



Appeal Decision Notice – EIA Development

Decision by David Buylla, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2293
- Site address: land 350m south of Fearn Aerodrome, Fearn IV20 1XY
- Appeal by Acorn Bioenergy against the decision by the Highland Council
- Application for planning permission 22/05178/FUL dated 3 November 2022 refused by notice dated 2 November 2023
- The development proposed: erection and operation of an anaerobic digestion plant and ancillary infrastructure
- Application drawings: listed in schedule 3 to this notice.
- Date of site visit by Reporter: 15 November 2024

Date of appeal decision: 9 May 2025

Decision

I allow the appeal and grant planning permission subject to the 17 conditions listed at the end of the decision notice. Attention is drawn to the 5 advisory notes at the end of the notice.

Environmental impact assessment

The proposed development is described as above, and at Chapter 3 of the EIA report. It is EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the 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 15 November 2024;
- consultation responses from SEPA, Historic Environment Scotland, NatureScot, NATS safeguarding, the Defence Infrastructure Organisation; and
- representations from members of the public.

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 4 below. My conclusions on the significant environmental effects of the proposal are set out at paragraphs 19 to 222 below.

It has been argued by an objector to the proposal that, because the appeal proposal would form part of what has been described by the appellant as a “hub and spoke” arrangement, where multiple anaerobic digestion (AD) plants feed a single gas grid injection point at Morayston near Inverness, the “project” in EIA terms, is the entirety of the hub and spoke

system including all proposed AD plants and the grid injection point. The objector argues that separating the appeal proposal from the remainder of the hub and spoke system was an attempt to circumvent the EIA regulations by sub-dividing what is, in reality, a single project.

That argument was made in the context of the planning application for the proposed development having been submitted without an accompanying EIA report and the planning authority's acceptance that the proposal was not EIA development. That position was altered by my determination, via an EIA screening direction dated 7 March 2024, that the appeal proposal is EIA development, and by the subsequent submission of an EIA report for the appeal proposal.

I have considered whether an assessment of the environmental effects of the appeal proposal independently of other elements of the hub and spoke system would be incompatible with the EIA regulations.

With regard to the other AD plants that the appellant proposes to develop (the other spokes of the hub and spoke system), I conclude that there is no evidence to suggest they are one project. The appeal proposal, as described by the appellant, would operate entirely independently of any other AD plant, receiving its own separate local feedstock stream and producing its own outputs (biomethane, carbon dioxide and digestate) with no involvement or interaction with any other AD plant. It would then send those outputs either to the gas grid injection "hub" in the case of the biomethane or to other locations, probably including, in the case of the digestate, the farms that contributed to the feedstock supply.

Turning to the grid injection point (the hub in the hub and spoke system), in order to assess whether the appeal proposal and the grid injection point constitute a single project in EIA terms, I consider it necessary to consider the degree of connection between the two.

I understand that the grid injection point and the proposed AD plant would be in the same ownership. However, I do not regard that factor, on its own, as confirmation that they constitute a single project.

The grid injection point, which is not merely intended to serve the appeal proposal, but to inject into the gas grid, biomethane from a range of sources, was submitted as a separate planning proposal to the planning authority and was granted planning permission in 2022. The planning authority will have assessed the environmental effects of that project before resolving to grant planning permission.

The digestate and carbon dioxide that the appeal site would produce (the latter constituting approximately 45% of the biogas stream) would have no functional connection with the grid injection point, as they would not be sent there. In contrast, the site's biomethane output would have a functional connection with the grid injector, as (although it could be used in a range of other ways) it is proposed to be sent there in order to inject it into the gas grid.

Bearing the above in mind, I find there is some degree of functional connection between the appeal proposal and the gas grid injection hub. However, the proposed AD plant and grid injection point could (and in the case of the carbon dioxide and digestate outputs from the appeal site, would) operate independently and I do not consider it reasonable to describe them as functionally interdependent.

The appeal site and grid injection point are distant from one another (the journey between the two by road being around 64km). In accordance with the screening direction, the EIA report for the appeal proposal considered the environmental effect (in terms of traffic, noise and climate changing emissions) of vehicles making that journey. Therefore, even if the appeal proposal and the gas grid injection point had been a single project, all potentially significant cumulative or in-combination effects (along with all potentially significant effects of the appeal proposal on its own) have been included within the EIA report.

Taking all factors into account, I am satisfied that the manner in which the appellant has assessed the appeal proposal's environmental effects is in accordance with the EIA regulations.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the fourth National Planning Framework (NPF4), the Inner Moray Firth Local Development Plan 2 2024 (the IMFLDP2) and the Highland Wide Local Development Plan 2015 (the HWLDP).

2. Having regard to the provisions of the development plan, the main issues in this appeal are

- Whether the appeal site is, in principle, a suitable location for the proposed development.
- Effects on climate and the water environment
- Noise effects
- Air quality, odour and bioaerosols
- Traffic effects
- Effects on airfield safety
- Effects on cultural heritage
- Socio-economic effects

3. The 7.07 hectare appeal site was once part of the RNAS Fearn Aerodrome, a World War II base, but has more recently been used for agriculture. It is proposed to construct and operate an anaerobic digestion (AD) plant producing biomethane and carbon dioxide from a range of feedstocks including crops grown for that purpose, and waste and residual material such as manures and distillery by-products.

4. Biomethane would be exported from the site by road to a gas grid injection point at Morayston near Inverness. Carbon Dioxide would also be exported by road for use in other industries. Digestate, which is the solid and liquid material produced by the digestion process, which can be used as a fertilizer, would also be exported from the site by road.

The principle of development

5. Other than questioning the proximity of the site to Easter Airfield, which is a matter I discuss later in this notice, the planning authority has not objected to the principle of developing an AD plant in this rural location. I note that it has permitted other business / industrial developments on unallocated land in the locality, including a significant whisky storage facility on the opposite side of the former aerodrome.

6. Since the application was refused planning permission, the IMFLDP2 has been adopted, which states that it takes a more focussed approach to decisions on where future development should occur, rather than accepting a more organic pattern of growth as was the case with the previous iteration of that plan. However, the planning authority has not suggested that, as a consequence of this change to the development plan, the suitability of the appeal site for the proposed development in principle, has altered.

7. The IMFLDP2 directs development to the most economically viable and environmentally sustainable places in accordance with a settlement hierarchy. However, it does not prohibit development in the countryside or on unallocated land.

8. Policy 7 of the IMFLDP2 offers support to proposals for new industrial development on unallocated land if it can be demonstrated that it is a sustainable location and accords with other relevant policies. Key policy issues include whether the location has the potential to support sustainable travel, whether the proposal would adversely impact the amenity of neighbouring properties and whether it would adversely impact the environment.

9. The site is not close to any significant centres of population and there is no public transport accessibility or any reasonable prospect that employees would access the site by non-motorised means. Its remoteness from the grid injection point at Morayston would also necessitate road transportation of the site's biomethane output, which could have been significantly reduced had the site been situated closer to that facility. At first glance, these factors do not support a conclusion that the appeal site is in a sustainable location or that the proposal has the potential to support sustainable travel.

10. However, any assessment of compliance with these requirements needs to have regard to the specific characteristics of what is proposed. I agree with the appellant that the nature of the feedstocks, which would include agricultural waste products as well as crops grown specifically for digestion, suggest the plant should be in a rural location. And the EIA report has identified potential sources of such supply within a short travel distance of the site. The potential for the use to generate odours and some heavy vehicle movements (including tractors) also suggests that the proposed use is more suited to being located away from centres of population. I also note that the reasoned justification for IMFLDP2 policy 7 identifies a "fundamental shortfall" in industrial land in and around Inverness. Against that background, I can accept that this is a sustainable location for the proposed development.

11. I consider whether the proposal would adversely impact the amenity of neighbouring properties and whether it would adversely impact the environment, later in this notice.

12. Policy 41 of the HWLDP also offers support in principle to proposals for business and industrial development on unallocated sites. This is subject to it being demonstrated that the land requirement is from an emerging industry with uncertain size and locational characteristics or another unforeseen element to the requirement. In such circumstances, developers must demonstrate that their proposals cannot reasonably be accommodated on existing allocated industrial and business sites.

13. I am satisfied that the proposal has unique siting requirements that were never likely to be addressed in a general policy such as IMFLDP2 policy 7. The appellant has explained how health and safety legislation requires the site to have a minimum size and to incorporate specific design requirements, and how this made it impossible for it to be accommodated within the nearby (previously LDP-allocated) Fearn Drome Industrial Estate. It has not been suggested that there is a specific allocated industrial site to which this

development would be better suited, and given the acknowledged shortfall in the supply of such land, it seems unlikely that such a site could be found. Objectors have suggested other land, which they argue would be better suited to the proposal. However, none of those sites have any preferred policy status in comparison with the appeal site. Therefore, the appellant is under no obligation to favour them. I am satisfied that the EIA report addresses the requirement of Schedule 4 to the EIA regulations to describe the reasonable alternatives to the proposal that were studied and the appellant's main reasons for selecting the chosen option.

14. Policy 26 d) of NPF4 requires proposals for industrial and similar uses outwith areas identified for those uses in the LDP, to demonstrate that there are no suitable alternatives allocated in the LDP and that the nature and scale of what is proposed would be compatible with the surrounding area. For the reasons stated above, I am satisfied that there are no suitable alternatives allocated in the LDP. I consider the proposal's compatibility with nearby land uses, along with other requirements of the policy, later in this notice.

15. NPF4 policy 11 part a) states "*proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported.*" It then introduces a list of seven types of technology with the phrase "*These include:*" This wording persuades me that, contrary to the claim of several objectors to the proposal, the list of renewable energy development proposals to which policy 11 offers support, is not exhaustive. As a form of renewable low-carbon energy generation, an AD plant qualifies for in-principle support from NPF4 policy 11. Whether it satisfies all of the expectations of that policy requires an assessment of its likely effects on a range of interests, which I consider later in this notice.

16. HWLDP Policy 67 is also supportive, in principle of renewable energy proposals. Among many other considerations, which I discuss later in this notice, it confirms that such proposals should be close to the source of the primary renewable resources that are needed for their operation. For reasons set out above and later in this notice, I accept that this is the case with the appeal site.

17. The site is categorised as prime agricultural land. NPF4 policy 5 b) only permits such land to be developed in certain circumstances. These include (among others): the provision of essential infrastructure where there is no other suitable site; and the generation of energy from renewable sources where there is secure provision for restoration. In all cases, the layout must minimise the level of land take. I am satisfied that the proposal is supported in these terms, subject to site restoration being secured by a planning condition.

18. Taking all factors into account, subject to the proposal having acceptable effects on the environment and on amenity, which I discuss below, I find the principle of developing an AD plant in this location to be in accordance with the development plan.

Effects on climate and the water environment

19. Chapter 8 of the EIA report considered these issues.

Climate effects

20. The proposed plant would produce biomethane and carbon dioxide utilising approximately 110,000 tonnes of feedstocks per annum comprising locally sourced crops, manures, slurries, and distillery by-products (draff and pot ale).

21. Methane and carbon dioxide are climate changing gases. However, the formation of this methane (known as biomethane to reflect the method of its production and to differentiate it from the fossil fuel) is an ongoing process rather than one that took place millions of years ago. Therefore, it is appropriate to take account of the carbon dioxide that is removed from the environment during that process in order to calculate the net effect.

22. Once the biomethane from the proposed plant was burned, it would release carbon dioxide. However, the crops that were grown as feedstock for the digester and the barley that was used in the distillery process to generate the draff and pot ale, would have removed this carbon dioxide from the atmosphere (within the previous 24 months). The distillery by-products would have released carbon dioxide in any event had that material been used as animal feed instead of being utilised by the proposed plant. And the manure would also have emitted methane had it been spread on the land.

23. As such, the produced biomethane would not increase levels of atmospheric carbon dioxide and would not therefore contribute to climate change. The proposed plant would generate enough biomethane to heat 8,000 homes per annum. It is predicted that, if the biomethane generated by the proposed plant displaced conventionally sourced gas, this would have positive climate change consequences.

24. The plant would produce digestate, which is the remaining undigested carbon compounds from the feedstock. This can be used as fertiliser and, if used in place of a conventionally manufactured product, could deliver a further carbon saving, as it would avoid the greenhouse gas emissions that would otherwise have arisen in the production of commercial fertiliser.

25. In addition to biomethane, the proposed plant would produce significant quantities of carbon dioxide (approximately 45% of the biogas stream). This would be processed on site to food and beverage grade and liquified for onward distribution.

26. As with the biomethane, this carbon dioxide (having been removed from the atmosphere within the preceding 24 months) would, upon release to the atmosphere, be carbon neutral. If it replaced sources of carbon dioxide whose manufacture relied upon the consumption of fossil fuels then this would represent a reduction in carbon dioxide emissions. The EIA report confirms the appellant's aim to produce approximately 14,000 tonnes of carbon dioxide per annum, which would be the equivalent of around 5.5% of the quantity of carbon dioxide that is currently imported into the UK.

27. The application details refer to the possibility of carbon dioxide being vented to the atmosphere. However, the EIA report confirms that this would not be in the appellant's commercial interest and would only occur during emergency or maintenance scenarios. It is not expected to involve more than 7.5% of the site's carbon dioxide output. In any event, for the reasons previously stated, I accept that this venting process would be carbon neutral. The loss of the potential to displace carbon dioxide that was derived from, or produced using, fossil fuels that would arise from such venting would represent a slight reduction in the positive climate consequence of such displacement, but would not constitute a negative effect on the climate. And even in the unlikely event that all of the carbon dioxide produced by the digestion process were vented, the plant has been calculated to have a high negative carbon balance of -478,995 tonnes of CO₂ equivalent over its anticipated 25 year lifetime.

28. If, instead of being used, the carbon dioxide were permanently stored, then the effect would be carbon negative – theoretically helping to reverse the global warming process.

However, I have given no weight to the possibility that the carbon dioxide produced by the plant would be sequestered in that way, as such technology remains at the research stage and the appellant's interest in becoming involved in the development of this process appears not to have been formalised.

29. Objectors to the proposal question whether there would be sufficient local supply of feedstocks and if not, whether this would undermine the appellant's conclusions on the proposal's climate effects. The EIA scoping direction specified that, given the apparent uncertainty over the geographical sources of inputs, the EIA report should adopt a reasonable worst case scenario to its modelling of feedstock inputs. The appellant contends that there is, in fact, some certainty over feedstock supplies but that commercial sensitivity prevents details being finalised or publicised.

30. It is a requirement of the Renewable Heat Incentive Scheme Regulations 2018 (the RHI) that 50% of the biogas is produced from waste or residue. Subject to that restriction, the operator of the proposed plant would have flexibility in the composition of the feedstock and is confident in the availability of local sources.

31. Straw is categorised as a residue so is likely to form an important element of the plant's feedstock. The EIA report advises that 30% of the plant's straw requirement has been identified at an average distance of under 2.4km from the site and the appellant contends that, as there is a surplus of straw supply in the locality, it does not envisage any difficulty in sourcing all of the requirement locally.

32. The National Farmers Union of Scotland (Highland Region) (the NFUS) disputes that there is a surplus supply of straw in the north of Scotland (rather than in Scotland as a whole). However, the EIA report cites a Scottish Government commissioned report from 2017/18, which showed a straw surplus in north east Scotland and also refers to a published account from a Black Isle farmer from 2021 which refers to straw being increasingly in surplus in the area. While neither of these sources is current (and straw availability is influenced by weather conditions at harvest time which will vary from year to year and region to region), no evidence has been provided to counteract the appellant's position that fewer cattle are being raised in the locality and that, as a consequence, the demand for straw locally has diminished. The appellant's proposal to offer local arable farmers digestate in exchange for straw could, in my view, plausibly provide an attractive alternative to exporting the straw from the local area to locations of higher demand, thereby ensuring sufficient supply for the digestion process. Avoiding longer distance transportation of straw would potentially offer some vehicle emissions savings, although these are impossible to quantify from the available evidence.

33. Local sources for all of the required manure feedstock have been identified. Manure is categorised as a waste product so again, is likely to be an important component of the feedstock. The average transport distance for farmyard manure would be 5.3km, 10.5km for pig slurry and 5.3km for poultry manure. The appellant points out that any slight adverse environmental impact (in terms of vehicle emissions) in moving such feedstocks from farm to the plant would be more than offset by the much higher standard of manure storage that the plant would offer (when compared with typical on-farm facilities), which would contain emissions of methane and ammonia and avoid the risk of run-off from older manure stores. There is no evidence to refute these conclusions and I accept them.

34. Draff and pot ale (which are categorised as either a residue or waste product depending on various considerations including supply and demand) would be a further important component of the feedstock. All of the required supply has been identified within

an average travel distance of around 18km of the site. The EIA report calculates a requirement for 24,500 tonnes of draff, making it an important component of the feedstock but which the appellant describes as modest in comparison with some other Scottish anaerobic digester operators.

35. Recent expansion of a malting business in Inverness and the presence of several local distilleries is considered by the appellant to justify confidence in the local availability of this component of the feedstock. The EIA report notes that draff is exported by road from the distilleries at present so its transport to the site would not necessarily increase transport related emissions. And it is argued that the regular and year-round demand for the product might improve the efficiency of the logistics process when compared with existing arrangements for dealing with this distillery by-product, which involve the transportation of these products to a number of individual farms. Again, there is no evidence to refute these conclusions and I accept them.

36. The EIA report confirms that there is strong local interest in supplying rye to the plant. Grass supply is confirmed to be less secure at this stage, but could be substituted with rye if necessary. These crops are typically grown at present as break crops and the appellant argues that there would be a strong financial incentive for local farmers to supply the proposed plant.

37. Although the NFUS objects to this proposal for reasons I discuss later in this notice, it accepts that a number of its members would supply the site with feedstocks and would use the produced digestate as fertilizer.

38. Based upon the analysis that is set out in the EIA report and in the absence of any evidence to the contrary, I am satisfied that there would be sufficient local availability of feedstock for the proposed plant and that there are no grounds to believe that it would require feedstock components to be transported great distances.

39. Propane (a fossil fuel) is sometimes added to biomethane in order to improve its quality to a level required for injection into the gas grid. The EIA report confirms that propane would not be added to the biomethane at the plant and that there is no expectation that it would require to be added at the injection point. However, in the unlikely event that this were required, the report concludes that it would have a negligible effect on the overall beneficial effect of the proposals in terms of greenhouse gas emissions. There is no evidence to suggest that this confidence is ill-founded.

40. Concern has been expressed by objectors to the proposal that the claimed environmental benefits of the proposed biomethane would be undermined if diesel powered road vehicles were required to transport it to the gas grid injection point at Morayston near Inverness. However, the appellant has confirmed that all such vehicles would be biomethane fuelled and that this approach is already well established within the UK. A planning condition could secure this.

41. The appellant recognises that the accidental venting of methane from the plant would have adverse climate consequences, but is confident that the risk of significant gas loss is low, given the strong financial incentive to avoid the loss of a valuable product and the likelihood that such leakage would prevent the plant from achieving the Ofgem conditions for payment.

42. In order to qualify for RHI support, the plant would need to produce biomethane that adhered to maximum levels of carbon dioxide equivalent per unit of heat generated. Such

controls are outwith the planning system, but can be relied upon to regulate the proposed plant, thereby ensuring that the predicted climate effects from its development and use are realised.

43. Objectors to the proposal have referred me to the decision of the Supreme Court in the application of Finch on behalf of the Weald Action Group v Surrey County Council and others. This considered the need to account for the downstream effects of a proposed development when evaluating its environmental effects. However, I agree with the appellant that because the carbon dioxide that would be released by burning the produced biomethane would have been recently removed from the atmosphere, it would be carbon neutral. This is a very different scenario to the *Finch* proposal, where the inevitable downstream consequence of that proposal would have been the combustion of a fossil fuel, which would have had negative climate consequences.

44. The appellant accepts that other forms of renewable energy, such as wind and solar electricity, have a potentially lower carbon footprint than the anaerobic digestion process. However, it points out that, in circumstances such as domestic and commercial heating where there is extensive infrastructure based around the combustion of fossil fuels, such competing technologies are unable to achieve an immediate reduction in the use of such fuels without incurring the carbon emissions that would be associated with replacing existing fossil fuel powered infrastructure. While it may be argued that the perpetuation of such infrastructure could encourage the continued use of fossil fuels, I accept this as a benefit of the production of biomethane.

45. Taking all of the evidence into account, I conclude that the proposal would have a moderate / major (significant) positive climate effect.

46. NPF4 policy 1 requires significant weight to be given to the climate and nature crises. As a producer of renewable energy with the potential to reduce reliance on fossil fuels, the proposal can draw support from NPF4 policy 1.

47. IMFLDP2 policy 1 requires all new-build proposals to minimise carbon emissions in a manner commensurate with the nature and scale of the proposal. For the reasons given above, I find this requirement to be satisfied. The proposal can also draw support from this policy due to its generation of a renewable, low carbon energy source and its use of site-generated energy to provide heat and electricity for the proposed plant. The policy gives encouragement to the creation of heat networks, which the proposal does not incorporate. However, this is not mandatory and I conclude that the proposal is consistent overall with this policy.

Effects on the water environment

48. The majority of the appeal site is shown in SEPA's flood maps to lie within an area at medium to high risk of river flooding. This is consistent with photographic evidence provided by objectors to the proposal, which shows the site, its access road, and adjacent land inundated with flood water.

49. NPF4 policy 22 seeks to direct new development away from areas that are at risk of flooding or in a flood risk area, and only permits development in such locations in limited circumstances. This is often referred to as the "avoidance principle". HWLDP policy 64 adopts a similar approach. Comments on the appeal proposal from SEPA and the council's flood risk management team, to which I refer below, were made shortly before the adoption of NPF4 but at a time when the Scottish Government's intended policy position on flooding

was known. Therefore, it is reasonable to assume that those comments were made in full knowledge of the avoidance principle.

50. The appellant's flood risk assessment identifies little to no risk of tidal flooding or flooding from surface water. However, it does recognise the potential for the site to experience fluvial flooding from a drainage channel that lies to the south of the site. This is consistent with the flood map and appears to be the source of the flooding that local people have witnessed.

51. The appellant concludes that, in a storm event, the capacity of upstream culverts in the drainage channel could be overcome, leading to overtopping of the culvert and overland flow of flood water along the access road and potentially into the south eastern corner of the appeal site. The maximum depth of such flooding is predicted to be 150mm, affecting up to a 50m stretch of the access road. Having regard to the depth of the southern drainage channel (and its consequent capacity to convey and store flood water) and the local topography (which would tend to direct flood water towards the lower-lying Easter Airfield), the appellant is confident that a more significant level of flooding to the site would not arise. Its conclusion is that, in a flood event, site users would not be trapped, as alternative egress routes to the north could be used.

52. SEPA and the council's flood risk management team have raised no flood risk objections to the proposal. Both note that the appellant's flood risk assessment used an outdated climate change uplift value but are satisfied that, as the main flooding mechanism appears to be undersized culverts in the southern drainage channel, applying the latest uplift would not significantly alter the assessment's conclusions.

53. The flood risk assessment identifies the proposed development as falling within the "least vulnerable" category under SEPA's Land Use Vulnerability Classification. That conclusion has not been challenged by SEPA or the council's flood risk management team and I find no reason to disagree. One of the four potential grounds for departing from NPF4 policy 22's avoidance principle is where the proposal would represent redevelopment of an existing building or site for an equal or less vulnerable use.

54. The last use of the appeal site was for agriculture, which is also a "least vulnerable use". Therefore, the existing and proposed uses would, in principle, have equal vulnerability to flooding. Clearly the proposed development would have workers on site far more frequently than would be expected if it were to remain in agricultural use. However, given the absence of any evidence to suggest that, if the site were to flood, this would pose any material danger (rather than an inconvenience) to the development or its users, I find no reason to adopt a stricter approach than that taken by the bodies that have statutory responsibility for managing flood risk.

55. Policy 22 requires a prospective developer to demonstrate that all risks of flooding are understood and addressed. I am satisfied that the flood risk assessment meets this expectation.

56. It also requires there to be no reduction in floodplain capacity, increased risk for others or a need for future flood prevention schemes, that the development would remain safe and operational during flood events, that flood resistant and resilient materials are used in its construction and that it could be adapted in the future to respond to the effects of climate change. SEPA and the council's flood risk management team have raised no concerns with any of these issues and I find no grounds to disagree.

57. Taking all of the evidence into account, I conclude that the proposal complies with all flood risk requirements of NPF4 policy 22 and is acceptable in flood risk terms.

58. Policy 22 also expects development proposals to make appropriate provisions for drainage. Many objectors to the proposal raise the potential that, if not appropriately managed, materials stored on site such as feedstocks or digestate could be transferred off-site via the surface water drainage network, potentially causing environmental harm including to the RSPB nature reserve at Nigg Bay, which is where local watercourses ultimately drain.

59. The appellant points out that its proposed facilities have been designed to minimise the risk of material entering the water environment by employing covered stores, sealed processing vessels and a surface water drainage system that would divide the site into different catchments (each with their own drainage system) so as to contain any contamination, including in the event of a spillage or other abnormal event. Drainage systems serving catchments within the site that are categorised as “contaminated” rather than “clean” (for example around the proposed silage clamps) would be fed through a series of channels, pipes and chambers to bunded holding tanks, from where the collected runoff would be fed into the digestion process rather than discharged to the water environment.

60. SuDS systems would be employed, which the appellant’s updated drainage impact assessment confirms have been designed to accommodate within the site, a 1 in 200 year event (plus 40% climate change uplift). A swale with a full retention petrol interceptor would deal with runoff from “clean” areas of the site before discharge (at a rate equivalent to greenfield runoff) to the existing watercourse to the south of the site.

61. SEPA has raised no objections to these drainage proposals and has confirmed that they would be regulated by the Pollution Prevention and Control (Scotland) Regulations 2012 (the PPC) process. The council’s flood risk management team is also content with the proposed drainage arrangements.

62. Having regard to all of the evidence, I am satisfied that the appellant’s drainage proposals are acceptable and satisfy the expectations of policy 22 c) not to increase the risk of surface water flooding, to employ SuDS systems to manage rain and surface water, and to seek to minimise the area of impermeable surface.

63. Some of Nigg Bay is covered by the Cromarty Firth Special Protection Area (SPA). At its closest point this is approximately 4.5km away. NatureScot has raised no concerns over the potential for the proposal to affect this SPA. Given the separation distance and the design of the proposed development’s materials storage and surface water drainage systems, I am satisfied that there is no likelihood of the proposal having a significant effect on the SPA. The Moray Firth SPA /SAC is, at its closest point, approximately 1.4km away. However, the appellant’s flood risk assessment confirms that watercourses in the locality drain into Nigg Bay (the Cromarty Firth) rather than directly into the sea (the Moray Firth SPA /SAC) so the effect on that receptor from surface water contamination could not be more significant than for Nigg Bay. Again, NatureScot has not suggested that the proposal could significantly affect this protected site and I find no reason to disagree.

64. The appellant believes that, by providing a year-round demand for slurry, the proposal has the potential to benefit the local water environment by avoiding the need for local farmers to store slurry on farms during the winter (when spreading to land would risk contamination of the water environment). This could avoid the risk of such material entering

land drains as a consequence of farm storage solutions not achieving the same level of containment that would be required of the proposed site operator as a condition of its PPC licence. While I accept the basis for this argument, I am unable to credit the proposal with any significant positive weight, due to this potential benefit being impossible to quantify in the absence of evidence (rather than supposition) as to the adequacy of existing on-farm slurry storage facilities.

Noise effects

65. The planning authority has raised no concerns over this issue. However, it is a matter of great concern to many who have objected to the proposal. SEPA, which would regulate the operation of the proposed development, comments that even a site that is operated in accordance with best practice, has the potential, from time to time, to have an impact, and that it is for the planning decision maker to determine whether the location is appropriate in terms of minimising the potential for noise impact and particularly for low frequency tonal noise.

66. This issue was considered in chapter 6 of the EIA report. This covers both the construction and operational phases of the proposed development and, in accordance with the scoping direction, includes an assessment of the noise effects of traffic movements in the vicinity of the site.

67. The noise assessment considered potential effects on four high sensitivity (residential) receptors, the nearest of which is 80m from the appeal site boundary. These were agreed with the council. All calculations of potential effects arising from construction and operation of the proposed development assumed a downwind (worst case) scenario.

68. The scoping direction required the assessment either to categorise Easter Airfield as a sensitive receptor or to explain, having regard to the manner in which that site is used, any alternative approach. The EIA report excluded the airfield from assessment on the basis that airfields do not fall within one of the use classes within which sensitive receptors “generally fall” and because the Technical Advice Note: Assessment of Noise (the TAN) would place an airfield within its low sensitivity category, being a use where “distraction or disturbance from noise is minimal”.

69. The EIA does not explain whether its exclusion of the airfield from the noise assessment considered whether the manner in which Easter Airfield is used, is atypical of an airfield in general. The appellant is aware that the airfield owner and its users describe a range of recreational activities including open days, community events, advertised “fly-ins” up to three times a year, and overnight camping. It is arguable that such uses are not so out of the ordinary that they make Easter Airfield a more sensitive noise receptor than a typical airfield. But the EIA report did not consider that question.

70. Having regard to the way Easter Airfield is used and the levels of sensitivity that are assigned to various land uses in the TAN, I would assign a low / medium sensitivity to the airfield. In other words, I consider it to have slightly higher sensitivity to noise than is assumed in the TAN.

71. Although the EIA report did not consider effects on airfield users, it did consider likely construction, operational and traffic noise effects on receptors that are more sensitive than the airfield and which are situated in similar proximity to the appeal site and / or the proposed access route. Therefore I am satisfied that its approach has adequately considered the likely worst-case effects. However, in order to obtain a complete picture of

the proposal's likely effects, I have included users of the airfield within my assessment of likely noise effects.

72. Background sound levels against which to compare predicted levels of construction and operational stage noise (including traffic noise) were derived from on-site measurement. This found the vicinity of all four noise sensitive receptors to be relatively quiet at present, with ambient noise levels ranging from 48dB $L_{Aeq, T}$ at The Airfield Croft to 61dB $L_{Aeq, T}$ at the two noisiest locations (Broomton and Low Rariches). Measurements were taken during daytime and night time periods to enable a separate assessment of the latter. It is reasonable to assume that, with the exception of times when aircraft were operating, the airfield would be similarly quiet.

73. During the construction period, negligible noise effects from the construction process are predicted at all sensitive receptors except for works to upgrade the access road, which are predicted to cause a moderate (significant) adverse effect at HMS Owl. The EIA report confirms that this effect was calculated for the closest point between the access road and the receptor. As such, the effect would only persist for the period when such works were at that location and would be reduced for the majority of the construction period, when access improvement works were taking place elsewhere.

74. I explain later in this notice that the appellant's noise impact assessment incorrectly assumed that access to the site would directly pass HMS Owl, whereas it would be, at the closest point, around 100m distant. It appears that this error affected not only the EIA report's consideration of likely operational phase traffic noise effects (which are discussed below), but also construction phase noise effects arising from upgrades to the site access road. I reach this conclusion because the noise level of 67dB $L_{Aeq, 1h}$ that was predicted to be experienced at HMS Owl from that operation greatly exceeds the 52 to 58dB $L_{Aeq, 1h}$ level of construction phase noise impact that is predicted to be experienced at The Airfield Croft (which is approximately 80m from the location of the nearest proposed works). This suggests that the source of the significant access road upgrading noise effect was the erroneous assumption that the adjacent access road (approximately 29m from HMS Owl at the closest point) would be upgraded, whereas the actual closest point between that receptor and any road upgrading would be approximately 100m.

75. From this, I conclude that the EIA report's predicted temporary construction period moderate (significant) effect at HMS Owl from access road upgrading, is likely to be a pessimistic assumption. My conclusion is that it would be, at worst, a minor / moderate (not significant) effect.

76. The closest element of the airfield to the proposed access route (some of the hangars) is around 12m away. This location is likely to have a low level of background noise (probably comparable to that measured at The Airfield Croft). Using Table 6.11 in the EIA report, which classifies effect significance by considering receptor sensitivity and magnitude of impact in accordance with accepted best practice, if one assumed a high magnitude of noise impact for the period when upgrading works to the access road were being carried out in close proximity to the hangars, and bearing in mind the low / medium sensitivity that I have assigned this receptor, this would equate to a minor / moderate (not significant) temporary effect.

77. Construction vehicle traffic noise effects (based upon an assumption of four HGVs entering and four leaving the site per hour) are predicted to be minor (not significant) at all noise sensitive receptors. This assessment excluded effects on The Airfield Croft on the basis that the haul route from the B9166 would not pass that property. I find that to be

reasonable. The EIA report did not consider noise effects on users of Easter Airfield from construction road traffic noise, but given the low / medium sensitivity of this receptor, I am satisfied for the reason I explain above, that even airfield users occupying the part of that site that is closest to the haul route would not experience a significant effect.

78. Operational phase noise effects were calculated for the proposed on-site plant including the flare, and on-site vehicle movements. A +2dB tonal penalty was applied, but no penalty for impulsivity or intermittency. This approach was based upon experience of similar plants and I find no grounds to question it.

79. A 7dB increase (primarily attributable to the proposed carbon dioxide upgrading unit) in predicted night time noise level at HMS Owl over the very low background levels of 26dB $L_{Aeq, T}$, is indicative of a potentially significant adverse effect. However, I agree with the appellant that, as is recognised in BS 4142, where background noise levels are low, and especially at night, it is the absolute noise level rather than the margin by which the rating level exceeds the background, that might provide a better indicator of the effect. In this instance, the predicted rating level of 33dB $L_{Aeq, T}$ at the HMS Owl receptor would remain low. Therefore, it is unlikely that this receptor would experience any significant effect from operational phase noise effects.

80. All other receptors are predicted to experience, at most, a low (not significant) effect and I find no reason to question those conclusions or to suspect a significant effect for users of the airfield, given its lower sensitivity.

81. Operational phase road traffic noise effects were calculated on a worst case assumption of 12 HGV / tractor movements per hour. This would be representative of the busiest month for vehicle movements to and from the site, which would be June.

82. The noise assessment assumed that all traffic using the former airfield's access road would pass HMS Owl. However, as stated above, the appellant confirmed subsequently that the access route would not, in fact, use the section of the airfield perimeter road that is immediately adjacent to that property, but would instead take the most direct route to the B9166 using the road that is approximately 100m south of the entrance to the former control tower.

83. The EIA report predicted no significant noise effect for HMS Owl as a consequence of operational phase traffic on the airfield access road (a moderate / minor (not significant) effect was predicted for daytime hours and a minor (not significant) effect for night time). Unsurprisingly, the appellant's revised position is that noise effects experienced by occupiers of that property would be reduced by the access route being approximately 70m further away than was assumed in the noise impact assessment. As the appellant's original conclusion is supported by the evidence and as the access route being significantly further away than was assumed in that evidence could not conceivably increase the effect on that property, I am satisfied that there would be no significant operational phase traffic noise effects for that receptor.

84. As was the case for construction phase traffic, despite the closest element of the airfield (some of the hangars) being around 12m from the proposed access route, and the likely low level of background noise, the significantly lower sensitivity of this receptor than a residential property makes it reasonable to conclude from the available evidence that there is no potential for operational phase traffic noise to cause a significant noise effect for airfield users.

85. Worst-case effects from operational phase traffic using public roads were calculated for all receptors to be negligible (not significant). There are no grounds to question this conclusion.

86. There are business premises close to the proposed access route. The premises likely to be most affected by passing operational phase traffic is an electrical contractor which has a ground floor office approximately 5m from that route. According to the level of sensitivity table in the TAN, an office use would typically be regarded as a medium sensitivity receptor. As with other business premises on the industrial estate, effects on occupiers of these premises were not assessed in the EIA report. I consider that to be a reasonable decision, as the nature of those premises and the character of the surrounding land uses does not suggest that a significant effect would be likely.

87. The day time residual noise level at this location has not been measured (I do not regard night time levels as relevant given the nature of the premises), but it is safe to conclude from the industrial character of nearby uses that it will be higher than was measured at HMS Owl. Operational phase traffic would pass in closer proximity to these premises than was (incorrectly) assumed in the EIA report would be the case with HMS Owl. However, one cannot assume from this that the magnitude of impact from passing vehicles would be greater than the low / medium level that was predicted for that property, as that would depend upon the effect of adding the traffic generated noise to the (unknown) residual sound. And the lower sensitivity of an office use when compared with a residential use would affect any calculation of effect significance.

88. Based upon the information that is available to me and taking a precautionary approach which assumes a medium / high magnitude of impact on the office premises, I conclude that, at the busiest time of year, operational phase traffic would have a minor / moderate (not significant) noise effect on these premises. At all other times of the year, such effects on this property would be much reduced.

89. NPF4 policy 11 e) requires (among other things) that noise impacts from renewable energy proposals on communities and individual dwellings are addressed. NPF4 policy 23 e) does not support proposals likely to raise unacceptable noise issues. The proposal would not conflict with these policies. Policy 26 e) requires business and industry proposals to take into account their impact on surrounding residential amenity and sensitive uses. I conclude from the evidence discussed above that, in respect of noise, these requirements have been met.

90. Taking all considerations into account, I am satisfied that no aspect of the construction or operation of the proposed development or any of the associated traffic movements are likely to give rise to any significant noise effect and that the proposal would satisfy all noise-related expectations of the development plan.

Air quality, odour and bioaerosols

91. Chapter 5 of the EIA report considered these potential sources of harm to human health, amenity and the environment. It assessed likely effects arising from operational phase dust, air quality effects from operational phase stack / flare emissions, operational phase odour effects and operational phase bioaerosol effects. I am satisfied that the appellant's approach, accords with the scoping direction, was sufficiently comprehensive and followed accepted best practice.

92. There are no air quality management areas in the locality or any recorded significant emission sources to air within 1km of the site. This suggests that baseline air quality will be consistent with an agricultural environment.

Background

93. The proposed development would be regulated by SEPA under the PPC. This would require it to operate in accordance with Best Available Techniques (BAT) which are techniques that are best able to prevent environmental harm. SEPA initially issued a holding objection until the then applicant provided clarity that there was adequate space within the site boundary to meet PPC requirements. Further information was submitted which enabled SEPA to withdraw its objections to the proposal.

94. The EIA report's consideration of these potential effects included 27 sensitive receptors including 19 residential properties and eight other premises / uses including nearby industrial premises and three receptor locations at the airfield. Effects were also assessed for ecological sites within a radius of 10km for national / international sites and 2km for sites of local importance. This methodology has been accepted by SEPA and I am satisfied that it follows established best practice.

Construction phase dust

95. The EIA report confirms that there are no statutory limits to dust emissions, as the perception of nuisance arising from dust is subjective. Nevertheless, the Environmental Protection Act 1990 confirms that, where a statutory nuisance is shown (which is where dust emissions and / or accumulations are prejudicial to health or a nuisance), the local authority must serve an abatement notice.

96. I agree with the EIA report that the main consequences of construction phase dust emissions would be dust deposition causing soiling of surfaces, visible dust plumes and elevated levels of PM₁₀ particulates. Following Institute of Air Quality Management (IAQM) guidance, which categorises different construction activities by the magnitude of their likely dust emissions, and a consideration of the sensitivity and proximity of receptors, the EIA report predicts a minor (not significant) adverse construction phase dust effect. I find no grounds to disagree.

Operational phase dust

97. Measures that the appellant would employ to contain odour (which are discussed below) are also likely to reduce the likelihood of significant operational phase dust effects, and no dust-specific mitigation measures are proposed (although a dust management plan has been prepared to formalise the management of dust on site). The EIA report predicts negligible / minor adverse effects from this source, which I find to be reasonable.

Operational phase stack / flare emissions

98. The EIA report identifies four main sources of emissions to air: two combined heat and power (CHP) units that would provide electricity and heat for the plant; a small biogas boiler that would provide a top-up or backup source of heat in the event of a CHP breakdown; and a flare to be used in "emergency" situations.

99. Consideration was given to emissions of NO₂, CO, SO₂ and benzene (used to represent all volatile organic compounds). Dispersion modelling was used to determine the

route likely to be taken by any emissions. The EIA predicts a minor (not significant) adverse effect for all such emissions, which has not been challenged by SEPA and I find to be reasonable.

Odour

100. SEPA's Odour Guidance recognises that, even with the use of best industrial practice (which I have taken to mean BAT under the PPC) there is the potential for odour to arise from time to time. As such, it is stressed that the location of potentially odour emitting sites relative to the location of sensitive receptors is critical to eliminating or reducing any potential future impact.

101. This location has very few highly sensitive odour receptors. There is only one residential receptor within 400m of the site. The EIA report did not reduce the sensitivity of that receptor (The Airfield Croft) on account of it being associated with an existing agricultural use, which is a conservative approach.

102. The proposal would incorporate an 8.5m odour abatement stack, which would serve an odour abatement plant treating emissions from the manure shed. This was incorporated into the proposal in order to address SEPA concern that such a facility was likely to be a requirement of the PPC, but had not been detailed previously. The appellant has also prepared an odour management plan to formalise the management of odours on site. Proposed condition 15 would secure this.

103. There is no reason to conclude that, contrary to SEPA advice, a 12.5m stack would be required, as some objectors have argued. However, if that proved to be a requirement in order to obtain PPC consent, further planning approval would be required, at which stage the landscape, visual, and heritage asset setting effects of such a stack could be assessed.

104. I agree with the appellant that the exclusion of Toulvaddie Distillery and Easter Airfield from the odour assessment's (and bioaerosol assessment's) most sensitive receptor category is consistent with Local Air Quality Management Technical Guidance and was reasonable, despite the fact that, at the former facility, a member of staff (but not members of the public) is required to be on site 24 hours a day.

105. Dispersion modelling of the output from the proposed manure shed stack confirms that none of the modelled receptors would experience a significant odour effect. Negligible to minor (not significant) odour effects are anticipated.

106. Subject to the site being operated in accordance with BAT (which should ensure that potential odour sources are kept under careful control through measures such as no odour generating materials being stored in the open), I am satisfied with the EIA report's predictions of no significant effects. As SEPA points out, it is impossible to guarantee that even a well-managed site, operating in accordance with BAT, would never experience a situation where atypical odour emissions occurred. However, there is no reason to suspect this would occur with any regularity and the small number of odour sensitive receptors who could be effected on such an occasion is relevant to any assessment of the significance of the adverse consequences of such an eventuality.

Bioaerosols

107. SEPA's position is that waste management sites giving rise to bioaerosols should, in general, not be located in close proximity to sensitive receptors. The now superseded

Scottish Planning Policy (SPP) indicated that planning authorities should consider the need for buffer zones around some waste management facilities, For AD plants, a guideline figure of 250m was suggested.

108. As there is no specific Scottish guidance on bioaerosol risk assessment. I am satisfied with the appellant's decision to rely upon English guidance, which is provided by the Environment Agency.

109. The EIA identified five sensitive receptors within a 250m radius of the site. However, it concluded that there are no sources within the site with significant potential to emit bioaerosols. As such, it found the likely effect on those receptors to be negligible to minor (not significant).

110. The airfield operator (supported by the Civil Aviation Authority's Airfield Advisory Team (the AAT)) believe there is an absence of knowledge on the risk of bioaerosols to humans. They point out that the airfield (and the croft and distillery) fall within the 250m radius of the site that was referred to in SPP. They argue that aircraft hangars are likely to be occupied for in excess of six hours per day and should therefore be regarded as sensitive receptors in any bioaerosol impact assessment.

111. SPP did not mandate a 250m buffer; it required planning authorities to consider the need for a buffer, which for AD plants was suggested to be 250m. This is no longer Scottish Government policy. The need to maintain an adequate buffer zone between sites and sensitive uses such as homes is a requirement of NPF4 policy 12 (discussed below). This is to be informed by an assessment of predicted environmental effects. It remains SEPA's position that sites giving rise to bioaerosols should, in general, not be located in close proximity to sensitive receptors. However, the appellant's evidence is that this site would not have significant potential to emit bioaerosols and neither SEPA or the council's environmental health team have disputed that conclusion or objected to the proposal. The airfield was identified in the EIA report's consideration of potential bioaerosol effects as a sensitive receptor. Therefore, the report's conclusion that no significant bioaerosol risk was likely at the airfield (or at any other receptor) was due to its finding that there would be no significant bioaerosol emissions from the site rather than a difference of opinion as to receptor sensitivity.

112. Taking all of the evidence into account, I find no grounds to disagree with the EIA report's predictions of no significant bioaerosol effect.

Conclusions on air quality, odour and bioaerosols

113. HWLDP policy 73 requires development proposals that could cause an adverse air quality effect to be accompanied by an air quality assessment which demonstrates how such impacts would be mitigated. I am satisfied that the EIA report satisfies this expectation.

114. Policy 12 d) of NPF4 requires proposals for waste infrastructure and services to (among other things): avoid unacceptable impacts on the residential amenity of nearby dwellings; have an acceptable impact in terms of smells and dust; and to maintain an adequate buffer zone between sites and sensitive uses such as homes, taking account of the various environmental effects likely to arise. I find it reasonable to apply the requirements of this policy to the appeal proposal, as an important component of the feedstock it would handle would be waste material. For reasons I have explained above, I am satisfied that the proposal is unlikely to create any unacceptable amenity or

environmental effects and that the buffer between the site and its nearest sensitive neighbours is adequate.

115. Policy 23 d) of NPF4 confirms that proposals likely to have significant adverse effects on air quality will not be supported. I am satisfied that the evidence that is before me, confirms that there would be no significant air quality effects. Therefore, there is no conflict with this policy.

116. Overall, I am satisfied that there would be no adverse air quality effects from the proposal and that it satisfies all air quality requirements of the development plan.

Traffic effects

117. Traffic effects were scoped out of the EIA, as assessment documents submitted previously, which include a Transport Statement (the scope of which was agreed with the roads authority) confirmed to my satisfaction that significant traffic effects would not arise. The EIA report did consider the noise implications that additional traffic levels could cause and these are discussed elsewhere in this notice.

118. The Transport Statement reviewed the junction between the airfield access road and the B9166 and the potential traffic increase on key road links. It also considered collision data for the past seven years, the potential impact of the proposed traffic on road structures along key routes and any likely effect on core paths and cycle routes.

119. The roads authority acknowledges that sufficient reserve capacity should be available on the road network to accommodate the predicted trip generation, but has concerns regarding the potential for damage to narrow minor roads surrounding the site by the movement of large and heavy vehicles associated with operation of the development.

120. Transport Scotland has no concerns over effects on the Trunk Road network, but has requested a Construction Traffic Management Plan and an Operational Traffic Management Plan. The roads authority agrees that this approach could deal with any required mitigation of road damage and the impact of large, slow-moving vehicles. I propose to secure these plans by planning conditions.

121. The Transport Statement confirms that, without any improvement, the junction of the airfield access road and the B9166 is wide enough and has sufficient two-way visibility to accommodate the traffic levels and types of vehicle that the proposal would generate. It also noted that there is no record of any accident at this junction in the seven years of accident data that were studied. The roads authority accepts these findings.

122. Average measured weekday traffic flows on local roads were projected forward to the predicted year of opening, applying a "low growth" assumption which I consider to be reasonable for this locality. When the projected traffic increases from the proposed development and the whisky warehouses on the other side of the airfield (the latter being a low traffic generator) are added, traffic levels would increase by only a small percentage and would remain well below the capacity of all local roads. Accident records show no accident "hot spots" on any of these roads. Again, this is accepted by the roads authority.

123. The Transport Statement acknowledged that the exact location of farms supplying the proposed plant with feedstock and receiving digestate, has not been finalised. Therefore, it made assumptions as to the general location of such supplies so as to

determine likely routes to the site. I find no grounds to disagree with the roads authority's acceptance of this approach.

124. There are no core paths in the vicinity of the site and I find it unlikely that the site access road or the public roads in the locality are used by significant numbers of pedestrians. A branch of National Cycle Route 1 follows the B9166 between Chapelhill and Tain. Users of this branch (rather than the alternative which avoids the Cromarty ferry) would share the B9166 with development traffic for approximately 3.5km. Given the predicted low percentage increase in traffic and the short extent of the affected section, I am satisfied that there would be no significant adverse traffic effect on users of this route.

125. I agree with objectors who contend that, while vehicles delivering feedstocks to the proposed plant (tractors and trailers in the case of agricultural feedstocks and HGVs for distillery by products) might be travelling on the public road network already, they would not all be heading to the same destination (the proposed plant). However, I am satisfied that this focussing of traffic on one destination would not exceed the capacity of local roads to accommodate it safely and would not cause significant driver delay or any other adverse traffic consequence. As I confirm elsewhere in this notice, I am also satisfied that, while the noise implications of this focussing of vehicle movements would be detectable, they would not constitute a significant adverse noise effect, even during the busiest time of the year.

126. Objectors contend that the appellant has ignored the traffic implications of the purpose-grown crop component of the agricultural feedstock. As such crops would be grown specifically to serve the proposed plant, displacing existing forms of agriculture, it is argued that their delivery to the site would involve vehicles that were not already on the local road network. I do not accept this criticism. The Transport Statement took account of such crops. Indeed it found that rye silage would represent the second most significant contributor to vehicle movements per year and would be responsible for the predicted peak in movements in June and July. And it did not apply a reduction to predicted levels of vehicle movements to account for movements that would have been generated by an alternative crop.

127. HWLDP policy 56 requires development proposals that generate traffic to be well-served by the most sustainable modes of travel available in the locality, providing the opportunity for modal shift from private car to more sustainable modes (particularly walking and cycling) where possible, and delivering appropriate on or off site mitigation. Green Travel Plans will also be required.

128. For reasons explained in my consideration of the principle of development, I am satisfied that this is a sustainable location for the proposed development and that, subject to a requirement that all deliveries of carbon dioxide and biomethane from the site involve biomethane-powered vehicles, it could reasonably be described as being served by the most sustainable modes of travel available in the locality. Opportunities for modal shift (and the consequent benefit of requiring a Green Travel Plan) are limited by the site's relative remoteness from public transport or centres of significant population. However, as I have already confirmed, I find this to be justified by the particular locational requirements of the proposed development. Overall, I find no conflict with policy 56.

129. NPF4 policy 13 b) offers support to development proposals where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they satisfy a range of other requirements. To the extent that is possible for this site, I am satisfied that all requirements of this policy are met.

Effects on airfield safety

130. The planning authority's first reason for refusal contends that it has not been satisfactorily demonstrated that the development will not pose an unacceptable risk to aviation safety. This is consistent with an objection from the operator of the nearby Easter Airfield, whose concerns are shared by the AAT, which has a non-regulatory function in delivering the UK Government Department for Transport's objective of sustaining the UK network of airfields.

131. The UK Government's General Aviation Strategy 2015 recognises the potential for general aviation (GA) as a wealth generating and job producing sector of the economy. Its Aviation 2050 consultation of 2018 sought to balance GA with other forms of aviation, but to enable, facilitate and encourage growth in GA. Support for GA within England and Wales was incorporated into national planning policy via the National Planning Policy Framework (NPPF), which refers to the importance of maintaining a national network of GA airfields. That policy support does not apply in Scotland. However, policy 11 of NPF4 requires prospective developers of renewable and low-carbon technology proposals to address impacts on, among a wide range of things, aviation.

132. A process known as safeguarding is intended to monitor and arbitrate developments in the vicinity of aerodromes that could interfere with their safe operation. Unofficial safeguarding, as applies to Easter Airfield, is what is applied to the majority of aerodromes.

133. Circular 2/2003: Safeguarding of aerodromes etc (updated in 2016) expects airfield operators to agree with the planning authority a consultation procedure for new development proposals within a defined unofficial safeguarding zone.

134. There is a 2015 safeguarding arrangement for Easter Airfield with Highland Council. This refers to wind turbine development, but I accept that it can reasonably be applied to other forms of development. Circular 2/2003 confirms that the purpose of such an arrangement is to agree consultation with the airfield, which has taken place, rather than to prevent development. Therefore, I find no conflict with its expectations.

135. The AAT regards Easter Airfield as important for a range of GA users. These include private aircraft owner operators, both those based at the aerodrome and those visiting the region, and approved flight training organisations. I accept that the airfield is a resource that is valued by its users, who include (as is evidenced by some of the letters of objection) those who reside elsewhere in the UK.

136. In response to the AAT's concerns, the appellant commissioned reports from three aviation consultancies. The conclusion of the final report is that all the issues, which are no different to those which airports and developers countrywide are currently facing or have faced in the past, are able to be mitigated satisfactorily.

137. I set out my conclusions on all of the areas of dispute in the following paragraphs.

Physical safeguarding / Obstacle Limitation Surfaces (OLS)

138. OLS describe imaginary surfaces in the airspace around an airfield where obstacles to flight should be excluded. They are defined on the basis of where, within the airspace around an airfield, aircraft are expected to be. Circular 2/2003 confirms that the protection of OLS is one of the purposes of safeguarding.

139. The appellant's consultant confirms that no part of the proposed development (including the assumed heat plume from the gas flare, which I discuss below) would penetrate the OLS for Easter Airfield. The OLS transitional surface rises up either side of the runway to a maximum height of 45m. The proposed flare stack is outside that area and all other elements of the proposed development would maintain at least a 13m clearance from the top of the building / plant and the bottom of the OLS. The AAT accepts that there would be no penetration of the OLS, and confirms that this is not its primary concern. While its other concerns are important considerations, which I discuss below, I agree with the appellant that the avoidance of the OLS is an important factor to bear in mind when considering whether the proposed development has had appropriate regard to the nearby airfield.

140. The AAT's principal concern over the risk of collision with the proposed plant appears to be with aircraft executing a "go around" manoeuvre, either because, at a late stage in the approach, the pilot concluded it would be unsafe to land (which I suspect would be a rare occurrence) or during practice for such an eventuality. The area of dispute between the parties appears to involve the direction in which aircraft executing a go around would fly,

141. The AAT claims that those practising a go around would follow a path offset to the north of the runway, which would potentially take them at low altitude over the proposed AD plant. The appellant argues that, in accordance with the CAA's CAP 1535 (Skyway Guide Version 3) an aircraft executing a go around should fly to the "dead" side of the runway, which is the side that does not have the circuit pattern.

142. The appellant's consultants advise (and this has not been refuted by any other party) that Easter Airfield operates a traffic circuit on only the north side of the airfield. This means that aircraft wishing to land on runway 06 would follow a (standard) left-turning circuit pattern, whereas those wishing to land on runway 24 would follow a (non-standard) right turning circuit. With this being the case, it would be surprising if aircraft executing a go around from either runway would divert to the north as that would potentially place them in proximity to those flying the circuit.

143. If the appellant is correct about the convention being to avoid the traffic pattern when executing a go around (which other parties have not refuted), then aircraft executing such a manoeuvre from runway 24 would, in fact turn left (south) in order to fly to the dead side (taking them away from the appeal site). And those using runway 06 would turn right in order to avoid the circuit, again taking them south of the field and away from the appeal site.

144. Given the quiet nature of the airfield, it is reasonable to conclude that the likelihood of an aircraft needing to execute a go around (as opposed to a pilot wishing to practise such a manoeuvre) would be low. Therefore, even if a pilot, having abandoned their landing attempt, opted to divert to the north rather than to follow what appears to be the convention of diverting away from the circuit, the occasions on which such an event would occur would be very few. And, no party has suggested that, upon construction of the proposed development, if it were considered to be necessary on safety grounds, it could not be mandated by the airfield that go arounds were always executed to the south and / or that practice go arounds were not performed. CAP 793 Safe Operating Procedures for Unlicensed Aerodromes expects the operators of such aerodromes, which do not feature in any aeronautical publications (such as Easter Airfield) to warn visiting pilots of hazards prior to arrival. I note that the airfield already stipulates to pilots certain locations they must avoid overflying.

145. Taking all of the submissions into account, I find that, as a consequence of the proposed development, there would be no significant safety implication from pilots executing a go around.

146. Due to the proximity of the appeal site to the airfield and the need to provide sufficient space for aircraft to manoeuvre, the northern circuit for both runways would not take aircraft directly over the proposed AD plant. No party has challenged the appellant's submission that aircraft flying the circuit would be at least 900m to the north of the proposed biomethane storage tanks. And the appellant's consultant states the airfield is not permitted to have aircraft flying around the circuit area during weekdays. This would limit the amount of traffic using the airfield and flying the circuit. Again, these conclusions have not been denied by any party and I find no reason to reject them.

147. The AAT points out that helicopters and autogyros do not follow the circuit, but arrive from other directions, potentially directly over the proposed site. The appellant's consultant accepts the potential that this could happen, but stresses that all aircraft operations have to consider the existence of OLS, and that the Rules of the Air dictate that adequate clearance must be maintained between aircraft and objects such as buildings.

148. I understand that those rules expressly exclude take-off and landing phases of flight. However, it would not be reasonable to assume as inevitable, a situation where pilots chose to ignore OLS by choosing to fly at low altitude directly over the proposed plant. In reality, the existence of the plant would be notified to (and visible on approach to) prospective users of the airfield who would have other options for approach and departure than to fly in a manner that would place them in potential conflict with the proposed facility. The appellant's consultant advises that rotary wing craft often follow the approach taken by fixed wing craft before diverting, once over the field, to their parking location.

149. The appellant also points out that it is common for GA airfields to have industrial development surrounding them. It cites, as an example Rochester airfield, where there is such development in close proximity.

150. In response to a concern about helicopters performing autorotation training (essentially a forced landing for a helicopter) the appellant comments that this would always be undertaken within the confines of an airfield and not over third party land in order to avoid conflict with persons on the ground. This has not been refuted and I find no reason to suspect that such training (if it is actually, rather than theoretically, carried out at Easter Airfield, which is unclear) would create a significant aviation safety effect.

151. Taking all of the submissions into account, I find no grounds to suspect that the proposed development would have a significant effect on aviation safety as a consequence of these issues.

Building induced turbulence

152. The parties agree that there is the potential for the proposed development to create turbulence effects. Such effects are a common occurrence at runways. They are caused by both built development and natural sources. The appellant's aviation consultant points out that there are many GA airfields in the UK that have large buildings and structures, some actually on the airfield, that are much closer to the runway than those within the appeal proposal. No party has denied this.

153. The proposed development is to the north of the airfield and the prevailing wind direction (representing 90 to 95% of the time) is from the southwest. When the wind is in that direction, it would be blowing towards the appeal site so there would be no potential for the proposed development to create turbulence effects for aircraft that were taking off or landing.

154. On the less common occasions when the wind was from the north, the appellant accepts that the proposed development could create turbulent air at the airfield. However, it contends that due to the low height of the proposed development and the separation distance, for there to be any likelihood of a detectable level of turbulence at the airfield, there would need to be such a strong crosswind that it is unlikely that the runway would be in use. This is due to the small GA aircraft that use the airfield not being rated for such a strong crosswind component.

155. The appellant accepts that its conclusions on turbulence rely on professional opinion and not detailed modelling. However it believes the AAT's request for wind tunnel studies to measure the turbulence intensity at locations along the flight path, both with and without the proposed development, is disproportionate to the potential risk. Its aviation consultant, who has extensive experience in assessing the potential for building induced turbulence has never previously been requested to undertake a wind tunnel study for a UK airport and I agree that the unexceptional nature of the spatial relationship between the airfield and the proposed development provide no justification for such a detailed assessment. I also note that a fluid mechanics consultancy conducted a experience-based runway impact assessment for the proposal, which concluded the development would have limited potential to increase the exceedance of threshold wind conditions.

156. Taking all of the evidence into account, I find no grounds to conclude that turbulence induced by the proposal would cause a significant aviation effect.

Explosive atmosphere

157. The AAT raises concern that the combination of an active flare and an explosive atmosphere could put airfield users at risk. It points out that explosive atmosphere warning signs have been observed at other AD sites. The appellant has confirmed that the site would be regulated by the Health and Safety Executive and SEPA and would need to comply with the Dangerous Substances and Explosive Atmospheres Regulations. The required PPC permit would also oblige it to prevent biomethane leaks. And in the unlikely event that a leak occurred that was of such intensity and / or duration that it formed an explosive atmosphere in the open air, it seems implausible that this would go unnoticed by the site operator and inconceivable that the operator (if they were aware of the leak) would decide to operate the flare at that time.

158. Having regard to all of the evidence and particularly the regulatory control of site safety to which the proposed development would be subject, I find no grounds to conclude there would be a significant effect on aviation safety (or any other interest) from this source.

Thermal plumes

159. The airfield owner and AAT raise concern over the potential for the gas flare to create thermal plumes, which could affect aircraft stability during take-off and landing. However, the proposed flare would be 350m from the runway and 250m from the edge of the airfield, It would only be operated in a last-resort or emergency scenario rather than with any regularity, for the occasional combustion of biogas, such as during periods of CHP unit

maintenance. And (as emergency in this context does not necessarily mean a situation requiring immediate action) notice could be given to the airfield of a need to flare.

160. The appellant's consultant advises that the heat generated by the flare would dissipate rapidly above the flare stack. Therefore, even if it were in regular operation, there is no evidence to suggest it would have a noticeable effect on aircraft using the runway or flying the circuit around it.

161. The AAT contends that, without modelling, the effects of flaring are unknown. It is also concerned that adverse effects on aviators could arise from other heat generating / emitting infrastructure associated with the operation of anaerobic digestion plants such as radiators / refrigerant units.

162. While it is correct that there has been no modelling of the flare's thermal plume, I do not consider that this is required, given the separation between the flare and both the runway and the traffic circuit, the irregular use of both the airfield and flare and the aforementioned conclusion that very few aircraft would fly directly over the proposed plant.

163. I accept the evidence of the appellant's aviation consultant that thermal effects are a fact of life for aviators and that there are no grounds to conclude that heat rising from roofs or plant within the proposed development would create a significant aviation safety effect.

Visual interference for pilots

164. Glint and glare from buildings and waterbodies is a further concern for objectors to the proposal, although this was made as a general observation rather than with reference to any specific element of the proposed development. The appellant's consultant notes that some degree of glare is a fact of life in aviation, to which pilots are well accustomed. It points out that water bodies are common near GA airfields, for example at Elstree and Oban. In its experience, glint and glare are only likely to be a potential issue from large-scale solar farms, but even then, this is not generally a significant issue – as is confirmed by the presence of solar farms at airports. The appellant points out that the proposed development would not incorporate solar panels or extensive glazing and could, if necessary, be painted with anti-glare paint. I find no grounds to disagree with the appellant on these issues.

165. Distraction to pilots from flaring, particularly in low light conditions, is also cited as a concern. However, given the irregularity of this occurrence, the separation from the airfield, and the enclosed nature of the flare, which the appellant confirms would completely screen the flame, I do not share those concerns.

166. The appellant's consultant recognises that site lighting can represent a potential distraction but believes that, apart from in emergencies, night operations at the airfield are not permitted. Therefore, there would be no pilots to distract during times of day when the appeal site was lit. In any event, the appellant advises that the proposal has been assessed against, and is compliant with, the glare criterion for airports that is set out in BS EN 12464 -2:2014 Light and lighting – Lighting of work places Part 2: Outdoor work places. There is no evidence before me to cast doubt on the appellant's confidence on this issue.

Wildlife hazards

167. When the AAT visited other local AD plants, it noted an "overpowering smell" and material strewn around. It raises concern that this could attract wildlife. It also notes that

tree planting and areas of open water are proposed, which could attract birds, increasing the risk of bird strike.

168. The appellant contends that the consequences of bird strike risk are greatest for jets and turboprop aircraft, rather than the piston engine GA craft that would typically use the airfield. However, it accepts the need for care in the design of any landscaping so that bird species known to pose a bird strike risk (generally those that flock) were discouraged.

169. I find that the achievement of this objective, as well as the more common objectives of site landscaping, might require a balance to be struck between the appearance of the development, the provision of biodiversity benefits and the avoidance of unacceptable bird strike risk. This would be a matter for the planning authority to resolve in its assessment of any material that was submitted to discharge a landscaping condition.

170. The provision of wildlife hazard management provisions into any site landscaping condition would accord with CAP 738 'Safeguarding of Aerodromes' and CAP 772 'Wildlife Hazard Management at Aerodromes'.

171. I am satisfied that, subject to such controls, the risk to the airfield from birds and other wildlife would not be significant.

Construction stage effects

172. The appellant accepts the AAT's concern that the use of cranes during construction and maintenance would pose a vertical obstruction to flight. However, this is a regular occurrence in the world of aviation and, at Easter Airfield, circuit flying is limited to weekends, when it is possible that cranes, while still a static obstruction, would not be moving. Having regard to all of the evidence, I agree with the appellant that, during the construction period, this issue is likely to require liaison between the proposed developer and the airfield, but is unlikely to have a significant adverse effect on aviation safety.

Conclusions on aviation safety effects

173. Taking all of the evidence into account, and subject to appropriate conditions, I find no grounds to suspect any significant adverse effect on aviation safety.

Effects on cultural heritage

174. Chapter 7 of the EIA report considered this issue. It assessed effects on the airfield as a whole, potential physical effects on features within the appeal site, and effects on the setting of designated historic assets that are not within the site but lie within its zone of theoretical visibility (ZTV). In accordance with the scoping direction, attention was paid to the category C listed former control tower on the aerodrome, which is now in residential use and is identified elsewhere in this notice as HMS Owl. I am satisfied that the appellant's consideration of this issue meets the expectations of NPF4 policy 7 a) for an assessment which is based on an understanding of the cultural significance of the potentially affected assets.

175. I agree with the appellant that the historic interest of the former airfield (which has no heritage designation) is of low importance, and that it is the remaining evidence of its historic layout, rather than any individual built features (of which there are few) that contributes to this interest. As the appeal site occupies a peripheral area of the former airfield, I am satisfied that it would not prevent a visitor to the site being able to understand,

appreciate and experience how the airfield once functioned. Consequently I agree with the EIA report's prediction of a minor (not significant) adverse effect on this asset.

176. It is likely that the appeal site and surrounding area were used for agricultural purposes until the RAF (subsequently RNAS) airfield was opened in 1941. There are no designated historic assets within the appeal site and the appellant's site inspection revealed no upstanding heritage remains. However, it is possible that there are buried remains of archaeological interest. Royal Navy records indicate a radar test base within the appeal site boundary, although aerial photography from 1943 indicates any such structure may have been removed by that date. The proposed development has the potential to remove or destroy any, as yet unidentified, historic features within the site.

177. The EIA report made a worst-case assumption that the site contains high value buried remains and that the proposal would have a high magnitude of impact upon them. If those assumptions proved to be well founded (which the evidence suggests is unlikely) then this would be a major (significant) adverse effect. The EIA report does not recommend any specific mitigation for such potential effects, stating instead that this would be a matter for the planning authority. The planning authority's list of suggested planning conditions does not include one requiring a scheme of archaeological investigation / oversight and recording during the construction phase. However, taking a cautious approach, I conclude that this would be justified and I propose to secure it by proposed condition 9. Subject to that, I am satisfied that the residual effect on buried remains would be reduced to a minor (not significant) level.

178. Turning to the proposal's likely effect on the setting of historic assets outside the site, I am required by section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to have special regard to the desirability of preserving any potentially affected listed buildings, their setting or any features of special architectural or historic interest they may possess. Historic Environment Scotland's (HES's) setting guidance advocates a three stage approach to assessing the potential for a proposal to affect the setting of an historic asset. I am satisfied that the appellant followed that approach.

179. I agree with the appellant's approach to establishing the relative sensitivity of each asset to changes to its setting. This took account not only of the value of the asset itself, but also the importance of its setting to the understanding, appreciation and experience of the asset. I am also satisfied that the appellant's criteria for classifying the magnitude of impact followed HES setting guidance.

180. The nearest designated asset to the site is the former control tower, which is approximately 400m across open fields from the nearest edge of the appeal site. The next nearest is the category B listed Easter Rarichie, but this has no views of the appeal site. Four scheduled monuments and four listed buildings lie between 1km and 3km from the site. I agree with the EIA report's assessment of the relative sensitivity of all of these assets, which was assessed by site inspection and described using visualisations. I also agree with the predicted magnitude of impact predictions and consequent assessments of significance, which would be, at most, minor (not significant).

181. As such, I am satisfied that the proposal would meet the requirements of NPF4 policy 7 c) and h) for development proposals affecting the setting of a listed building to preserve its character, and its special architectural or historic interest and for proposals to avoid significant adverse impacts on the integrity of the setting of a scheduled monument.

182. The former control tower, as it is by far the closest heritage asset to the site, merits specific mention. I agree with the EIA report that this has medium to high sensitivity to changes within its airfield setting. It is a listed building, but within category C, which are buildings that are representative of a particular period, style, or building type rather than (as has been suggested by certain objectors should be the case for the former control tower) major or outstanding examples of their period. Had the building been of the significance some objectors believe it has, it would have been listed within category A or B. And that would not necessarily have increased its sensitivity to changes within its setting, as that issue relates not only to the significance of the asset itself, but also to the extent to which the setting influences one's ability to understand, appreciate and experience the asset.

183. Although the former control tower's original functional relationship with its airfield surroundings remains legible, successive phases of development have eroded some of the visual link between the control tower, the open expanse of airfield that it historically oversaw and the numerous ancillary (and physically subordinate) buildings that also occupy the site.

184. The proposed development, like the existing industrial estate, potato warehouse and whisky storage facility, would result in some loss of open space within the airfield and the introduction of relatively prominent vertical elements into an environment that was once predominantly open. However, the development would maintain a minimum 400m separation from the listed building. I agree with the EIA report that the former control tower would remain a visual focal point on the former airfield and its distinctive silhouette would not be interrupted by the proposed development from almost all locations where it is currently seen. The appeal proposal would not intrude upon the former runways so the relationship between those and the tower, which I consider to be an important contributor to a visitor's understanding, appreciation and experience of the asset, would not be reduced.

185. Overall, I agree with the EIA report's conclusion of a minor (not significant) adverse effect on the setting of the former control tower and I conclude that the proposal would satisfy the NPF4 policy 7 expectation that development proposals affecting the setting of a listed building preserve its character and its special architectural or historic interest.

186. HWLDP policy 57 requires proposals to be assessed in terms of their likely effect on natural, built and cultural heritage features, taking into account the importance of the feature and the form and scale of the proposed development. The EIA report and my subsequent environmental assessment achieve all of these objectives.

Socio-economic effects

187. The appellant submitted a socio-economic assessment. This concludes that the proposal would contribute towards the aims of the regional economic recovery, and the council's and Highlands and Islands Enterprise's (HIE's) vision to encourage investment in renewable energy and low carbon technology as well as supporting new green job creation. It concludes that the proposal would complement the proposed Green Freeport at Cromarty, as the proposed development would fit squarely within Opportunity Cromarty Firth's framework of green economic revival, and that the development of the workforce for a complementary process would provide long term, skilled opportunities. I accept that the proposal can draw some support from these factors.

188. I also accept that, in accordance with the British Energy Security Strategy 2022, the proposal could (at least in theory) assist in increasing Scotland's energy independence by displacing imported gas. This is a further minor positive attribute to weigh in the planning balance.

189. The appellant estimates that 5 full-time skilled onsite jobs would be created, with approximately 10 others indirectly employed offsite and 70 in the supply chain. It is estimated that there would be 100 jobs created during the 12 to 18 month construction period. No party has challenged the appellant's evidence that economic activity and employment rates in the local area are substantially lower than the national level, or that local unemployment levels have been and continue to remain high. I accept the appellant's unchallenged evidence that, by 2041, there is expected to be a 14% population decline in Easter Ross, whereas in Inverness and Mid-Ross, increases of 11% and 12% are expected over the same period. I agree that the proposed development's contribution to local employment is a further factor to which some positive weight must be given.

190. The appellant argues that because the plant would operate independently of the food market and is subsidised, it would offer local farmers an alternative and potentially more stable source of income than if they used their land for crop production or animal rearing. It points out that it would be for local farmers to decide, as they do at present, which crops to grow on their land and that, in order to encourage the production of feedstock crops, the proposed AD plant would need to provide the farmer with a higher net return than could be provided by competing farm outputs.

191. The removal of manure from the farm would also potentially allow livestock operations to expand, as the constraint imposed by the need for on-site manure storage (which is now expected to achieve higher environmental standards than was once the case) would be removed. These conclusions, which have not been disputed, seem plausible.

192. NFUS has objected to this proposal and to other AD plants that have been, or will be, submitted within the Highland and Moray Council areas, on two main grounds.

193. First, because it believes the proposals seek to rely on what it regards as an out-dated definition of waste / residue which includes straw and distillery by-products. It states that the most up to date Ofgem guidance excludes from the definition of "residues", material that has been "deliberately diverted from viable alternative uses." The NFUS concern is that draff and straw would be diverted from viable (and valuable) use as livestock feed and bedding, to the detriment of local farms and crofts.

194. It is not my role to investigate or dispute the Ofgem licensing process. However, the relative value of draff and straw for purposes other than feeding the proposed plant is a relevant consideration when evaluating the proposal's likely net socio-economic effect.

195. The appellant contends that expansion in the whisky industry at the same time as a decline in stock numbers means there is actually an over-supply of draff, particularly in the summer. In the absence of evidence to the contrary, I accept this finding. And, as confirmed earlier in this notice, the appellant's unchallenged evidence is that reduced cattle numbers in Easter Ross mean the demand for straw locally has diminished.

196. Consequently, while there could be individual farms whose supplies of draff and / or straw might become more expensive and / or less readily available if diverted to the proposed plant, there is no evidence to suggest that such disbenefits would outweigh the positive socio-economic benefits that the appellant has described.

197. Second, NFUS believes the amount of land that would be required to grow the non-waste / residue component of the feedstock (grass and rye silage) would represent such a significant proportion of the prime arable land in the eastern Highlands (calculated by NFUS

at 12,000 acres (approximately 4856 hectares) out of 17 to 20,000 acres (a maximum of approximately 8903 hectares)) that it would leave insufficient land remaining for food production. The basis for these calculations has not been provided.

198. The appellant calculates that, in order to generate the required 38,000 tonnes of rye silage and 14,000 tonnes of grass silage that the plant would consume each year, 845 hectares of land would need to be used for rye silage production and a further 350 hectares for producing grass silage. The combined total of 1195 hectares is less than a quarter of the NFUS figure. The appellant is confident that the area required for the two silages would be easily supplied via cropping the land that has recently become fallow, the ongoing reduced area needed for growing stock feed (reflecting the decline of livestock numbers in the locality), a reduction in the hectareage used for oilseed production and a small reduction in area for spring barley. It also points out that, within a 16km radius of the site, there are 604 hectares of land made fallow within the last 10 years that could be brought back into use.

199. The appellant estimates the land area available for cropping within a 16km radius of the site is 21,750 hectares, with a further 1250 hectares lying fallow. These indicative figures were derived from Land Classification and Census data. The total figure of 23,000 hectares is significantly higher than the 8903 hectare maximum figure given by NFUS for the "eastern Highlands" (the boundaries of which have not been explained to me).

200. The appellant's land use figures are clearly related to the proposed plant's requirement for the silage feedstocks, whereas the origin of the NFUS figures is unclear. And the basis for the appellant's estimate of the total quantum of land suitable for arable cropping in the locality is also clearly stated. Consequently, I prefer the appellant's figures, which do not suggest that the proposed plant would have a significant effect on the food producing ability of the local area.

201. A large number of objectors raise concern that the proposal, including its associated road traffic, could harm the local tourism industry upon which many jobs depend and which, it is hoped, will develop further in the future.

202. Given the highly localised nature of the proposal's likely landscape, visual and amenity effects, and the insignificant increase in traffic levels on all public roads, there are no grounds to suspect any significant adverse effects on tourism in the locality. The immediate environs of the site are already characterised by large-scale industrial and warehousing development. What is now proposed would increase the level of such development, but would not significantly alter the character of the locality. No part of the development would be visible from the popular NC500 tourist route or from any other significant tourist attraction.

203. The AAT refer to Easter airfield being "increasingly popular with flights which provide added value to the local economy, bringing private customers directly to the highlands for the local golf courses, whiskey distilleries, shooting and fishing etc." It is concerned that any reduction in the attractiveness of the airfield as a destination for such trips could have adverse economic effects. The appellant questions this claim, as its interpretation of the airfield's planning history leads it to conclude that it is restricted to private general aviation only and cannot be operated for cargo or fare paying passengers. It also believes the type of aircraft using Easter airfield would not lend themselves to carrying multiple passengers and luggage and argues that, in reality, such aircraft would use Inverness.

204. I accept that owners of GA aircraft (without there being any fare paying passengers) could be using the airfield to access other (off-airfield) leisure activities, which would

contribute to the local economy. This is impossible to quantify in the absence of evidence, but is unlikely to be comparable with the predicted level of positive socio-economic effect that would arise from the appeal proposal. In any event, as I am satisfied that there is no reason why the proposal should significantly affect the attractiveness of the airfield to such visitors, there is also no reason to predict a significant loss of income for the local economy.

205. The appellant's unchallenged evidence is that the proposal would generate significant capital investment in the Highland region, with opportunities for local businesses to bid for contracts in groundwork, landscaping, civil engineering, and construction, creating a construction phase GVA effect of £34 million. An annual operational GVA benefit to the UK economy of £5.3 million is also predicted.

206. These positive economic effects must be taken into account in the planning balance, and there is no evidence to suggest that their value should be significantly reduced on account of any adverse economic effect.

207. Taking all of the evidence into account, I would characterise the likely net consequences of the proposal in socio-economic terms as a minor (not significant) positive effect at the local level.

Other matters

Landscape and visual effects

208. The appellant's landscape and visual impact assessment (LVIA) confirms that the site lies within Landscape Character Type (LCT) 344: Lowland Farmed Plain – Ross & Cromarty. The remainder of the study area is characterised as LCT 346: Open Farmed Slopes and LCT 348: Cliffs and Rocky Coasts – Ross & Cromarty. There are no landscape designations covering the site.

209. The LVIA concludes that the development would have an adverse effect on the landscape fabric of the site itself. This is an inevitable consequence of a site being developed and, for a site of this relatively modest size, is not a reason to withhold planning permission. It also predicts adverse effects on the character of the landscape of the site itself, reducing to a neutral effect in its immediate surroundings. No landscape character effect is predicted for the wider host LCT or for any part of the two nearby LCTs.

210. I find it inevitable that the development of an open field for an industrial use would adversely affect its character, but that the site's lack of any landscape value means this is not a consequence to which any significant weight should be attached. Beyond the site boundaries but in its immediate vicinity, the character of the landscape is already strongly influenced by industrial and agricultural sheds with which the current proposal would be compatible. As such, no significant landscape character effect is likely. Beyond that area, within the wider LCT and adjacent LCTs, the relatively low level of the proposed development means there would be little visibility of the proposal and no potential for a significant landscape character effect.

211. Six representative viewpoints were used in the assessment of likely visual effects. These cover residential receptors, and users of local roads including cyclists following National Cycle Route 1. With the exception of HMS Owl, where an adverse visual effect was predicted for year 1 (before any perimeter landscape planting had matured), visual effects at all receptors were predicted to be neutral.

212. From all potential viewpoints, the proposed development would be seen in the context of existing agricultural and industrial buildings including remnant buildings from the former airfield that have been repurposed for other uses, and quite extensive modern development. The types of structure that are proposed would differ in detail from existing buildings but would be compatible in scale and overall character so as not to appear incongruous in this context.

213. Having regard to this visual context and to the separation between the appeal site and most receptors, my consideration of the submitted visualisations and what I observed when I visited the locality lead me to conclude that, even without perimeter landscape planting, no receptor would experience a significant visual effect. And once such planting became established, the level of visual effect would be further reduced.

214. HWLDP policy 61 requires new development to be designed to reflect the landscape characteristics and special qualities identified in the landscape character assessment for the area. NPF4 policy 29 b) requires development proposals in rural areas to be suitably scaled, sited and designed to be in keeping with the character of the area, and policy 11 e) requires significant landscape and visual impacts of renewable energy proposals to be addressed. Taking all matters into account, I find the proposal's likely landscape and visual effects to be compatible with all of these policies.

Biodiversity enhancement

215. NPF4 policy 3 requires development proposals to contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals requiring EIA such as the appeal proposal will only be supported where it can be demonstrated that they would conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention.

216. Section 5.4 of the appellant's Preliminary Ecological Appraisal describes opportunities for biodiversity enhancement. Some of these, such as the provision of amphibian ladders within any installed drains are, in fact, mitigation rather than enhancement. However others, such as design approaches that could be applied to the proposed SuDS infrastructure, the planting of native plant species and the creation of habitat for various fauna would all have the potential to enhance the biodiversity value of the site, beyond its current low level. Care would need to be taken to ensure that any such measures were compatible with the nearby airfield. But there is no reason to conclude that, even with that constraint, the development could not satisfy policy 3's expectations.

217. Proposed planning condition 6 requires the implementation of Habitat Management Plan, the details of which are to be agreed with the planning authority.

Site safety

218. Concerns have been raised that the site would pose a risk of fire or explosion in a location which is remote from fire and rescue services. Reference is made to AD plants elsewhere in the UK where problems have arisen.

219. The site would be regulated under the lower tier requirements of the Control of Major Accident Hazards (COMAH) regulations. It would also operate to the 'Dangerous Substances and Explosive Atmospheres Regulations 2002, which aims to prevent with the harmful effects of fires, lightning strikes, explosions and corrosion to metals. It would also

be subject to the Pressure Systems Safety Regulations 2000 relating to pressure systems and the risk to health and safety.

220. The appellant has confirmed that it would produce a Major Accident Prevention Policy (MAPP), which would have to be in place prior to operation. This would incorporate assessments of potential incidents and details of how they would be prevented. The Health and Safety Executive and SEPA would both review the provisions to ensure that they comply with respective guidance documents. In addition, the appellant advises that all AD plants must comply with ATEX Regulations under the Dangerous Substances and Explosive Atmospheres Regulations.

221. The applicant acknowledges an explosion at an AD plant in Oxfordshire, which it attributes to a lightning strike. It states that, while there is no statutory requirement in the UK for buildings to have lightning protection, it intends to incorporate such measures into its digester tanks.

222. The control of operational site safety is a matter for other control regimes and not for the planning system. I accept that the site is relatively remote from the nearest professional fire station. However, I am satisfied that the low likelihood of there being an occurrence that required the attendance of the fire service means this is not a factor to which significant weight should be given.

The need for site restoration

223. The planning authority's second reason for refusing planning permission refers to the application's failure to outline proposals for decommissioning and restoring the site at the end of its operational life.

224. NPF4 policy 11 e) xi and HWLDP policy 67 require renewable energy projects to incorporate proposals for decommissioning and site restoration. Policy 12 d) v and HWLDP policy 70 expect waste infrastructure and facilities proposals to incorporate a restoration and aftercare scheme including appropriate financial mechanisms.

225. The appellant does not dispute the need for the council to have control over site restoration proposals at the end of the proposed site's operational life. It also accepts that this could be secured by a legal agreement or other appropriate mechanism. Proposed planning condition 3 addresses this requirement.

Conclusions

226. The EIA report predicts that there would be no significant adverse environmental effects from the appeal proposal. Other studies that the appellant commissioned reach the same conclusion. I have carefully considered these conclusions in the light of the significant level of concern that has been expressed by local residents and businesses about many of the proposed development's potential environmental effects.

227. For the reasons I have set out above, I accept the appellant's conclusions and have identified no additional environmental effects that could be significant. I conclude that, subject to mitigation controlled by means of the conditions attached to this notice, there would be no unacceptable residual impacts in regard to any receptor and that the only significant environmental effect from the proposal would be a moderate / major positive climate effect.

228. I am satisfied that my reasoned conclusions on the significant effects of the proposed development are up to date.

229. For the reasons I have set out above, I find the proposal to be in accordance overall with the development plan.

230. The proposal can also draw support from wider UK and Scottish energy policy, including the UK Government's Biomass Strategy 2023, which explains the importance of biomethane in "greening" the gas grid, recognises the benefits of digestate as a fertiliser, and acknowledges the contribution such development can make to the rural economy.

231. The Scottish Government's draft Bioenergy Policy Statement is also generally supportive of the technology and refers to its potential benefits for the whisky industry. The draft status of this document limits the weight it can be given. But it provides a modest degree of further weight in support of the appeal proposal.

232. A small amount of positive weight can also be given to the recently published draft Strategic Spatial Energy Plan from the National Energy System Operator, which recognises the role bioenergy could play in the country's future energy portfolio (and acknowledges that this portfolio will include gas for a considerable period).

233. I therefore conclude that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

234. I have adopted most of the planning conditions that were proposed by the planning authority. However, I have omitted its proposed non-assignment condition, as the convention is that planning permission runs with the land unless otherwise justified and no such justification for preventing the permission being assigned to another party has been provided.

235. I have also omitted proposed condition 4, which would have permitted (without requiring the planning authority's approval) any changes to the site layout that were required by the PPC process. If any such changes are required, I do not consider it appropriate for these to be exempted from the scrutiny of the planning process. Deleting proposed condition 4 enables the planning authority to consider whether any site layout changes that were mandated by the PPC process required its approval under the planning process.

236. I see no justification for the proposed tree protection condition, given the absence of any trees of significant value on the site and the need to develop a site landscaping strategy that is consistent with its airfield neighbour.

237. The attached conditions provide for mitigation of environmental effects. In condition 4 I require effects arising from the appearance of the site to be mitigated by controls over its design and external finishes. Condition 6 requires a Habitat Management Plan, which will include measures to mitigate and enhance the site's habitats and biodiversity interest. Condition 7 requires an Ecological Mitigation Plan, which will set out specific categories of mitigation of ecological effects. Environmental effects during the construction period would be mitigated by the Construction Environmental Management Plan that is required by condition 8. Condition 10 would provide landscape mitigation and conditions 11 and 12, mitigation of traffic effects during the construction and operational phases of development

respectively. Condition 14 would mitigate effects on the condition of local roads, Condition 15 would mitigate odour effects and the requirement of condition 16 for delivery vehicles to be fuelled by biomethane would mitigate transport related emissions of climate changing gases.

238. The conditions also provide for monitoring measures where appropriate. In condition 5 I require the appointment of an Ecological Clerk of Works, who would have responsibility for monitoring ecological mitigation measures relating to the proposed development. Condition 9 requires that the opportunity is provided by the developer for monitoring of the site's archaeological interest during the construction period. There is no evidence to suggest that any other monitoring measures are required.

David Buylła

Principal Reporter

Schedule 1: Conditions

Time period for commencement

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permissions limiting their duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

Terms of consent

2. Should the anaerobic digester plant hereby approved not supply gas for a continuous period of 24 months then unless otherwise agreed in writing by the planning authority, the site operator shall:

i. within three months of the expiration of the 24 month period, submit a scheme to the planning authority setting out how the development and associated infrastructure will be removed from the site and the ground restored; and

ii. implement the approved scheme within six months of the date of its approval, all to the satisfaction of the planning authority.

Reason: to ensure that the development is removed from the site timeously when it has ceased to serve its intended purpose, in the interests of visual amenity.

Restoration provisions

3. No development shall commence, unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the planning authority. The strategy shall outline measures for the decommissioning of the development and restoration and aftercare of the site, and shall include proposals for the removal of the development, the treatment of ground, surface management, timing of the works, and environmental management provisions.

The strategy shall include details of the bond or other financial provision which the site operator / owner proposes to put in place to cover all the decommissioning, site restoration and aftercare costs of the development. Thereafter:

(a) No development shall commence on the site until the applicant and / or the operator of the anaerobic digester plant has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the planning authority that the proposed bond or other financial provision is acceptable in all respects.

(b) The applicant and / or the operator of the anaerobic digester plant shall ensure that the approved bond or other financial provision is maintained throughout the duration of its operation. If at any stage of the operations a bond or other financial provision is not in place, all operations at the anaerobic digester plant shall cease. Operations shall only recommence once a replacement bond or other financial provision is accepted by the planning authority.

(c) The bond or other financial provision will be subject to a five yearly review, paid for by the applicant and / or the operator of the anaerobic digester plant, from the commencement of development, to be conducted by a competent independent professional (Compliance Monitoring Officer) who has relevant experience within the anaerobic digestion sector and provided to the operator, the landowners (if different), and the planning authority.

Reason: to ensure suitable provisions are made for restoration of the site, and to minimise the longer term visual impacts of the development.

Designs

4. No development shall commence unless and until details of the external appearance, dimensions, and materials of all buildings and infrastructure, which shall incorporate anti-glare matt paint finishes, tracks, and areas of hard and soft landscaping, boundary fencing, and external lighting have been submitted to, and approved in writing by, the planning authority, thereafter the development shall proceed in accordance with the approved details. For the avoidance of doubt, no part of the development shall display any name, logo, sign, or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the planning authority.

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

Ecological Clerk of Works

5. No development or works shall commence on site unless and until an independent Ecological Clerk of Works ("ECoW") has been employed by the developer. The terms of appointment shall:

i. impose a duty to monitor compliance with the ecological mitigation and enhancement commitments as required under Condition 7, the Construction Environmental Management Plan (CEMP) as required under Condition 8, Habitat Management Plan (HMP) as required under Condition 6, and other plans approved in terms of the conditions of this permission ("the Ecology Works");

ii. require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the Ecology Works at the earliest practical opportunity; and,

iii. require the ECoW to report to the planning authority any incidences of noncompliance with the ECoW Works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms during the establishment of the Habitat Management Plan and throughout the period from commencement of development to completion of post-construction works.

No later than eighteen months prior to the expiry of the permission (as defined in condition 2 above), details of the terms of appointment of an ECoW by the operator throughout the decommissioning, restoration and aftercare phases of the development shall be submitted for the written approval of the planning authority. Thereafter, The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: to secure effective monitoring and compliance with the environmental mitigation and management measures associated with the development.

Habitat Management Plan

6. Development shall not commence unless and until a Habitat Management Plan (HMP) has been submitted to, and approved in writing by the planning authority.

The HMP shall set out proposed habitat management of the site including all mitigation, compensation and enhancement measures, during the construction and operational periods of the development and shall provide for the maintenance, monitoring and reporting of habitat on site. The HMP shall account for the presence of the nearby Easter Airfield and the need to safeguard aviation safety and shall include, as a minimum, the biodiversity enhancement measures proposed in Section 5.4 of the Preliminary Ecological Appraisal produced by Mabbet dated October 2022.

The HMP shall include provision for regular monitoring and review to be undertaken against the HMP objectives and measures for securing amendments or additions to the HMP in the event that the HMP objectives are not being met.

Unless and until otherwise agreed in advance in writing with the planning authority, the approved HMP (as amended from time to time with written approval of the planning authority) shall be implemented in full.

Reason: in the interests of good land management and the protection and enhancement of habitats and biodiversity.

Ecological mitigation plan

7. All project-specific ecological mitigation specified in Section 5.3 of the Preliminary Ecological Appraisal produced by Mabbet dated October 2022 shall be complied with throughout the construction and post-construction phases of the development, with:

- i. Pre-works surveys shall be carried out for brown hare, birds, and reptiles by a suitably qualified ecologist. The surveys shall inform the mitigation measures, if required, for the protection of such species which shall be incorporated into Species Protection Plans and implemented throughout the construction and post-construction phases of the development and updated as appropriate following further survey work;
- ii. All site contractors shall be made aware of the potential presence of protected species prior to commencing work on site;
- iii. The vegetation removal programme shall be undertaken between the months of September and February inclusive only, to ensure nesting birds are not disturbed by construction activities;
- iv. An exclusion zone of 10m around the reptile refugia shall be established prior to works commencing on site and maintained throughout the construction and post-construction works periods. Only essential and unavoidable works shall be permitted within this exclusion zone which shall be undertaken outwith the reptile hibernation period of October to March inclusive and under the supervision of a suitably qualified Ecologist or the ECoW. The Ecologist / ECoW shall be consulted on all high vibration

works and shall decide whether additional mitigation is required including an extended exclusion zone. Any reptiles found during the watching brief shall be translocated to a suitable habitat away from the works area by the Ecologist or ECoW;

v. All high vibration works shall be undertaken outwith the bird breeding season (which is between March and August inclusive);

vi. All high vibration works and works generating excessive noise shall be limited to daylight hours in order to reduce disturbance to nocturnal or crepuscular species;

vii. All trenches and pits shall be covered when unattended to prevent animals entering or a shallow angled plank shall be inserted to provide means of escape for animals;

viii. The ends of all pipelines shall be capped when unattended to prevent animal access;

ix. Temporary lights used during construction shall be fitted with shades to prevent light spillage outside the working area. Temporary lights should not illuminate woodland and scrub habitats on site, and avoid illuminating habitats, trees and buildings surrounding the site as lighting can affect commuting and foraging success for nocturnal or crepuscular species along with other species.

Reason: in order to protect the ecological interests of the site.

Construction Environmental Management Plan

8. Development shall not commence unless and until a Construction and Environmental Management Plan (CEMP) containing site-specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, and approved in writing by, the planning authority.

The CEMP shall include (but is not limited to):

i. a site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;

ii. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;

iii. details of construction site fencing, which for the avoidance of doubt, shall be installed prior to groundworks and construction;

iv. a dust management plan;

v. site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);

vi. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;

- vii. details of soil storage and management;
- viii. a drainage management strategy, demonstrating how all surface and waste water arising during and after development is to be managed and prevented from polluting any watercourses or sources;
- ix. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- x. details of temporary site illumination;
- xi. details of the construction of the access into the site and the creation and maintenance of associated visibility splays;
- xii. a Construction Method Statement for the of post-construction restoration / reinstatement of the working areas not required during the operation of the development; and,

The approved CEMP shall be implemented throughout the construction, post-construction site reinstatement and operational phases in full unless otherwise approved in advance in writing by the planning authority.

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

Archaeological watching brief

9. During the construction process, access to the site shall be afforded at all reasonable times to an archaeologist authorised by the planning authority. If significant archaeology is discovered, the nominated archaeologist will contact the planning authority for further consultation. Development in the vicinity of the identified significant archaeology shall cease until the planning authority has authorised works to recommence. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the planning authority.

Reason: the site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

Landscaping

10. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the planning authority. Details of the scheme shall include:

- i. all earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. a plan showing existing landscaping features and vegetation to be retained;

- iii. the location and design, including materials, of any existing or proposed walls, fences and gates;
- iv. all soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities, which shall be non-fruit bearing; and
- v. a programme for the preparation, completion, and subsequent on-going maintenance and protection of all landscaping works, which shall include wildlife hazard management and mitigation measures to reflect the presence of Easter Airfield, including but not limited to:
 - a. measures to keep native species hedgerows trimmed to limit berry production;
 - b. measures to thin trees within woodland to avoid dense vegetation; and,
 - c. adoption of a 'long grass' grass management policy to maintain areas of grass with a height of 200-300mm.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: in order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

Operational phase noise management

11. No work shall commence on site until an Operational Phase Noise Management Plan in relation to this development has been submitted to, and approved in writing by, the planning authority. This shall quantify all sources of operational noise including that from traffic associated with the operation of the site (the permitted routing of which shall be defined in the plan) and shall promote a scheme of mitigation and ongoing management of any significant noise effects. Once approved in writing by the planning authority, development shall proceed only on the basis of the management plan as approved.

Reason: in order to safeguard the amenity of neighbouring properties and occupants.

Construction Traffic Management Plan

12. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the planning authority in consultation with Transport Scotland. The CTMP shall be implemented as approved throughout the construction phase of development and decommissioning and shall include:

- i. A construction programme for development.

- ii. Details of the number and type of vehicle movements that will be generated during the construction period and their routing to and from the site.
- iii. Details of measures to mitigate the impact of construction traffic on the routes to site following an assessment of the affected roads.
- iv. Measures to avoid conflict with school opening and closing times and any planned local events.
- v. Details of appropriate traffic management measures to be established and maintained during the construction period.
- vi. Measures to ensure that all public roads are kept free of mud and debris arising from construction traffic.
- vii. Measures to ensure that the condition of affected public roads is closely monitored and any damage attributable to construction traffic is promptly addressed.

Reason: in the interests of road safety, and in order to ensure that the works involved comply with applicable standards in order to mitigate adverse impacts on the public road network.

Operational Traffic Management Plan

13. No development shall commence on site until an Operational Traffic Management Plan (OTMP) for the operation of the hereby approved development has been submitted to, and approved in writing by, the planning authority in consultation with Transport Scotland. The OTMP shall include details of vehicle movements, the roads that will be impacted by the development, and traffic management proposals and mitigation measures to protect the integrity of the public road network. The OTMP shall include a scheme of monitoring and review of the OTMP. Thereafter, the OTMP shall be implemented as approved and amended from time to time.

Reason: in the interests of road safety, and in order to ensure that the works involved comply with applicable standards in order to mitigate adverse impacts on the public road network.

Road Wear and Tear Agreement

14. No development or works shall commence until the developer has entered into a legal agreement under Section 96 of the Roads (Scotland) Act 1984 for the provision of a Road Bond or similar security, under which the developer is responsible for the repair of any damage to the public road network that can reasonably be attributed to construction and operation related traffic. The agreement shall take account of any neighbouring significant developments that might progress concurrent with the works proposed and will provide, if necessary, a mechanism for apportionment of costs between respective developers. The agreement shall include:

- i. pre-start and post-construction road condition surveys must be carried out by the developer, along with a programme to the satisfaction of the roads authority.

- ii. a scheme for the regular monitoring of the local road network used for the delivery of material to and from the site.

The scope of all road condition surveys, both pre-start and post-construction, shall be agreed with the planning authority prior to any works being undertaken.

Reason: to ensure the protection of the road network, and to secure the cost of repairing any damage to the road network.

Odour Management Plan

15, The site shall not be operated other than in accordance with the Odour Management Plan that was prepared by Mabbett on behalf of the proposed site operator and dated 1 November 2022.

Reason: in order to ensure that the potential for odour to affect third parties is adequately controlled.

Biomethane fuelling

16. Biomethane and carbon dioxide shall not be transported from the appeal site to any other location using a road vehicle unless that vehicle is 100% biomethane fuelled.

Reason: to ensure that, notwithstanding the site's relative remoteness from the gas grid injection point and from likely users of the carbon dioxide, the transportation of the biomethane and carbon dioxide from the site would minimise transport related carbon emissions.

Community Wealth Building Strategy

17. No development shall commence until a Community Wealth Building Strategy (CWBS) has been submitted to, and approved in writing by, the planning authority. The CWBS shall evidence meaningful liaison between the developer and the people, communities, and community bodies affected by the development and refer to, and demonstrate compliance with, the five core principles of Community Wealth Building: Spending; Inclusive Ownership; Workforce; Finance; Land and Property, and set out the steps and processes by which the development will support the long term economic, cultural, social, and environmental aspirations of the communities.

Reason: in order to ensure the development supports an inclusive wellbeing local economy while empowering local communities affected by the development to meet community aspirations as required by Policy 25 of NPF4.

Schedule 2: Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013
4. **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.
5. **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 the in 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 3: Application drawings

General Plan: Fermenter Tank - Plans, Section and Elevations as Proposed. Received by planning authority 03.11.2022

General Plan: Liquid Storage Tanks A & B – Plans. Received by planning authority 03.11.2022

General Plan: Straw Bunker Building – Plans and Elevations as Proposed. Received by planning authority 03.11.2022

General Plan: Straw Bunker Building – Elevations and Sections as Proposed. Received by planning authority 03.11.2022

General Plan: Straw Bunker Building and Chicken Shed - Plans and Elevations as Proposed REV A. Received by planning authority 03.11.2022

General Plan: Straw and Chicken Shed – Elevations and Sections as Proposed REV A. Received by planning authority 03.11.2022

General Plan: Separator Building - Plans, Section and Elevations as Proposed. Received by planning authority 03.11.2022

General Plan: Chicken Shed - Sections and Elevations as Proposed. Received by planning authority 03.11.2022

General Plan: Evaporator - Plans, Section and Elevations as Proposed REV A. Received by planning authority 03.11.2022

Drainage Catchment Plan 29413-102 REV A. Received by planning authority 03.11.2022

Site Location Plan 29413-9000 REV A. Received by planning authority 03.11.2022

Floor Plan: Welfare Office Internal Layout 29413-P-115 REV A. Received by planning authority 03.11.2022

Drainage Layout Plan: 29413-T-103 REV A. Received by planning authority 03.11.2022

Section Plan: Lagoon Details 29413-T-107 REV A. Received by planning authority 03.11.2022

General Plan: Nase No. 1 – Gas Flare. Plan & Section. 29413-T-2002 REV A. Received by planning authority 03.11.2022

General Plan: Base No. 4 – CHP's Plan & Section 29413-T-2005 REV A. Received by planning authority 03.11.2022

Section Plan: Fencing & Gate Details 29413-T-2018 REV A. Received by planning authority 03.11.2022

Section Plan: Proposed Tank Bund Details Sheet 1 of 3 29413-T-2023 REV A. Received by planning authority 03.11.2022

Site Layout Plan: Assessed Scheme Lighting SK-02. Received by planning authority 03.11.2022

Elevations: Welfare Office External Layout 29413-P-116 REV B. Received by planning authority 24.11.2022

Drainage Details 29413-T-106 REV B. Received by planning authority 24.11.2022

Site Layout Plan: General Arrangement 29413-T-100 REV K. Received by planning authority 10.01.2023

General Plan: Levels Plan 29413/104 REV B. Received by planning authority 10.01.2023

General Plan: Paving Plan 29413/120 REV C. Received by planning authority 10.01.2023

Drainage Details 29413/P/106 REV A. Received by planning authority 08.03.2023

Section Plan: Lagoon Details 29413/P/107 REV A. Received by planning authority 08.03.2023

Section Plan: Lagoon Details 29413/P/121 REV A. Received by planning authority 08.03.2023

Section Plan: Lagoon Typical Details 29413/P/122 REV A. Received by planning authority 08.03.2023

Landscaping Plan: Sheet 1 of 7 310664-001. Received by planning authority 15.03.2023

Landscaping Plan: Sheet 2 of 7 310664-002. Received by planning authority 15.03.2023

Landscaping Plan: Sheet 3 of 7 310664-003. Received by planning authority 15.03.2023

Landscaping Plan: Sheet 4 of 7 310664-004. Received by planning authority 15.03.2023

Landscaping Plan: Sheet 5 of 7 310664-005. Received by planning authority 15.03.2023

Landscaping Plan: Sheet 6 of 7 310664-006. Received by planning authority 15.03.2023

Landscaping Plan: Sheet 7 of 7 310664-007. Received by planning authority 15.03.2023

General Plan: Manure Shed – Plans as Proposed 29346 1007 REV A. Received by planning authority 24.10.2023

General Plan: Manure Shed – Sections and Elevations as Proposed 29346 1008 REV A. Received by planning authority 24.10.2023

Site Layout Plan and 3D Images as Proposed 29346-008 F101 REV E. Received by planning authority 24.10.2023

Site Elevations as Proposed 29346-008 F102 REV E. Received by planning authority 24.10.2023

Site Layout Plan: General Arrangement 29413/P/100 REV C. Received by planning authority 24.10.2023

Drainage Plan 29413/P/103 REV B. Received by planning authority 24.10.2023

Drainage Catchment Plan 29413/P/103a REV B. Received by planning authority 24.10.2023

General Plan: Levels Plan 29413/P/104 REV C. Received by planning authority 24.10.2023

Section Plan: Paving Plan 29413/P/120 REV D. Received by planning authority 24.10.2023

General Plan: Silage Clamp Layout and Elevations 29413/P/2021 REV A. Received by planning authority 24.10.2023

General Plan: Silage Clamp Sections & Details 29413/P/2022 REV A. Received by planning authority 24.10.2023

General Plan: Proposed Tank Bund Details. Sheet 2 of 3 29413/T/2024 REV A. Received by planning authority 24.10.2023

General Plan: Proposed Tank Bud Details. Sheet 3 of 3 29413/T/2025 REV A. Received by planning authority 24.10.2023

Schedule 4: 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 and during the course of the appeal:

- the appellant has provided a report on pre-application consultation. This indicates that a public exhibition was held at the Seaboard Centre, Balintore, Tain on Wednesday 29 June 2022 from 15:00 – 19:00, and the public had an opportunity to comment to the appellant on the proposed development;
- an advertisement of the application in the Edinburgh Gazette and Ross-Shire Journal 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 231 public representations in respect of the application. notice. At the appeal stage, a further 65 public representations were received initially and a further 66 received subsequently. In response to the EIA report and subsequent documents, 27 further responses were received. There is also a petition against the proposal with (at the time of writing) 2661 signatures. The main points raised in all those representations are summarised throughout this decision;
- further information was submitted at the appeal stage, which did not constitute additional information under the EIA Regulations. However, the public was given an opportunity to comment on that information.

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal.



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Mr M Fitzpatrick
Highland Council
Sent By E-mail

Our ref: PPA-270-2293
Planning Authority ref:22/05178/FUL

9 May 2025

Dear Mr Fitzpatrick

**PLANNING PERMISSION APPEAL: LAND 350M SOUTH OF FEARN AERODROME
FEARN IV20 1XY**

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/>.

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](#).

I trust this explains the position.

Yours sincerely,

Claire Seidel

CLAIRE SEIDEL
Case Officer
Planning And Environmental Appeals Division

