourist route from which wind farms would be visible. Views of the proposal would distract from the lone mountains which are characteristic of part of the route. Hence, I conclude that the proposal fails this criterion.

101. Criterion 3 requires that valued natural and cultural landmarks are respected. The location of the proposed turbines, towards the edge of the Sweeping Moorland and Flows LCT, and as viewed against the lone mountains, would act to alter perceptions of scale and

would diminish the setting of the Mountains, thus failing to respect valued natural landmarks. Thus, the proposal would fail this criterion.

102. Criterion 4 relates to key recreational routes and ensuring that turbines do not overwhelm or otherwise significantly detract from the visual appeal of key routes and ways. I have considered effects on the A9/ A99 North Coast 500 under criterion 2. In terms of the lone mountains, particularly Scaraben, which sits closest to the proposed development, I accept that the proposal would only be visible in part of the 360 degree view that can be achieved from the summit of East Scaraben (VP9) and that it would be viewed in conjunction with the existing Buolfruich wind farm. However, during my site inspection I saw that the development would be visible in some of the walk along the ridge of East Scaraben and would also be visible for part of the descent back to the valley. Given that the proposal would be both much closer to and turbines would be larger in scale than the existing Buolfruich wind farm, I conclude that it would be both more prominent and intrusive, detracting from the visual appeal of the route. Likewise, I find that the proximity and scale of the turbines to the Core Path through Dunbeath Strath would alter its visual appeal, distracting from the cultural remains and sense of abandonment. Therefore, I conclude that the proposal fails this criterion.

103. Criterion 5 concerns the amenity of transport routes, which in this instance are the A9 /A99. My conclusions in respect of these routes are set out above under criterion 2.

104. Criterion 6 requires new developments to respect the existing pattern of wind energy development. There are a number of other wind farm developments within visual proximity of the proposal, which are of differing scales (both in terms of number of turbines and height of turbines) and arrangement. I find that the proposal would increase the horizontal spread of wind farm development when viewed from VP7 and along the A9/ A99. The difference in height of turbines when viewed in conjunction with Buolfruich would alter perceptions of scale and there would be some stacking of turbines, particularly when viewed from VP7. I therefore conclude that the proposal fails this criterion.

105. Criterion 7 relates to maintaining appropriate and effective separation between developments. I share the views of both parties that there is adequate and appropriate space between the proposal and existing development, and that this criterion is met.

106. Criterion 8 requires that the perception of landscape scale and distance is respected. I find that the proposal would alter the perception of scale, particularly when viewed against the lone mountains and/ or in conjunction with Buolfruich wind farm. As such I find that it would not align with SNH's 'Siting and Designing Windfarms in the landscape' advice, which suggests that turbines should be of minor vertical scale in relation to other key features of the landscape. Thus, I conclude that the proposal fails this criterion.

107. Criterion 9 requires that the landscape setting of nearby wind energy developments is respected. Whilst I do not find that the proposal relates well to the existing landscape setting, I do not consider that it would increase the perceived visual prominence of the surrounding wind turbines. Hence, on balance, I find that the proposal meets this criterion.

108. Criterion 10 relates to the extent to which the distinction between neighbouring landscape types is maintained. Whilst the proposal sits within a single landscape character type (Sweeping Moorland and Flows LCT), as I have already concluded, in distant views the proposal appears to be located towards the periphery of the Sweeping Moorland and Flows LCT, close to the Lone Mountains LCT. This has the effect of altering perceptions of

scale and the turbines appear to abut the Mountains. I therefore conclude that the proposal fails this criterion.

109. In conclusion, I find that the proposal meets criteria 7 and 9 and partially meets criterion 1, but fails the other criteria.

110. Policy 61 – Landscape requires new developments to be “designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the areas in which they are proposed.” For the reasons set out above, I have concluded that the proposal would have significant adverse effects on landscape character, particularly in relation to the Sweeping Moorland and Flows LCT and the Lone Mountains LCT. Hence, it would not satisfy the requirements of this policy

111. Policy 57 – Natural, Built and Cultural Heritage establishes the level of protection that will be afforded to features depending on their geographical level of importance. For features of national importance, which include Scheduled Monuments, developments will be allowed if they will not compromise the heritage resource. “Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance.”

112. I have already concluded that the proposal would have significant adverse effects on Loedebest, settlement 1300m W of (SM 5189)), which was the subject of an objection from HES. In addition, I identified significant adverse effects upon the setting of three further Scheduled Monuments (Loedebest, prehistoric settlement and post medieval enclosure 1400m WSW (SM 5254); (Loedebest, settlement 650m W of (SM 5145) and Cairn Liath long cairn and round cairn (SM 438)). Whilst HES has not objected to the proposal on the basis of effects on these monuments, that is not the test set by Policy 57. Having identified effects on the setting of monuments identified as of national importance I am required to consider whether these adverse effects would be clearly outweighed by social or economic benefits of national importance.

113. As highlighted above, the proposal would have benefits in terms of making a contribution to national targets for reduction of carbon emissions and generation of energy from renewable resources. It would also make a contribution to the economy, both locally and more widely. Whilst each and every renewable energy project makes a cumulative contribution to assist in moving away from a reliance on carbon-based energy sources, I have not been presented with any evidence that this specific proposal at this particular location is vital to achieving national targets or would generate such a quantity of energy as to make a significant contribution towards meeting those targets. That is, I am not persuaded that it would achieve benefits of national importance. In addition, whilst I have been provided with anticipated carbon dioxide savings associated with the energy to be generated, I have not been provided with details as to how much carbon that may be released as a result of construction activities. A habitat management plan has been provided to mitigate these effects, but there has been no attempt at quantification of this mitigation. Whilst I have concluded that on balance the scheme would have positive benefits in terms of reduced carbon emissions, I am not persuaded that these savings would be of national importance. That is I am not persuaded that the significant effects to features of national importance (i.e. the Scheduled Monuments) are clearly outweighed by the social or economic benefits of the scheme.

114. In its fourth reason for refusal, the council has referred to nationally and regionally important historic environment assets. However, the council has clarified that all the assets referenced in reason for refusal 4 are Scheduled Monuments. Hence these are features of

national importance and should be assessed against the relevant policy tests for features of national importance. Whilst HES has only raised an objection in relation to one of these sites, the council is entitled to make its own assessment as to how those effects satisfy the requirements of the development plan. I am satisfied that when the effects of the proposal are tested against the policy requirements for features of national importance, they would not be clearly outweighed by social or economic benefits of national importance as required by Policy 57.

115. Wild land is also referenced within Policy 57, as a feature of local/ regional importance for which the council will “allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.” As identified above, I consider that the proposal would have an adverse effect on Wild Land Quality 1. Whilst the scheme would have benefits, I am not persuaded that these benefits are sufficiently large as to justify the predicted effects on wild land.

116. The appellant has suggested that I should place little weight on Policy 57 and focus instead on Policy 67, as it considers that the policy framework underpinning Policy 57 is based on a previous version of SPP, which it considers sets a very different policy test to that in paragraphs 145 and 169 of the current SPP. Whilst I accept that the overall national policy framework has changed since the LDP was published, I see no evidence that the principle of assigning different levels of protection to features depending on their level of importance has also changed. There is no dispute that there are a number of Scheduled Monuments that would be affected by the proposal or that these Scheduled Monuments are features of national importance.

117. Policy 67 requires an assessment as to whether a proposal would be “significantly detrimental overall, either individually or cumulatively with other developments...” This suggests that the policy requires a balancing of the positive and negative aspects of a proposal and that in some instances some negative elements would be permissible, if on balance, the scheme as a whole was not considered detrimental. This balancing approach mirrors that set out in Policy 57 in terms of assessing the acceptability of effects on features of natural, built and cultural heritage. When considered in the round, I find that the significant adverse effects of the scheme in relation to the landscape and visual effects, effects on the setting of Scheduled Monuments and effects on wild land would outweigh the carbon and economic benefits of the scheme. I therefore conclude that the proposal would not be consistent with the HwLDP.

Age of the development plan

118. Development plans are required to be kept up to date. This expectation is set out in paragraph 30 of SPP and the Town and Country Planning (Scotland) Act 1997, which sets out that they should be updated at intervals of not more than five years.

119. Whilst the HwLDP remains the extant local development plan, I note that it is now nearly ten years old. Consequently, the policies within it, particularly in relation to renewable energy development, were developed prior to the Scottish Government declaring a Climate Emergency. I have therefore given consideration to the national policy framework.

National Policy

120. During the course of the appeal the Scottish Government published new or revised versions of various policy documents including a withdrawal of SPP (2020) and reversion to SPP (2014); a consultative draft of The Onshore Wind Policy Statement; and a consultative draft of the National Planning Framework 4 (NPF4). I therefore allowed parties to set out their revised policy positions in respect of these documents.

121. SPP (2014) sets out national planning policies that reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. As such, it is a material consideration. One of the core policy principles is the "presumption in favour of development that contributes to sustainable development." This encompasses a consideration and balancing of the costs and benefits of a proposal over the longer term. The factors to be considered in defining whether a development meets the definition of sustainable development are set out in paragraph 29 of SPP.

122. I have already commented on the age of the development plan. Paragraph 33 of SPP 2014 addresses this issue by requiring that where development plans are out-of-date, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This is often referred to as the 'tilted balance'. Given that the HwLDP is more than five years old, I find that paragraph 33 is engaged and that the 'tilted balance' applies.

123. Policies within SPP are also designed to facilitate the transition to a low carbon economy including through diversification of the energy sector. Guidance in relation to onshore wind developments is set out in paragraphs 161 – 174. I have already referred to the requirement, set out in paragraph 161 of SPP, for LDPs to include spatial frameworks to guide wind energy development. Although the site is located within a Group 2 area, as discussed above, it is common ground between parties, this classification is based primarily on the presence of carbon-rich soils. As the proposed turbines avoid these areas, the site can, for policy purposes, be considered to lie within a Group 3 area, which have potential for wind farm development. Even so, proposals in Group 3 areas are subject to detailed consideration against identified policy criteria.

124. Wild Land is one of the factors identified by SPP that must be considered in determining the acceptability of proposals for wind energy, although paragraph 169 does not provide any guidance as to the weighting that should be assigned to this factor. Nevertheless, paragraph 215 of SPP notes that identification as a Wild Land Area does not preclude development in these areas, providing that any significant effects on wild land qualities can be substantially overcome

125. My assessment of the effects of the proposal on wild land is set out above. I accept that the proposal is outwith the boundary of the WLA, nevertheless, given the topography of the area and the scale and location of the development, including its proximity to the WLA boundary, I conclude that it would undermine Wild Land Quality 1.

126. Paragraph 145 of SPP (2014) sets out the protection afforded to Scheduled Monuments. Where a proposed development would have an adverse effect on the integrity of the setting of a Scheduled Monument, "exceptional circumstances" are required in order to justify granting permission. This test is slightly different to that set out in Policy 57 of HwLDP. The nature of these 'exceptional circumstances' is not addressed in the policy. I have already concluded that the social and economic benefits of the proposal would not

outweigh the adverse effects on Scheduled Monuments and that the proposal would not be beneficial overall.

127. The Scottish Government has declared a Climate Emergency. It has brought forward what were already challenging targets in terms of the date by which Scotland is committed to achieving a reduction in emissions to ‘net zero’ from 2050 to 2045. These are reflected in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, which also sets an interim target of a 75% reduction by 2030 and 90% by 2040. Evidence from the Committee on Climate Change suggests that Scotland may not be able to meet these interim targets.

128. As part of the impetus towards ‘net zero’, there is an increasing demand for ‘clean’ electricity to support the decarbonisation of heat and transport, thus increasing the pressure to generate more energy from renewable sources. These factors are recognised in the Onshore Wind Policy Statement Refresh 2021. It states that there is a need to go further and faster than before and sets out the scale of the increase of demand likely to be required over the next decade which will require an increased rate of renewable capacity if this demand is to be met.

129. There is no doubt that the direction of travel is towards a greater capacity for energy production from renewable energy sources. This direction of travel and the planning policies required to deliver revised targets are clearly illustrated in the Fourth National Planning Framework (NPF4), which was published by the Scottish Government in November 2020. It sets out the approach to planning and development that will help to achieve net zero by 2025. It states that a significant shift is needed to achieve net-zero emissions by this date. It also emphasises the need to make significant choices and to avoid compromise in relation to climate change. Whilst the finalised detailed policies have yet to be agreed, I find that the draft document, as a statement of Scottish Government intention, is a material consideration for this appeal.

130. NPF4 would move away from the concept of Spatial Frameworks, making a broad assumption that other than within National Parks or National Scenic Areas, proposals for wind farms should be supported. In addition, large scale (greater than 50 MW) renewable projects would fall within a category of national development, where the principle of development would not need to be agreed. The draft policies within the document emphasise a need to rebalance the planning system to allow climate change and nature recovery to be the primary guiding principles. The document also anticipates that the Global Climate Emergency should be a material consideration “in considering applications for appropriately located renewable energy developments.”

131. The proposal would not meet the suggested threshold for a national development within NPF4 and hence would require to be considered on its own planning merits. The reference to “appropriately located” developments suggests that the document would not provide unqualified support for each and every renewable energy proposal. Indeed, it highlights a number of matters that must be taken into account in reaching a decision on applications for renewable energy.

132. Policy 19 of draft NPF4, which addresses green energy, establishes a need to carry out site specific assessments, including EIA and Landscape and visual assessments where required. It also states that proposals “Should be supported unless the impacts are unacceptable.” Policy 32 provides guidance in relation to considering the impacts of development on natural places including landscape. Again, support for development is

stated, provided that it would not have significant adverse effects on the integrity of the area or the qualities for which it has been identified.

133. I have considered the implications of the emerging policies in NPF4 and Government statements in terms of re-alignment of what level of 'harm' would be deemed acceptable in terms of achieving gains towards meeting net zero targets. I do not see within draft NPF4 any concurrent relaxation of the tests in place to ensure that natural and cultural resources are safeguarded. Nor do I see an impetus to make the needs of renewable projects assume primacy over every other consideration or that there is an intention to allow any scale or form of renewable energy development, in any location, no matter what the consequences for the natural, built or cultural environment. Indeed, the draft NPF4 retains clear guidance, carried forward from SPP (2014) of the need to demonstrate 'exceptional circumstances' before allowing development that would undermine the integrity of the setting of a Scheduled Monument.

134. I acknowledge that the draft NPF4 recognises that there may need to be an acceptance that there will be changes to how Scotland looks. However, there will still be protection of the most cherished landscapes.

135. . That is, whilst NPF4 provides an enhanced high level of support and presumption for renewable energy developments generally, it does not mean that all other considerations should be disregarded and that harm to landscape or cultural features, for example, would now be acceptable. Given the draft status of NPF4 and the lack of any specific detail as to what changes would be necessary, I have given this aspect less weight in my decision-making than the extant policy framework.

136. Bringing these points together, the age of the HwLDP means that the presumption in favour of development that contributes to sustainable development is engaged as a significant consideration. The current policy framework in terms of the local development plan and Scottish Planning Policy pre-dates the declaration of a Climate Emergency. As such, these policies need to be considered within the wider framework and direction of travel set out by the revised energy emission reduction targets and evolving NPF4. There is no doubt that there is a need to increase the levels of energy generated from renewable sources. Whilst the direction of travel is towards an 'in principle' acceptance of proposals, it does not provide complete and unqualified support for any proposal that comes forward and there does not appear to be any relaxation of strict protection measures for valued environmental assets. Developments would still be required to demonstrate that they are 'appropriately located' or that any significant adverse effects on Scheduled Monuments are justified by 'exceptional circumstances'.

137. In terms of the proposed development, I accept that the location may be well-sited for wind production. However, there is no suggestion that it is the only location where a proposal of this nature could be located or that this site is better suited to renewable energy production than other alternative sites, which have a similar wind energy resource.

138. The appellant has directed my attention to Section 1 of the Planning (Scotland) Act 2019, in respect of the purpose of planning and the need to consider the development and use of land in the long term public interest and that anything which contributes to sustainable development can be considered in the long term public interest. Thus, in reaching a conclusion on the appeal I need to consider whether the long term public interest is best served by consenting or refusing this scheme.

139. Renewable energy developments, by their very nature, often result in changes to their surroundings. The current proposal has been modified to avoid or reduce the adverse nature of those changes. Nevertheless, as set out above, I conclude that the proposal would have residual significant adverse landscape and visual effects, would detract from Wild Land Quality 1 of the WLA and would have a significant adverse effect on the integrity of the setting of Scheduled Monuments. I am not persuaded that the benefits of the proposed scheme are sufficient to merit the description of 'exceptional circumstances' justifying adverse effects on the setting of Scheduled Monuments. Even when I consider these effects within the context of the presumption in favour of development that contributes to sustainable development, which is a significant factor in favour of the proposal, I do not find that the proposed development would represent sustainable development overall. I conclude that the proposal would fail the policy tests set by SPP (2014) in terms of representing the right development in the right place. Also, I do not find that the recent statements by the Scottish Government concerning the Climate Emergency and targets for renewable energy or the policies within draft NPF4 provide support for deviation from this view.

Conclusions

140. Notwithstanding the age of the HwLDP this is still the relevant development plan for consideration of the proposal. Whilst this is supportive of renewable energy developments, this support is qualified by requiring that proposals should not be significantly detrimental overall (either individually or cumulatively) with other developments. The proposal would provide a contribution towards meeting renewable energy generation targets and would contribute to the local economy. Nevertheless, for the reasons set out above, I have found that the proposal is not in accord with the LDP overall in respect of effects on landscape, visual receptors, wild land and cultural heritage features. That is, the negative effects of the proposal would outweigh the benefits.

141. Likewise, whilst SPP (2014) also pre-dates the declaration of a Climate Emergency, it currently provides Scottish Government's non-statutory planning policy context. The support for renewable energy projects within the document is tempered by the need to avoid unacceptable impacts on natural, cultural and social resources. Even allowing for the 'tilted balance' in favour of the proposal, I consider that the combination of adverse effects of the proposal would significantly and demonstrably outweigh its economic and renewable energy benefits.

142. I have given careful thought to the clear impetus for energy generated from renewable resources that has been set out in various statements from the Scottish Government including the draft NPF4. Whilst the overall direction of change is unlikely to alter between draft and finalised versions of NPF4, the precise policy wording has yet to be finalised. Accordingly, whilst it is a material consideration, I have given it less weight than extant national policies such as SPP (2014).

143. There is no doubt that the proposal would make a contribution towards meeting net zero targets and contribute to the local economy. These factors together with the renewable energy policy context, present strong support towards approval of the proposal. However, the same could be said for virtually any proposed renewable energy development. That does not mean that each and every proposal would be considered acceptable. For the reasons set out above, I am not persuaded that the benefits offered by the proposed scheme are so great that they would outweigh or justify the significant adverse effects on landscape, visual receptors, Wild Land Quality and the setting of Scheduled Monuments that would be generated by the proposals.

144. I therefore conclude that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Sue Bell

Reporter

Advisory notes

1. Right to challenge this decision: This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

2. Notification of this decision by the planning authority: The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating in the locality of the proposed development or by other reasonable means and (b) to make a copy of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

Schedule 1: Opportunities for public participation in decision-making

There is the following evidence before me of opportunities the public had to take part in decision-making procedures on the application before I was appointed to this appeal:

- the appellant has provided a report on pre-application consultation. This indicates that an initial public exhibition was held at Dunbeath Community Centre on 13 June 2019. Following changes to the proposed scheme, a second public exhibition was held at Dunbeath Community Centre on 8 January 2020;
- an advertisement of the application in the John O' Groat Journal and Edinburgh Gazette has been provided. It advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report (14 February 2020). A further advertisement in the Edinburgh Gazette (19 March 2021) identified the opportunity for the public to make representations in respect of the updated FEI report; and
- the planning authority received 162 objections from 146 addresses and 33 comments in support from 31 addresses within the period for receipt of representations. An additional 32 objections from 32 addresses were received after the end of the period for comment. The main points of objection raised in those representations are summarised in this decision notice and relate to impacts on cultural heritage assets and archaeology; residential amenity; Wild Land; road users, tourists and recreational users; natural heritage, habitats and species including the Flows; landscape and visual impact; scale of development; hydrology; roads and infrastructure; socio-economic impacts; health and safety concerns; lack of significant economic benefits; lack of gains for CO₂; site history. Supportive comments relate to the proposals contributions towards net zero targets and need to diversify energy production; socio-economic benefits; restoration of peatland; reduced visual impact; reduced effects on cultural heritage; compliance with HwLDP;

appropriate siting in relation to wind resources; benefits to accruing from road improvements; lack of impact on wild land.

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make written representations on the appeal concerning matters that they raised. Eight representations were received including from Berriedale and Dunbeath Community Council and Mountaineering Scotland.