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K Lyons  
Highland Council  
Sent By E-mail

Our ref: PPA-270-2238  
Planning Authority ref: 20/00645/FUL

9 May 2022

Dear Ms Lyons

**PLANNING PERMISSION APPEAL: LAND 2215M SW OF UNDER KEEPERS  
COTTAGE, SANDSIDE, REAY, KW14 8AJ**

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](#).

We collect information if you take part in the planning process, use DPEA websites, send correspondence to DPEA or attend a webcast. To find out more about what information is collected, how the information is used and managed please read the DPEA's privacy notice - <https://beta.gov.scot/publications/planning-and-environmental-appeals-division-privacy-notice/>

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

Yours sincerely

*Christopher Kennedy*

**CHRISTOPHER KENNEDY**  
Case Officer  
Planning And Environmental Appeals Division



## Appeal Decision Notice – EIA Development

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Decision by Trudi Craggs, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2238
- Site address: land 2215 metres south west of Under Keepers Cottage, Sandside, Reay, KW14 8AJ
- Appeal by Drum Hollistan Renewables LLP against the decision by The Highland Council
- Application for planning permission 20/00645/FUL dated 11 February 2020 refused by notice dated 29 September 2020
- The development proposed: development of wind farm, known as Drum Hollistan 2 Wind Farm, comprising 7 turbines with a maximum blade tip of 125 metres and associated infrastructure
- Date of site visit by Reporter: 7, 8 and 9 June 2021, 27 and 29 September 2021 and 1 October 2021 (all unaccompanied), 28 September 2021 (accompanied)

Date of appeal decision: 9 May 2022

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### Decision

I dismiss the appeal and refuse planning permission. Attention is drawn to the two advisory notes at the end of the notice.

### Preliminary matters

In the original application the proposal was described as wind farm and associated infrastructure. I consider that this lacks specification and accordingly I have adopted the description used by the council in its decision notice. In my view this more accurately reflects the description of the development contained in the EIA report.

I have also used the description of the site contained in the council's decision notice as again I consider that this is clearer and more specific.

### Environmental impact assessment

The proposed development is described as above and at Chapter 5 of volume 2 of the EIA report. In summary the proposal comprises seven turbines each with a maximum overall height to blade tip of up to 125 metres; a crane hardstanding area at each turbine location; around 4 kilometres of permanent access tracks including one turning area; electrical and communication underground cables running along the majority of the access track; a substation and control building; improved site entrance from the A836; and a visitor car park including electric car charging points and associated signage.

There would also be a temporary construction compound with storage and welfare facilities. The proposed wind farm would have an operational life of 25 years after which it would be decommissioned. It would have a total capacity of up to 35MW.

The 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 submitted on 11 February 2020;
- supplementary information provided to the council in June 2021 and on 15 September 2021 in response to the objection from the RSPB;
- additional information on cumulative landscape and visual impacts and effects on wild land area 39 (East Halladale flows) submitted on 21 July 2021;
- consultation responses from: NatureScot (then Scottish Natural Heritage), RSPB, Highlands and Islands Airport Limited, Caithness West Community Council, Scottish Environment Protection Agency, Historic Environment Scotland, Transport Scotland, and the council’s historic environment team and environmental health department; and
- representations from members of the public including the representation from RAWOG, an informal grouping of local residents mainly from Reay village.

I am 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 2 below. My conclusions on the significant environmental effects of the proposal are set out at paragraphs 79-91 below.

## **Reasoning**

### Background

1. An application was made to Scottish Ministers in 2016 for consent under Section 36 of the Electricity Act 1989 for a wind farm and associated infrastructure known as Drum Hollistan 1. After a public inquiry, the application was refused by Scottish Ministers who adopted the findings, reasoning and conclusions of the reporters who considered the application. The appellant subsequently submitted an application for planning permission to the council for a reduced scheme known as Drum Hollistan 2 wind farm. That application, which is the subject of this appeal, was refused by the council on 29 September 2020.
2. Drum Hollistan 1 wind farm comprised of 17 turbines and associated infrastructure with a total capacity of up to 51MW. The turbines would have had a range of hub heights; 69 metres (turbines 8-11); 78 metres (turbines 1, 2, 4-7, 12 and 14-17); 84 metres (turbine 3); and 98 metres (turbine 13). The rotor diameter proposed was 82 metres (with the blades having a length of 41 metres) giving a height to blade tip of around 110-140 metres.
3. The current proposal would comprise of seven turbines and similar associated infrastructure, albeit less access track would be required. The turbines would be broadly in the same position as turbines 11-17 of the proposed Drum Hollistan 1 wind farm. Although the location of the turbines would be more or less the same, the size and proportions of the turbines now proposed would be different.
4. The hub height for each turbine would be 67 metres and the rotor diameter would be 115 metres (with a blade length of 57.5 metres) giving an overall height to blade tip of

around 125 metres. The turbines would therefore be taller than those originally proposed (with the exception of turbines 3 and 13). The differing proportions are clearly evident when comparing the typical turbine design figures contained in the EIA report for each scheme.

### Consistency in decision making

5. Given the previous section 36 application, the terms of the inquiry report containing the previous reporters findings, reasoning and conclusions, and the Scottish Minister's decision letter, I discussed at the hearing sessions how I should approach my consideration of the appeal. While the council, NatureScot and the appellant recognised that each case should be determined on its own merits, they all agreed that regard must be had to the principle of consistency.

6. The appellant drew my attention to the opinion of the Lord President of the Court of Session in the case of *Ogilvie Homes Ltd v Scottish Ministers*. As stated by the Lord President, if a reporter seeks to depart from the reasoning in an earlier decision relating to the same site and on the same issue, it is incumbent on the reporter to explain clearly why he is departing from it.

7. Having considered this judgement, I accept that like cases should be decided alike unless reasons are given. However what I am not doing is a comparison of the two schemes to determine which one is better; the current proposal must still be assessed on its own merits. This approach was agreed with the parties at the hearing sessions.

### The development plan

8. As this is an application for planning permission I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. This differs from the assessment carried out under the Electricity Act 1989 in respect of the previous section 36 application where the development plan, rather than having primacy, was no more than a material consideration.

9. The development plan comprises the Highland-wide Local Development Plan (adopted 2012); the Caithness and Sutherland Local Development Plan (adopted 31 August 2018); and the Highland Council Onshore Wind Energy Supplementary Guidance (adopted November 2016) (which includes as an appendix the Caithness and Sutherland Landscape Sensitivity Study (2017)).

10. 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 effects; the impacts on the village of Reay; the effects on wild land area 39 (East Halladale Flows); and the benefits of the proposal.

### *The effects on landscape character*

11. The landscape effects of the proposal are set out in chapter 7 of volume 2 of the EIA report supported by figures and visualisations in volumes 3a and 3b of the EIA report. The council, NatureScot and the appellant are in agreement that the methodologies employed in the assessment of landscape effects generally follow good practice guidance at the time of publication. I have no reason to doubt that this is the case.

12. The site is located within CT4: Central Caithness, an area of sweeping moorland and flows landscape character type. The EIA report concludes and it is agreed between the

council and the appellant that this landscape character type would be subject to some significant landscape effects. The EIA report predicts that the effects would be significant within 1.5 kilometres from the proposed development whereas the council considers that the effects would extend to 2-3 kilometres. Although the council had concerns, I note that the landscape impacts were not a reason for refusal. Further there is no objection from NatureScot on the grounds of landscape effect.

13. The Caithness and Sutherland Landscape Sensitivity Study concludes that there is limited potential for larger scale development within part of the moorland interior. Where potential does exist, this should concentrate further development within existing clusters to consolidate them; maintain open clear and direct views; and be designed so that the logical relationship between development scale and landscape character is maintained. It notes that the coast is sensitive to development and is only likely to be appropriate for some small and micro scale development where it avoids the coastal edge and elevated transition into the moorland interior and avoids encirclement of settlements and sequential impacts along routes.

14. Within CT4: Central Caithness, the landscape sensitivity assessment notes that there are key 'gateway' views as you cross the transition from the open flat moorland/agricultural plain of Caithness to the more undulating and rugged moorland of Sutherland. Notwithstanding that it did not object on the grounds of landscape impacts, the council considers that the proposal would reduce and detract from the transitional experience of the key gateway locations on this route, overwhelming and detracting from the landscape characteristics which contribute to that distinctive transitional experience.

15. On my site inspections I travelled along the A836, which is part of the North Coast 500 and the National Cycle Network Route 1. While there is a definite change in the landscape when traveling along the A836, from what I saw on my site inspections, the transition is not simply experienced at one single point; there is a gradual change, and continuing appreciation of it, as one moves through one landscape to another.

16. The zone of theoretical visibility indicates that for the vast majority of the journey along this road from the east, the development would be visible. However other developments, namely the Forss wind farm and the Baillie wind farm are also visible along this route and in my view form part of the landscape. Similarly the Limekiln 2 wind farm would also be visible once constructed and again would be part of the landscape.

17. The proposed development would be closer to the road than the others but that would not become apparent until one was closer to the site. From viewpoint 4 (A836 Drum Hollistan layby) the transitional nature of the landscape to the east would still be capable of being understood and appreciated as the wind farm would be to the south.

18. Although the proposed development would introduce a new feature in to the landscape, the landscape is vast and I am not persuaded that the development would overwhelm or detract from the landscape characteristics or the feeling of transitioning from one landscape to another. In my view the change in landscape characteristics would remain apparent and clearly understood.

19. I note from the zone of theoretical visibility that views of the proposal from the west and south beyond 1.5-2 kilometres would be more fragmented due to the landform. Taking all that together, I find that although there would be some significant landscape effects to the sweeping moorland and flows landscape character type, this would be limited to within

around 1.5-2 kilometres of the development (rather than within 1.5 kilometres) as demonstrated by the zone of theoretical visibility.

20. The EIA report also concludes that there would be no other significant effects on landscape or seascape. There would be no significant effects on landscape designations including the special landscape areas at Farr Bay, Strathy and Portskerra, and Dunnet Head. Nevertheless the council considers that part of the high cliffs and sheltered bays landscape character type would be subject to some significant landscape effects as demonstrated by viewpoints 10 (Portskerra), 13 (Strathy Point) and 18 (Dunnet Head). However I note that again this was not identified as a reason for refusal.

21. The high cliffs and sheltered bays landscape character type relates to the cliffs along the north coast. The proposed development would be set back from the cliffs and there are limited locations from which the proposed development, the sea and the coast would be seen together. As illustrated by the zone of theoretical visibility, there would be limited and fragmented visibility of the wind farm.

22. Although the turbines would be visible to varying degrees, I accept that this does not necessarily mean that there would be an effect on the landscape character. Given the physical separation between the cliffs and the sea and the proposed development, and the intervening landform, I find that there would not be a significant impact on this landscape character.

### Visual effects

23. The visual impacts are addressed at chapter 7 of volume 2 of the EIA report supported by figures and visualisations in volumes 3a and 3b of the EIA report and appendices 7A and 7B of volume 4. Additional information and visualisations were also submitted in July 2021. Again the council and the appellant are in agreement that the methodologies employed in the assessment of visual effects generally follow good practice guidance at the time of publication. Again I have no reason to doubt that this is the case.

24. The council did however highlight that the proposed access tracks had not been included in the assessment but did not provide any assessment of its own in this regard. The EIA report includes a cross section of a typical access track which indicates that the track would have a final footprint in terms of width of 4 metres and would generally be level with the adjacent ground.

25. On the accompanied site inspection, from viewpoint 2 (A836 Dounreay) I saw the tracks being constructed through the forest for the Limekiln 2 wind farm. No trees would require to be removed to make way for the access tracks for the proposal and therefore the immediate context is different. I also noted how visible the A836 was from viewpoint 11 (Shebster) which is 6.66 kilometres from the site. Having done so, I am satisfied that beyond 5 kilometres, given their proposed width and ground level, the access tracks would not be likely to contribute to significant visual effects.

26. I note the appellant's assessment in its hearing statement that within 5 kilometres, the tracks would be visible from viewpoints 4 (A836 Drum Hollistan layby) and 8 (Beinn Ratha). The effects of the development from both these viewpoints are already predicted to be significant and therefore, I accept that the access tracks would not alter that assessment.

27. Visual impacts have been assessed by reference to 20 viewpoints. The viewpoints were identified through consultation with the council and NatureScot. The council and the appellant agree that the viewpoints are representative of the types and locations from which there may be views towards the proposal development on a solus and cumulative basis. Further they agree that the viewpoint selection is appropriate for the scale and siting of the wind farm.

28. The appellant and the council have concluded that there would be significant visual effects at five viewpoints: viewpoint 3 (A836 Reay Church), viewpoint 4 (A836 Drum Hollistan layby), viewpoint 7 (Reay (footpath to Achins)), viewpoint 8 (Beinn Ratha), and viewpoint 9 (Sandside Bay Harbour) albeit that the council considers that generally the level of effect would be slightly greater than that predicted by the appellant. The EIA report also predicts that there would be cumulative impacts at 12 viewpoints, including the ones above, as set out in the appellant's assessment. This has not been disputed by the council.

29. I visited all of these viewpoints on either the unaccompanied or accompanied site inspections. Viewpoints 4, 7 and 8 are all within 2.5 kilometres of the proposed development; viewpoints 3 and 9 are around 3.2 kilometres away. Having regard to the extent to which the wind turbines would be visible from these locations I agree that there would be significant visual effects at these viewpoints.

30. In addition the council considers that there would be significant visual effects at viewpoints 1 (A836 Forss), 2 (A836 Dounreay), 5 (A836 Melvich), 10 (Portskerra), 11 (Shebster), 13 (Strathy Point), 14 (Lieurarary Hall), and 18 (Dunnet Head). I visited all of these viewpoints too. I have considered what I saw, the written evidence and assessments before me and the oral evidence given at the hearing session. I find as follows.

#### *Viewpoint 1 (A836 Forss)*

31. Viewpoint 1 is approximately 13.1 kilometres from the nearest turbine. I accept that not all of the receptors using this route would be of high sensitivity. Nevertheless this is a principal tourist route as well as route well used by local residents, some of whom would be highly sensitive to the development. Indeed the council and the appellant agree that the sensitivity of this viewpoint is high.

32. The council and the appellant however disagree as to the magnitude of change; the appellant considers that it is low to negligible and the council, medium. All of the turbines would be visible between Baillie wind farm (and Limekiln 2 wind farm in the future) to the south and Forss wind farm to the north. However the presence of these wind farms would not in my view reduce the magnitude of the effect overall.

33. Even though it would be set back from them and would be more distant, the development would become a new focal point. Although set back from the coast, the development would be in a prominent location, in the middle of a gap in the view between the existing and consented wind farms which provides open and clear views of the moorland and beyond. In my view, it would appear as a standalone development and would lack cohesion with these other wind farms. I do not consider that the intervening distance would diminish this effect.

34. From what I saw when at the viewpoint I consider that the appellant has under-assessed the magnitude. For the reasons set out above, I find that the magnitude is more likely to be medium than low to negligible. Therefore, rather than moderate to negligible, I find that the visual effect would be major/moderate and therefore significant.

*Viewpoint 2 (A836 Dounreay)*

35. The council and the appellant disagree as to both the sensitivity and magnitude of change of viewpoint 2. This viewpoint is at the entrance to Dounreay, around 6.9 kilometres from the development. The appellant considers that the view is influenced by Dounreay reducing its sensitivity. However I am not convinced that is the case. Having been to the viewpoint, while Dounreay provides the immediate context, I am not persuaded that it characterises the landscape or the views from the viewpoint. I consider that viewpoints 1 and 2 are similar albeit viewpoint 2 is closer to the site and as such my analysis above in respect of viewpoint 1 applies equally to this viewpoint. Accordingly, I agree with the council that the sensitivity of this viewpoint is high.

36. Dounreay is in the peripheral view whereas the primary view is over the moorland and beyond. The turbines would again fill the gap in which there are currently few, if any, man-made features and no features of comparable height. Due to the reducing intervening distance the turbines would appear more prominent. The lack of cohesion with other wind farms would again be apparent. Taking that all together, I consider that the appellant has under assessed the effects. In my view the magnitude would be medium. Therefore I accept the council's assessment that the level of effect would be major/moderate (rather than minor/moderate) and therefore significant.

*Viewpoint 5 (Melvich)*

37. The council and the appellant disagree as to the magnitude of change and thus the overall level of effect. From this viewpoint, which is 3.966 kilometres from the nearest turbine, there is a wide panoramic view which gives one an appreciation of the large scale of the landscape. The turbines would be screened to some extent by the landform so that only the blades of the turbines would be visible to differing extents. They would affect only a small area of the overall landscape and given the extent to which they would be visible, notwithstanding the lengths of the blades, I think they would have limited influence.

38. Further I noted that I could not see both the site and the coastline at the same time without turning. As such I consider that it would be difficult to draw a strong coastal association between the two. Consequently in my view there would be no impact on the coastal landscape as suggested by the council. Taking all that together, I accept the appellant's assessment that the magnitude of change would be low and thus the level of effect would be moderate and not significant.

*Viewpoint 10 (Portskerra)*

39. Viewpoint 10 is 5.67 kilometres from the proposed development. Once again the council and the appellant disagree on the magnitude of change and consequently the level of effect. The turbines would be partially screened by landform, situated behind the moorland. Only the hub and blades would be visible. The turbines would be set back from the cliffs and in my view they would be perceived as being in land rather than on the coast. There would not be a strong relationship between the cliffs and the turbines.

40. Accordingly I do not consider that the proposed development would detract from the coastal panorama, the cliffs or the associated seascape. Further given their position within the landscape, the screening by the landform and the wide open views in this location, I find that a relatively small area of the view would change. I therefore accept the appellant's assessment of the magnitude and the sensitivity. I agree that the effect would be moderate and not significant.



*Viewpoint 11 (Shebster)*

41. Once again the council and the appellant disagree on the magnitude of change and the level of effect in relation to this viewpoint. At viewpoint 11, which is 6.66 kilometres from the development, I saw that the sea is only just discernible in the distance in oblique views to the north but would not be visible behind the turbines. Accordingly I do not consider that the development would have a significant impact on the seascape or the coast.

42. From what I saw I consider that any screening from the localised landform and mature woodland at Achvarasdal Wood would be limited. Unlike viewpoints 5 and 10 all of the turbines and blades would be visible from this viewpoint. The development would be in an area which is presently absent of turbines. I understand that the Limekiln 2 wind farm would be visible from this viewpoint and would be prominent.

43. Nevertheless, due to the elevated position of the site and the height and proportion of the proposed turbines, I do not consider that either the presence of Limekiln 2 wind farm or the intervening distance would suppress the overall visual effect of the proposed development or make it less prominent.

44. I consider that the Limekiln 2 wind farm has already compromised the expansive and open view from this location. As such the view across the moorlands towards the site and beyond in my view has more value. Taking all of this together, I find that the magnitude of change is medium rather than low as assessed by the appellant. Accordingly I accept the council's assessment that the level of effect would be major/moderate and significant.

*Viewpoint 13 (Strathy Point)*

45. Again the council and the appellant disagree on the magnitude of change and consequently the level of effect. When viewed from viewpoint 13, which would be 11.431 kilometres from the nearest turbine, the development would be viewed in a coastal landscape context with the Limekiln 2 wind farm turbines in the background. As such I accept that there would be no increase in the horizontal spread of turbines. Both the Forss and Baillie wind farms are visible from this viewpoint.

46. The proposed development and the sea would be viewed together however the turbines would be some distance behind the cliffs, set back behind the ridge of the moorland. In the main only the hubs and the blades would be visible. Accordingly I do not consider that there would be a significant effect on the coastal landscape or seascape. The landform would also help to mitigate the impact on the landscape as would the panoramic views. Taking all of this together I accept the appellant's assessment of the magnitude and consequently the level of effect which would not be significant.

*Viewpoint 14 (Lieuraray Hall)*

47. This viewpoint would be 12.488 kilometres from the nearest turbine. Once again the council and the appellant disagree on the magnitude of change and the level of effect. Baillie wind farm is visible to the north of the viewpoint and Limekiln 2 wind farm would be visible to the south. While I accept that these wind farms would flank the proposed development as suggested by the appellant, due to their height and proportions, I do not consider that the turbines would be a small feature in the background, viewed intermittently.

48. Again the proposed development would fill a gap between these wind farms and although it would be further away, given the height and proportion of the turbines and their location in an area currently absent of turbines, the development would in my view still be prominent. However I do not consider that it would be dominant as suggested by the council due to the intervening distance and the presence of the other wind farms in the foreground. I therefore find that the magnitude is more likely to be low rather than negligible. However I am not persuaded that it would be medium as assessed by the council. Having reached that conclusion I find that the level of effect would be moderate rather than moderate to negligible but would not be significant.

#### *Viewpoint 18 (Dunnet Head)*

49. From this viewpoint, the nearest turbine would be 29.57 kilometres away. Again the council and the appellant disagree as to the level of magnitude and thus the level of effect. From what I saw on my site inspection, given the intervening distance, the panoramic view and the other man-made features including various wind farms both across the landscape and between the viewpoint and the proposed development, I do not consider that the development would significantly alter the view.

50. As the turbines would be set back from the cliffs, I do not consider that there would be an impact on the seascape. The cliffs would remain a dominant feature in the landscape and I do not consider that the proposal would undermine that. Taking all this together, I agree with the appellant's assessment that both the magnitude and level of the effect would be negligible.

#### *Overall conclusion*

51. In conclusion I find that the proposal would have significant visual effects both close to the proposed development, within 3.2 kilometres and also at greater distances between 6.5-13 kilometres beyond the site. The nature of these effects is illustrated with reference to 8 viewpoints: viewpoint 1(A836 Forss), viewpoint 2 (A836 Dounreay), viewpoint 3 (A836 Reay Church), viewpoint 4 (A836 Drum Hollistan layby), viewpoint 7 (Reay (footpath to Achins)), viewpoint 8 (Beinn Ratha), viewpoint 9 (Sandside Harbour), and viewpoint 11 (Shebster).

#### *Impacts on the village of Reay*

52. The impacts on residential amenity are addressed in chapter 7 of volume 2 of the EIA report supported by figures in volume 3a and also appendix 7C of volume 4 of the EIA report. The nearest settlement to the development would be the village of Reay which is approximately 2 kilometres to the east. All of the parties to the hearing sessions accepted that no effects would arise at any residential property in relation to the visual component of residential amenity such that it might become widely regarded as an unattractive place in which to live. The parties therefore agreed that amenity at residential properties was not a determining issue and did not require to be considered at the hearing session. From what I saw on my site inspection I accept this conclusion.

53. Nevertheless both RAWOG and Caithness West Community Council consider that the proposed development, together with Limekiln 2 and Baillie wind farms (both of which are, or would be, visible from some parts of the village) would create a sense of encirclement from within Reay.

54. As demonstrated by the zone of theoretical visibility, the turbines would be visible when approaching and entering the village along the A836 from both the east and west (although when traveling from the west one would pass the turbines before entering the village). The development would be theoretically visible from a significant part of the village and from some of its key facilities, for example the golf course and the church.

55. However I saw on my site inspection that visibility may not be as extensive as suggested by the zone of theoretical visibility as it does not take account of any screening from buildings, vegetation and the landform. Nevertheless I consider that from many parts of the village, the turbines would be prominent. Indeed, the parties agree that the visual impact would be significant. This is illustrated by viewpoints 3 (A836 Reay Church) and 7 (Reay (footpath to Achins)). From the visualisations and from my site inspections, I agree with that assessment.

56. The development and the Limekiln 2 wind farm would be clearly visually separated by Beinn Ratha which is a prominent feature in the landscape in the vicinity of Reay. In my view this would reduce the perception of being encircled. Nevertheless it is possible that both developments would either be viewed together from some parts of the village or seen from separate views from the same receptor.

57. While I accept that the cumulative effects would therefore be significant, both developments (and Baillie wind farm) would not be seen from all of the village, again due to the screening from buildings, vegetation and landform and the location of the wind farms. That is not to say that where one, both or all of these wind farms would be seen, the impact would not be significant. On the contrary, I consider that it would be significant and that is not disputed. Nevertheless taking this all together I do not consider that the settlement could be described as being encircled by wind energy developments.

#### Effects on wild land area 39 (East Halladale Flows)

58. The development would be located outwith the wild land area, around 0.9 kilometres at the closest point but it would be visible from within parts of the wild land. I accept that there is no outright presumption in either the development plan or national policy against the development of a wind farm that has significant effects on the perception of the wild land qualities from within it due to the turbines sited outwith it.

59. The impacts on the wild land area are assessed at chapter 7 of volume 2 of the EIA report supported by figures and visualisations in volumes 3a and 3c of the EIA report and appendix 7D of volume 4. Additional information and visualisations were also submitted in July 2021. It is not disputed that the appellant's assessment of the likely effects on the wild land area is adequate and appropriate. Although its assessment is based on sub-areas and NatureScot assessed the wild land area as a whole, it was agreed that this did not result in any material difference. Having considered the evidence before me and from what I heard at the hearing, I am satisfied that that is the case.

60. Both the appellant and NatureScot agree that there would be significant effects on wild land qualities 1, 2 and 4, principally in the northern parts of the wild land area. There would be no impact on wild land quality 3. Having considered the descriptions of the wild land qualities and the parties' assessments, I accept these conclusions.

61. However the consequence of these effects is not agreed. I therefore consider that the dispute between these parties is limited to the importance of these effects. In that regard I note that neither the Onshore Wind Energy Supplementary Guidance nor Scottish

Planning Policy contain a test or a threshold that assists in determining whether or when such effects would be unacceptable. Therefore I consider that it is a matter of planning judgement.

62. The reporters who considered the Drum Hollistan 1 wind farm also considered at the same time the proposed Limekiln 2 wind farm. They considered both the individual and cumulative impacts of both schemes when reaching their conclusions. From the evidence before them, they concluded that the effect upon the wild land would not be so great as to justify refusal.

63. Although Drum Hollistan 1 was refused, the Limekiln 2 wind farm was approved. This in my view changes the baseline against which any subsequent application should be considered. Separately although the proposed number of turbines has decreased, their proportions would be different and therefore their effect would be too as illustrated in the visualisations of both schemes. As such I cannot agree with the appellant that nothing material has changed which could alter the previous reporters' conclusions. Consequently I do not accept that I am bound to reach the same conclusions as the previous reporters.

64. Although several wind farms can be seen from a large part of the wild land area, they do not all have the same effect. To the east and west those wind farms that are visible are in the far distance and from my experience have little impact on the perception of the wild land qualities. The effect depends to a large extent on the proximity of the development to the wild land area itself.

65. The cumulative zone of theoretical visibility shows the proximity of and the extent to which the Limekiln 2 wind farm would be visible from within the wild land area. From this it is reasonable to conclude that there would already be a weakening of the wild land qualities in those areas particularly around viewpoints A, C and D. As a consequence I consider that the ability to perceive the wild land qualities from the wild land would already be diminished due to that change in the baseline.

66. The cumulative zone of theoretical visibility also shows the areas from where the proposed development would be visible. While there is some overlap, there are areas from which the proposed development would be seen but from which the Limekiln 2 wind farm would not. From what I saw and experienced on my site inspection, given the relative remoteness of these areas particularly to the north and in the interior of the wild land area, I consider that these are areas where the wild land qualities are at present well expressed.

67. As some the wild land qualities in parts of the interior would already have been affected by the Limekiln 2 wind farm, in my view these remaining areas not so affected are more vulnerable to further attrition and accordingly they become more important and valuable.

68. From what I saw and experienced on my site inspection, in my view the proposal would be dominant when within the wild land area looking north particularly around viewpoints A, B and D. The horizontal field of view may well have decreased when comparing this scheme with Drum Hollistan 1 wind farm, however in my view that is largely irrelevant. I am not comparing this scheme with what came previously. What is important is the impact of the scheme on the overall perception of the wild land area qualities, the 360 degree experience when within the wild land, which I accept is more than just the visual impact.

69. The Limekiln 2 wind farm would be visible but not always in the same view or at the same time as the proposed development. In any event the Limekiln 2 wind farm would be viewed against the context of the woodland in which it is situated and the backdrop of the Baillie and Forss wind farms. All of these features alter the landscape and its openness, simplicity and perceived naturalness.

70. When looking northwards from within the wild land area towards the site and beyond, the view is vast, open and expansive with a notable lack of prominent man-made features. When within the wild land, it is difficult to perceive scale and distance; the naturalness continues from the wild land area northwards to the site and beyond which gives the feeling that the wild land area is more extensive than it actually is. There is no perceived end to it until the A836 and the coastline beyond.

71. Unlike the views to the west and east, there are very few focal points within this view to the north. I accept that once constructed Dounreay Tri would be visible. Nevertheless the development would introduce a new dominant focal point which in my view would alter the sense of naturalness and remoteness and would foreshorten the scale of the landscape. I consider that in views from some parts of the wild land area the development would look isolated and would therefore attract greater focus due to the simplicity of the wild land area itself. Although the development would have no impact on views to the south, the view to the north offers a different experience given its coastal backdrop.

72. For all these reasons I find that, as the wild land qualities have already been eroded by the approval of the Limekiln 2 wind farm and given the significant impact that the proposal would have on the wild land qualities 1, 2 and 4, the development would have a significant adverse impact on the wild land area which I consider would be unacceptable.

### Benefits of the proposal

73. Chapter 6 of the EIA report contains the results of the carbon assessment based on the carbon calculator. The proposal would have an indicative capacity of up to 35MW. The expected capacity factor is 31% which I understand is representative of the north of Scotland. It is estimated that it would generate around 80 GWh of renewable electricity per year contributing around 0.23% of the 2020 renewable target. It is estimated that as a result of the construction, around 48,000 tonnes of carbon dioxide are likely to be produced however only 17% of this would come from organic carbon losses from peat on the site.

74. As a result of restoration to degraded peat bog, there would be a carbon gain of just over 1,100 tonnes. In addition, the carbon dioxide savings would be in the region of 20,000 tonnes per annum based on the current grid mix which includes nuclear and renewables. Accordingly the expected carbon payback would be 2.3 years. The ratio of carbon emissions to power generation is estimated at 0.025 which I understand is significantly lower than the current grid-mix of 0.4096.

75. The socio-economic benefits are set out in chapter 16 of the EIA report. The appellant estimates that the total capital cost of construction would be in the region of £38.2 million. Assuming 47% of that would be spent in the United Kingdom, 8% of that would be spent in the Highlands and 90% in Scotland. During construction approximately 149 job years would be created at a national level with approximately 102 of these at the regional level. This equates to around 5 direct full-time equivalent jobs per year of the development's lifetime and to a gross value added impact for the Highland region of around £4.2 million.

76. During the operation of the development approximately £1 million would be spent in Scotland with £739,237 in Highland. Having considered these figures I believe that they are slightly higher than would be the case if it is assumed that only 87% of the total operational spend would be in the United Kingdom as suggested at paragraph 16.6.3 of the EIA report. Nevertheless there would be considerable spend in the area.

77. Around 22 job years would be created during the operation; 11.5 in Highland which equates to a total gross value added impact of £468,567. There would be benefits during decommissioning however these would be considerably less. In addition a new visitor car park with electric charging points would be constructed on the site near its entrance from the A836.

78. There would also be a community benefit fund of up to £175,000 distributed to local communities. Separately there would be a shared ownership scheme whereby investors would receive a proportionate share of the wind farm's revenue on investment. I understand that a number of businesses have already entered in to a memoranda of understanding in this regard. However it is recognised in the EIA report that these benefits are not material considerations.

#### Other impacts

79. The EIA report assesses a wide range of other impacts: noise; shadow flicker; ecology; protected species; ornithology; hydrology, hydrogeology and geology; cultural heritage; access, traffic and transport; socio-economics; and communications infrastructure and electromagnetic interference. The council has not founded its refusal on any of these impacts and I note in this regard that there are no outstanding concerns on the part of key agencies, subject to the imposition of appropriate conditions. In addition to those affects relating to landscape and visual impacts and the effects on the wild land area which are considered above, the EIA report identified the following environmental effects.

80. At chapter 8, the EIA report predicts that, subject to the imposition of conditions and the implementation of the mitigation measures, there would be no significant effects due to noise. I note that the council's environmental health department did not object to the scheme subject to conditions on noise limits being imposed. In respect of shadow flicker, chapter 9 finds that no residential properties are within 11 rotor diameters of the proposed wind turbines. Consequently I am satisfied that there are no residential properties that would receive shadow flicker effects from the development.

81. Chapter 10 of the EIA report assesses the impact on ecology. Again subject to the implementation of the mitigation measures secured by way of condition, there would be no significant residual impacts. Similar chapter 11 predicts that there would be no significant residual impacts on any protected species.

82. Chapter 12 of the EIA report assesses the impact on ornithology. This concludes that as there is no connectivity between common scoter and the development there would be no significant impact on the this species and therefore no impact on the Caithness and Sutherland Protection Area. This was the same conclusion that NatureScot reached and therefore they raised no objection on this ground. Nevertheless the RSPB raised the possibility that the common scoter breeding in the special protection area may cross the proposed wind farm site and objected on that basis.

83. The appellant provided supplementary information to support the conclusions of the EIA report however RSPB maintained its position. The appellant offered, if planning

permission was granted, to contribute to a research programme into common scoter movements in and around the special protection area. In response the RSPB requested additional enhancement actions in the Habitat Management Plan and encouraged collaboration with other developers to produce a conservation management programme for the flows population and the funding of a scoter project officer.

84. Although initially the appellant agreed to contribute, it no longer intends to do so. The RSPB in its representation to the appeal did not repeat its request for additional enhancement actions but otherwise it maintained its position. Although NatureScot would be supportive of the appellant contributing toward a scoter management programme and project officer, given the conclusions of the EIA report with which it agreed, it did not consider that it was appropriate to recommend this as a condition.

85. I have considered the EIA report, NatureScot's objection and its further written submission, the appellant's responses to both the RSPB and NatureScot, and the submissions from RSPB. While I acknowledge RSPB's concerns, there is no evidence before me which supports its position or which demonstrates that such a condition is necessary. I therefore accept that there would be no significant impact on the common scoter and no need for additional mitigation measures or funding contributions to be made.

86. The impact on hydrology, hydrogeology and geology is assessed in chapter 13. I note from the EIA report that the construction of turbine 11 and its associated crane pad and some of the track sections would result in significant impacts as would the excavation of peat. However various mitigation and management requirements are identified including the appointment of an ecological clerk of works and the use of a Construction Method Statement and a Construction Environmental Management Plan. In addition specific mitigation to deal with peat slide risk, sediment control and to reduce the impact on ground water dependent terrestrial ecosystem as well as the development of a peat restoration plan has been proposed.

87. I am satisfied that this mitigation could be secured by way of planning conditions which would reduce the significance of the impacts. The mitigation and the terms of the conditions agreed between the council and the appellant would also address the concerns of the Scottish Environment Protection Agency who did not object to the scheme but requested a number of recommended conditions.

88. No predicted residual significant effects are predicted on cultural heritage assets as set out in Chapter 14 of the EIA report. There are no objections from either the council's historic environment team or Historic Environment Scotland.

89. Chapter 15 assesses the impact that the proposal would have on access, traffic and transport. Neither Transport Planning of the council nor Transport Scotland objected to the proposal subject to appropriate planning conditions being attached to any planning permission. During the construction period, there would be a significant percentage increase in HGV traffic particularly at Reay however due to the duration and number of additional overall daily HGV movements on this section of road, only 24 per day at the busiest period during the construction period, the overall impact is considered to be minor.

90. I note that the assessment has been carried out on a worst case basis. Given that Limekiln 2 wind farm has been consented and that, as I saw on my site inspection, construction is underway, I am satisfied that there would be no significant cumulative impacts. In any event mitigation measures, including a Construction Traffic Management Plan, would help to mitigate any impacts.

91. Communications infrastructure and electromagnetic interference are considered in chapter 17 of the EIA report. This concludes that there would be no unacceptable interference to any existing infrastructure, telecommunication services or aviation. Highlands and Islands Airport Limited originally objected to the proposal as it would be within the safeguarded areas for Wick airport. However as it has now begun radar safeguarding at the airport, it has withdrawn its objection.

Compliance with the local development plan (including the criteria in the Onshore Wind Energy Supplementary Guidance)

92. I have not been referred to any specific policies within the Caithness and Sutherland Local Development Plan that are of particular relevance to my consideration of this appeal. I note that the plan recognises that investment in renewable energy generation in north Highland is not only helping to meet council and national climate change targets but it has also delivered economic benefits for the area. Nevertheless it also recognises the importance of the environment and heritage; one of the plan's vision outcomes is that valued assets are safeguarded.

93. The Highland-wide Local Development Plan is more than eight years old. I deal with the consequences of this later in this decision notice. Nevertheless I am satisfied and the parties agree that it remains broadly consistent with the provisions of Scottish Planning Policy. Policy 67 is concerned with renewable energy developments. It supports proposals that are located, sited and designed in such a way that they will not be significantly detrimental overall, either individually or cumulatively with other developments and having regard to any significant effects on 11 specified matters. Such matters include landscape and visual impacts; impacts on natural features; and impacts on amenity.

94. The policy also requires the decision maker to consider the contribution that a scheme would make to meeting renewable energy targets and any likely positive or negative economic effects it is likely to have on the local and national economy. It recognises that all of these considerations require to be balanced. Account should also be taken of any mitigation measures.

95. The Onshore Wind Energy Supplementary Guidance provides additional guidance on the principles set out in policy 67 and replaces the Highland Renewable Energy Strategy referred to in the policy. The supplementary guidance includes a spatial framework which accords with table 1 of Scottish Planning Policy. At section 4 there is a framework for assessing the likely impact of a development based on 10 criteria or thresholds. I note that the guidance makes it clear that these criteria are not absolute requirements. Importantly the guidance is not intended to provide additional policy tests going beyond policy 67 however it assists in the application of policy 67.

96. Policy 67 also provides that the council will assess proposals against other policies of the development plan. In that regard, the council drew my attention to two other more general policies, policy 28 Sustainable Design and policy 57 Natural, Built and Cultural Heritage. I accept that policy 57 insofar as it relates to wild land is relevant however given the publication by NatureScot of its guidance on wild land, I agree with the appellant that it is now largely out of date. As it is agreed that there would not be a significant impact on any special landscape area, I am not persuaded that this policy is relevant in that regard.

97. There is considerable overlap between these more general policies (policies 28 and 57) on the one hand and policy 67, which is so comprehensive, on the other. Accordingly, in my view policy 67 is the most relevant to my consideration of this appeal and is the key



policy, together with the associated supplementary guidance, against which the proposal should be assessed given its specific focus on renewable energy developments.

98. Turning to policy 67 and the factors which require to be considered I find as follows. As summarise above, the proposal would make a contribution to meeting renewable energy generation targets. It would also have a positive effect on both the local and national economy both in terms of jobs creation and added spend. There would also be a reduction in carbon emissions. In addition there would be a shared ownership scheme as well as a community benefit fund estimated to be in the region of £175,000 over the lifetime of the project. However I agree that these benefits are not material considerations.

99. The site lies within a group 2 area of significant protection of the spatial framework of the Onshore Wind Energy Supplementary Guidance due to the presence of peat and carbon rich soils. I am content that given the conclusions of the EIA report, which have not been disputed, there would be no significant residual impact on peat.

100. Turning to the criteria set out in the supplementary guidance, the council and the appellant reach different conclusions as to the degree to which the proposal would meet these criteria. I have carried out my own assessment, drawing on the EIA report and the additional information, the parties' assessments against the criteria, my site inspections, and my analysis of the landscape and visual effects which are set out above.

101. Criterion 1 requires the relationship between settlements/key locations and the wider landscape to be respected. Development should seek to achieve a threshold where turbines are not visually prominent in the majority of views within or from settlements/key locations or from the majority of its access routes. The impact on the closest settlement, the village of Reay, is set out above. Although I do not consider that the village could be described as being encircled, I accept that that may be the perception of those living there. In any event, as set out above, the turbines would be visually prominent from the church and the golf course, both of which in my view are key locations within the village. In addition they would be visually prominent from its access routes.

102. In addition to Reay, Melvich is approximately 3 kilometres to the west, Portskerra 4 kilometres and Strathy approximately 7.8 kilometres. All lie on the north coast and are accessed from the A836. From what I saw on my site inspections, although the development would be visible from these settlements, given the open views, and that only the hubs and the blades of the turbines would be visible, I do not consider that the development would be visually prominent for the reasons set out above. Nevertheless I consider that given the significant visual impact on Reay, which is the closest settlement, overall the proposal would fail to meet the threshold of criterion 1.

103. Criterion 2 requires that key gateway locations and routes are respected. Turbines should not overwhelm or detract from landscape characteristics that contribute to the distinctive transitional experience at key gateway locations and routes. For the reasons set out in paragraphs 15-18 above, I find that although the proposal would be visible along the North Coast 500 tourist route, the proposal would meet criterion 2.

104. In terms of criterion 3 valued natural and cultural landmarks require to be respected. The development should not by its presence diminish the prominence of the landmark or disrupt its relationship to its setting. I have dealt with the effects on the wild land qualities and the wild land area above.

105. Beinn Ratha is a local landmark. From viewpoint 8 (Beinn Ratha) looking north, I consider that the turbines would dominate the open landscape, detract from the feeling of remoteness and disrupt its setting. In views to Beinn Ratha, I consider that the turbines would also adversely affect its setting and, due to their height and proportions would also diminish its prominence.

106. Concerns were raised by the council and Caithness West Community Council that the development would have an adverse impact on the setting of the Lone Mountains. Although the turbines would be visible in the views to the Lone Mountains, I consider that distance would have a diminishing effect. Nevertheless taking all this together due to the impact on both the wild land area and Beinn Ratha, I conclude that criterion 3 would not be met.

107. There is a degree of overlap between criteria 4 and 5. Criterion 4 relates to the amenity of key recreational routes and ways. These should not be overwhelmed. The turbines should not otherwise significantly detract from the visual appeal of key routes and ways. Criterion 5 relates to the amenity of transport routes, including tourist routes, rail and ferry routes and local road access.

108. I do not think that the turbines would overwhelm the route until perhaps one is in close proximity to them and even then only for a short period. From the layby at Drum Hollistan, which seems to be a popular location for tourists to stop and take in the views along the coastline and to Orkney beyond, the wind farm would not be visible as it would be behind the layby.

109. The zone of theoretical visibility demonstrates that the development would be visible for almost the entire journey along the A836 (which is both a local road and a tourist route) from the east from the Hill of Forss to Portskerra. There would be pockets where there would be no visibility due to the landform but these are limited. Accordingly in my view there would be a significant sequential visual impact when travelling along the route.

110. There would be an impact on the core path to the foot of Beinn Ratha (viewpoint 7 (footpath to Achins)). The landform would provide some screening but this is limited given the height and proportions of the proposed turbines and the wind farm would still be visible at close range. There is an overhead line that crosses a section of the core path however I am not convinced that it would lessen the impact. It is suggested that the development may only be visible for a short time but from my experience on my site inspection I am not convinced that would be the case.

111. Given its proximity to the path, even if it is was not visible in the primary view, it would still be dominant and those on the core path would be very aware of its presence. I accept that this would be a localised impact nevertheless I recognise that this core path is an important amenity to local residents. There would be no impact on rail or ferry routes. Accordingly when taking all of the above together, I conclude that there would be significant visual impacts on key routes and ways. Whether that would detract from the visual appeal and amenity of these routes is questionable given the different users. Therefore it is difficult to conclude whether criterion 4 and criterion 5 would be met.

112. Criterion 6 requires new developments to respect the existing pattern of wind energy development. Various considerations are set out. The development should seek to contribute positively to the existing pattern or objectives for development in the area. Criterion 7 deals with the need to respect separation between developments and/or clusters. Proposals should maintain an appropriate and effective separation.

113. There are a number of other wind farms within visual proximity to the proposed development which are of differing scales, in terms of the number of turbines, their height and their proportions. The turbines would have different proportions to those already erected due to the length of the blades and consequential rotor diameter.

114. The development would be in an area where there are currently no turbines; in effect as stated above, they would fill a gap in the view as illustrated for example from viewpoint 1 (9A836 Forss), viewpoint 2 (A836 Dounreay), viewpoint 8 (Beinn Ratha), viewpoint 11 (Shebster) and viewpoint 14 (Lieuraray). Although in some views the development would be seen in the context of other wind farms particularly the Limekiln 2 and Baillie wind farms, in others it would appear isolated. Due to the design and proportions of the turbines in my view the development would appear standalone and separate from existing wind farm developments rather than a continuation of the existing pattern of development. Accordingly I find that it would not contribute positively to the existing pattern of development.

115. There seems to be tension between criterion 7 and the Caithness and Sutherland Landscape Sensitivity Study which suggests that development in this landscape character type should be related to existing clusters of development. From the visualisations and from what I saw on my site inspection I do not think that overall the development would relate well to existing or consented wind farms. The separation, which would lead to significant visual impacts from some viewpoints, would not in my view be appropriate. As such I conclude that the development would fail both these criteria.

116. Criterion 8 requires that the perception of landscape scale and distance is respected. As I have concluded above, the turbines would create a new focal point and thus they would alter the perception of the extent of the wildland and the perception of distance. This is illustrated in the visualisations for viewpoints 3 (A836 Reay Church), 4 (Drum Hollistan layby), 8 (Beinn Ratha) and 11 (Shebster). The proportions of the proposed turbines would diminish the vastness of the landscape. For these reasons I conclude that the development would not meet this criterion.

117. Criterion 9 requires that the landscape setting of nearby wind energy developments is respected. Developments should relate well to the existing landscape setting and should not increase the perceived visual prominence of surrounding wind turbines. From the visualisations I do not consider that there would be an impact on the landscape setting of other wind farms in the area. Nor in my view would it increase the perceived visual prominence of the turbines. I therefore find that the development would meet this criteria.

118. Criterion 10 requires that the distinctiveness of the landscape character is respected. The integrity and variety of the landscape character areas should be maintained. The development would become a significant characteristic within the sweeping moorland and flows landscape character type particularly within 2 kilometres of the site. Nevertheless I consider that that landscape character type would still be distinguishable from neighbouring landscape character types. I have set out above my views on the impact on the transitional area. Taking this all together I consider that this criteria would be met.

### Conclusions on the development plan

119. I have considered the environmental effects of the proposed development above, which includes those factors listed in policy 67. Supported by the conclusions of my assessment against the criteria in the Onshore Wind Energy Supplementary Guidance set out above, I conclude that there would be significant landscape and visual effects. There

would also be significant adverse effects on the wild land qualities which would have an unacceptable impact on the wild land area. Taking account of the mitigation measures proposed, I accept that no other significant adverse effects are predicted.

120. I have summarised the benefits at paragraph 98 above. The proposals would make a contribution to meeting renewable energy generation targets but in my view this contribution would be relatively small. Balancing the significant impacts against the benefits of the scheme, I do not consider that the benefits would outweigh them. Further given the significant adverse effects, I conclude that the development would not be located, sited and designed such that it would not be significantly detrimental overall. Bringing all this together, I find that the proposal would be contrary to policy 67.

### Material considerations

#### Energy policy

121. The parties are agreed on the key renewable energy policy documents that are material considerations. These are set out in the statement of agreed matters. I accept that the proposal would draw broad support from these policies. I also accept that the Scottish Government's targets as expressed in the policy documents do not set any ceiling or cap. Further the parties agreed and I accept that the climate emergency declaration is not reflected in current policy or the development plan and is therefore a material consideration.

122. The Scottish Government published 'Onshore Wind Policy Statement Refresh 2021: Consultative Draft' in October 2021. While this reaffirms support for onshore wind, there is a clear recognition that the move to net zero needs to be taken forward whilst protecting natural heritage, native flora and fauna. However this document is a consultative draft and may change. Therefore I attribute less importance to this document.

#### National Planning Policy

123. The National Planning Framework 3 is supportive of renewable energy development but is also concerned with supporting development in the right locations. In November 2021, the Scottish Government published a consultative draft of 'Scotland 2045 - Our Fourth National Planning Framework'. As with existing national policy there is strong support for onshore wind developments in appropriate locations.

124. It states that additional renewable energy generation is fundamental to achieving a net zero economy. The council drew my attention to the confirmation within the document that significant weight should be given to the global climate emergency. I agree that there is inherent support for the development from this aspect of the document.

125. However I note the terms of policy 19 which sets out detailed proposals for green energy. Importantly it states that development proposals should be supported unless the impacts (including cumulative impacts) are unacceptable. In addition, the draft also highlights a number of matters which must be taken into account in reaching a determination on an application for renewable energy. This largely reflects the existing considerations set out at paragraph 169 of Scottish Planning Policy which I deal with below.

126. I am mindful that this draft document has been the subject of public consultation and will be subject to parliamentary scrutiny. It may be subject to change prior to its formal approval. While I consider that the overall direction is unlikely to change between the draft

and finalised version, the precise policy wording is yet to be finalised. As it is a consultative draft the weight that I attach to it is limited and certainly it cannot be given greater weight than extant Scottish Government policy.

### Scottish Planning Policy

127. Scottish Planning Policy contains a presumption in favour of development that contributes to sustainable development. However I note that paragraph 28 of Scottish Planning Policy makes it clear that the aim is to achieve the right development in the right place and not simply to allow development at any cost.

128. Paragraph 33 states that where the relevant policies in a development plan are out of date, this presumption will be a significant material consideration. This principle also applies where a development plan is more than five years old, which is the case here. Therefore I find that paragraph 33 is engaged and consequently I need to take in to account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in the Scottish Planning Policy.

129. Paragraph 29 sets out the principles to be considered in determining whether a development meets the definition of sustainable development. Having considered these principles, in so far as these are relevant, I find as follows:-

- the development would create economic benefits in terms of construction investment and employment. There would also be economic benefits during the operation of the wind farm and during decommissioning albeit these would be on a lesser scale.
- in terms of responding to economic issues, challenges and opportunities, neither party has drawn my attention to a local economic strategy. However as I mentioned above, the Caithness and Sutherland Local Development Plan recognises that wind farm development to date has delivered economic benefits to the area. It does not however quantify these. Nevertheless, there is no evidence before me to suggest that this development would respond to specific local economic issues and challenges.
- although the principle of supporting the six qualities of successful places is largely irrelevant given the type of development, from my conclusions above, in my opinion the proposed design and layout would have significant landscape and visual impacts as well as an unacceptable impact on the wild land area. These impacts could not be mitigated.
- no existing capacities of land, buildings and infrastructure would be used.
- the proposal would not support the delivery of accessible housing, business, retailing and leisure development.
- similarly, other than providing a car park with electric charging points, there is no evidence to suggest that it would support the delivery of infrastructure.
- clearly the generation and delivery of renewable energy would support climate change mitigation. There would be no significant flood risk as a result of the development.
- there is no evidence to demonstrate that it would improve health and well-being.

- the proposal would have significant impact on the wild land qualities and consequently it would have an unacceptable impact on the wild land area..
- although there would be no significant impact on cultural heritage assets, in my view the development would not protect, enhance or promote access to cultural heritage.
- it would not protect, enhance or promote access to natural heritage primarily given the impact on the wild land area.
- it would not help to reduce waste.
- as set out above there would be a significant impact on the village of Reay. Accordingly I cannot reasonable conclude that it would protect the amenity of existing development. From the EIA report, I accept that there would be no significant impacts on water, air or soil quality.

130. Given the nature of the development, I acknowledge that not all of the principles are directly relevant. Nevertheless having taken that into account, I find that other than generating renewable energy, the development would not in my view meet the definition of sustainable development.

131. Scottish Planning Policy also sets out guidance on onshore wind developments including a spatial framework, which is reflected in the Onshore Wind Energy Supplementary Guidance. Overall the policy is generally supportive of renewable energy development subject to detailed consideration against identified policy criteria.

132. The site falls within group 2 which recognises that in these areas wind farms may be appropriate in some circumstances. Although it is within group 2, it is outwith the wild land area and the EIA report concludes that there would not be a significant residual impact on carbon rich soils, deep peat or priority peatland habitat.

133. Paragraph 169 identifies the likely factors to be considered when assessing renewable energy proposals. There is some overlap with the sustainability principles at paragraph 29 however the ones in paragraph 169 are specific to renewable energy proposals and have more direct relevance. Having regard to these I find as follows:-

- as set out above, there would be economic benefits. The proposed development would create jobs both at a national and local level during construction and to a lesser degree operation and decommissioning.
- as summarised above, the proposal would have an installed generating capacity of up to 35MW with a generation of around 80 GWh of renewable electricity per year. There would be an annual saving in the region of 20,000 tonnes of carbon dioxide per year.
- there would be impacts on the wild land area qualities which I consider would have an unacceptable impact on the wild land area.
- there would be a significant impact on the village of Reay due to the visual impact of the development however I do not consider that effect on residential amenity would be such as to render any of the properties as unattractive or an unsatisfactory place to live. There would be no significant noise impact nor shadow flicker.

- the landscape and visual impacts are dealt with above as are the impacts on wild land. I have found that there would be significant landscape and visual impacts and an unacceptable impact on the wild land area.
- there would be no significant effects on natural heritage, including birds. NatureScot did not object on that basis. A habitats regulation assessment was carried out and this concluded that there would be no significant effects. Both the council and NatureScot carried out an appropriate assessment and agreed with this conclusion. Had I been minded to grant the appeal I would have been required to carry out my own appropriate assessment of the proposals. The RSPB did have an objection due to the impact on birds and I have commented on that above at paragraphs 82-85.
- it is estimated that as a result of the construction, around 48,000 tonnes of carbon dioxide is likely to be produced however only 17% of this would come from organic carbon losses from peat on the site. As a result of restoration to degraded peat bog, there would be a carbon gain of just over 1,100 tonnes.
- there would be a sequential visual impact on travellers on the North Coast 500 route and the National Cycle Network Route as set out above. Similarly there would be a localised visual impact on those using the core path to the foot of Beinn Ratha. However I do not consider that the impact would be so significant as to deter tourists and locals from using these routes. Further public access to these routes would not be prevented or restricted.
- there would be no significant impact on the historic environment. Historic Environment Scotland has not objected to the proposal.
- I do not consider that the effects of the development would deter tourists from visiting the area or from using the North Coast 500. As set out above, I accept the assessment in chapter 16 of the EIA report that there would not be a significant impact on tourism and recreation. The appellant would also create a car park with electric charging points which would be of benefit to both tourists and locals alike.
- there would be no impact on aviation and defence interests and seismological recording. There is no objection from Highlands and Islands Airport Ltd. Further there is no objection from the Ministry of Defence, subject to the imposition of conditions. There would be no impact on telecommunications and broadcasting installations
- there would be no significant impact on road traffic or on any adjacent trunk roads. Any issues could be dealt with by condition.
- no significant effects on hydrology, the water environment or flood risk are predicted.
- conditions have been agreed between the parties to address decommissioning and site restoration. No planning obligation would be required.
- the development would not include opportunities for energy storage.

134. Taking all this together, I find that the proposal would make a positive contribution to the generation of renewable energy and would contribute to the reduction of greenhouse gas emissions. It would make a positive contribution towards meeting net zero targets and contribute to the local economy. However this is a relatively small contribution which, on

balance, in my view is not great enough to outweigh the significant landscape and visual impacts and the significant impact on the wild land area qualities which would have an unacceptable impact on the wild land area.

### The previous reporters' findings

135. The findings of the previous reporters in respect of the section 36 application for Drum Hollistan 1 wind farm are material considerations. I have had regard to these. As I stated as paragraph 7 above, I am not comparing this scheme with that came before and reaching a view as to which one is better. The current proposal must be assessed on its own merits. However like cases should be decided alike unless reasons are given.

136. It is arguable whether in fact this case and the previous Drum Hollistan 1 wind farm application are like cases. There are material differences between the two which I consider justify the different conclusions I have reached. First as I mention at paragraph 8, the decision making framework differs in this case. As this is an application for planning permission, the development plan has primacy. My assessment against the relevant policy of the development plan is set out above. Although the previous reporters did consider policy 67, it was a material consideration only.

137. Secondly the turbines would be taller and the blades would be longer giving a bigger rotor diameter. These changes to the turbine design change the potential effect of the scheme as evidenced when comparing the visualisations for both schemes. In my view this would make the turbines more prominent and more visible in some views; they each effectively would take up or fill more of the sky. There would be less turbines however they would appear more isolated as a result and overall there would be less cohesion with other wind farm developments.

138. I agree with the council and NatureScot that less turbines do not necessarily mean that there would be less significant impacts or significant impacts that would be acceptable. I accept that broadly the horizontal field of view would be less but again in my view it does not follow as a consequence of that, that the impacts would be less significant or more acceptable. My analysis and my reasoning for concluding that there would be significant landscape and visual impacts is set out in detail above.

139. Thirdly the consenting of the Limekiln 2 wind farm changes the baseline when considering the effect on the wild land area I have set out my analysis and reasoning above at paragraphs 58-72. I appreciate that previously the impacts on the wild land were not a reason for refusal. However in my view the changes to the baseline and my reasoning above support and justify my conclusion.

### Overall conclusions

140. Notwithstanding the age of the Highland Wide local development plan this is still the relevant development plan for consideration of the proposal. Whilst this is supportive of renewable energy developments, this support is not unqualified; proposals should not be significantly detrimental overall (either individually or cumulatively) with other developments.

141. I acknowledge that there has been a declaration of a climate emergency. The development plan pre-dates this as does the National Planning Framework 3 and Scottish Planning Policy. The climate change emergency is however reflected in the draft National Planning Framework 4 and the consultative draft onshore wind policy statement.



142. I have given careful thought to the climate emergency declaration and the clear drive towards a net zero 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. Indeed it is clear that even given the climate emergency declaration there is a recognition that additional capacity is not at any cost.

143. The proposal would provide a contribution towards meeting renewable energy generation targets and would contribute to the local economy. However it is a relatively small contribution. Taking all of the benefits together I am not persuaded that they are so great that they would outweigh the significant landscape and visual effects and the impact on the wild land area. In my view, these significant negative effects would outweigh the relatively small benefits of the scheme.

144. Bringing that all together, for the reasons set out above, I have found that the proposal does not accord overall with the relevant provisions of the development plan. I have dealt with the material considerations above. For the reasons given, I conclude that there are no material considerations which would still justify the granting of planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Trudi Craggs*

Reporter

### **Schedule 1: 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 2: 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 includes details of the pre-application consultation undertaken in respect of the Drum Hollistan 1 application as well as the proposed development. This indicates that three public exhibitions were held at Reay Village Hall on 17 December 2015, 12 May 2016 and 28 November 2019. The first two events focused on Drum Hollistan 1 and the latter on the current proposal.

- these exhibitions were advertised in both the John O'Groats Journal on 4 December 2015, 29 April 2016 and 15 November 2019 and in the Caithness Courier on 9 December 2015, 4 May 2016 and 13 November 2019. Details of a website where the plans and a contact form could be found were included in the advert. The public had an opportunity to comment to the appellant on the proposed development either in person at the public exhibition or in writing;
- an advertisement of the application in the Edinburgh Gazette dated 21 February 2020 has been provided. It advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report;
- the planning authority received 165 public representations in respect of the application;
- supplementary information was submitted to the council in response to the RSPB and the RSPB had an opportunity to respond to that information;
- those who made representations upon the application have been treated as interested parties in the appeal. They were notified of the appeal and have had the opportunity to take part in the appeal process. A pre examination meeting was held on 13 May 2021. All of the interested parties were notified of this meeting, invited to attend and asked to confirm whether they wished to take part in any future procedures. In addition the council and NatureScot both the Caithness West Community Council and RAWOG indicated that they wished to be involved.
- additional information was submitted to me on 21 July 2021 in connection with the hearing sessions. As regulation 27(2) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 applied legally no further publicity was required. The information was published on the DPEA website and those parties who had indicated that they wished to take part in the hearing sessions were given an opportunity to comment on that addition information.
- The council, NatureScot, Caithness West Community Council and RAWOG all submitted written evidence in advance of the oral sessions and gave oral evidence at the hearing sessions. Due to restrictions put in place to mitigation the effects of covid-19 and to accommodate the various witnesses for the parties, one of the sessions was held in person and one was held virtually. The number of attendees at the public session had to be carefully managed. All of the interested parties were notified of and invited to the in person session. Some attended. The virtual session was broadcast live and a link was provided to those who wanted to observe the proceedings.