

Report to the Scottish Ministers



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

Report by Lindsey Nicoll and Scott M Ferrie, reporters appointed by the Scottish Ministers

- Case reference: WIN-270-1
- Site Address: land 1137 metres south of Creag Leathan, Limekiln Estate, Reay, Caithness
- Application by Infinergy Limited
- Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
- The development proposed: construction and operation of Limekiln Wind Farm
- Dates of inquiry/ hearing sessions: 25-28 August 2014

Date of this report and recommendation: 20 February 2015



INVESTOR IN PEOPLE



CONTENTS

Page

Summary Report	3
Preamble	16
Abbreviations used in the report	17

Chapters

1. Background	18
2. Policy context	22
3. Landscape and visual impact	28
4. Impact on wild land	46
5. Local amenity impacts	64
6. Impact on ecology	66
7. Impact on forestry	84
8. Hydrology and hydrogeology	87
9. Climate change, carbon balance and peat management	89
10. Other relevant issues	94
11. Proposed conditions	102
12. Overall conclusions and recommendations	107

Appendices [attached as separate documents]

Appendix 1: Note of pre-examination meeting

Appendix 2: Schedule of documents

Appendix 3: Appearances

Appendix 4: Statement of common understanding

Appendix 5: LVIA inquiry session:
a. inquiry statements
b. precognitions

Appendix 6: Wild land inquiry session:
a. inquiry statements
b. precognitions
c. exchange of submissions on competency of THC wild land objection
d. applicant's emails regarding further visualisations

Appendix 7: Planning and energy policy hearing session:
a. hearing statements

Appendix 8: Conditions hearing session:
a. hearing statements
b. proposed conditions
c. Local Economic Benefit Scheme (APP-R2)
d. Mr Young's submission on the Local Economic Benefit Scheme

Appendix 9: Further written submissions:
a. representations made regarding Further Environmental Information (April 2014)
b. representations made regarding Further Environmental Information (July 2014)
c. further written submissions by the parties on
 (i) ornithology
 (ii) forestry
 (iii) hydrology and hydrogeology
 (iv) carbon balance and peat management

Appendix 10: Closing submissions

Appendix 11: Proposed conditions

Appendix 12: Participants in evening session on local amenity impacts; statements submitted

The construction and operation of Limekiln Wind Farm at land 1137 metres south of Creag Leathan, Limekiln Estate, Reay, Caithness

• Case reference	WIN-270-1
• Case type	Application for consent (S36 Electricity Act 1989) and deemed planning permission (S57 Town and Country Planning (Scotland) Act 1997)
• Reporters	Lindsey Nicoll and Scott M Ferrie
• Applicant	Infinergy Limited
• Planning authority	The Highland Council
• Other parties	Scottish Natural Heritage; Reay Area Windfarm Opposition Group; John Muir Trust; Mr Webster; and Mr Young
• Date of application	December 2012
• Date case received by DPEA	29 November 2013
• Method of consideration and date	Inquiry sessions 25-28 August 2014 Hearing sessions 28 August 2014
• Date of report	20 February 2015
• Reporter's recommendation	Refuse S36 consent and deemed planning permission

The Site:

The application site is located about 1.5 kilometres to the south of the village of Reay, in Caithness. The site extends to approximately 1,140 hectares and largely comprises a commercial plantation of coniferous woodland. The site is bounded to the north by undulating moorland and semi-improved agricultural land with Reay village and dispersed settlement beyond. To the east lies further coniferous woodland. The land to the west and south is largely open moorland. The locally prominent Beinn Ratha is located about 1.2 kilometres to the west of the site boundary.

Description of the Development:

The proposed development would have a potential generating capacity of 75 MW. The main components of the proposed development are: 24 wind turbines (15 with a maximum blade tip height of 139 metres; and 9 with a maximum blade tip height of 126 metres) and turbine foundations; 2 borrow pits; new vehicular access from the A836 at Bridge of Isauld; hardstanding areas including crane pads; new and upgraded on-site access tracks (approximately 19.4 kilometres); watercourse and service crossings; temporary works

including construction compound; and control building and sub-station (if required) and cabling within the site.

Consultations and Representations:

Scottish Natural Heritage (SNH), although not objecting, advised that the proposed development would “result in a range of significant adverse landscape and visual impacts, some of which are capable of mitigation”. SNH subsequently led evidence at the inquiry at our request, based on the wild land impacts of the proposal. The Scottish Environment Protection Agency (SEPA) withdrew its initial objection, subject to mitigation on a range of matters. Marine Scotland did not object to the proposal, subject to conditions. Halcrow undertook a Peatslide Hazard and Risk Assessment of the proposal on behalf of ECDU and advised that the available information did not provide a sufficiently robust assessment of the peat landslide risk. Caithness West Community Council objected to the proposal based on landscape and visual impacts, community impact and cumulative impact. The Reay Area Wind Farm Opposition Group made representations on a range of local impacts which would arise from the proposal. Although the John Muir Trust did not initially object to the application it changed its position to one of objection on publication of SPP and the SNH mapping of wild land. RSPB did not initially object, but before the inquiry lodged an objection in regard to impacts on golden eagle.

A range of other consultees either had no objection, or no objection subject to conditions.

566 letters of objection were received. The grounds of objection include: adverse landscape and visual impact, including cumulative impact; impact on the setting of Reay; adverse impact on wildlife and habitats; traffic impacts; shadow flicker; noise impacts; adverse health impacts; adverse tourism impacts; cultural heritage impacts; recreational impacts; impacts on peatland; carbon balance; adverse economic impact; inadequate Environmental Statement; and alternative technologies available/ necessity/ impact on bills and fuel poverty/ impact on property values.

17 letters of support were received. The grounds of support include: reduction in carbon emissions; achievement of local and national energy targets; local economic impacts; no/ few adverse impacts; and community benefits.

The Highland Council objected to the proposal for the following reason:

The application is contrary to the Highland wide Local Development Plan (Policy 67) in that there would be a significant detrimental impact on the visual amenity and landscape character of the area. This is due to: the size of the turbines and the effect upon the village of Reay and the wider area; the cumulative impact on the area when considered along with Forss I and II and Baillie wind farms; the impact on the A836 tourist route between Thurso and Tongue; and the effect on the Caithness Lochs SPA.

The council later clarified that, following further consideration of the position of SNH, it withdrew reference to the effect on the Caithness Lochs SPA. The council did, however, pursue at the inquiry an additional line of objection based on the wild land impacts of the proposal.

The Cases for the Parties:

Policy context

The applicant submits that the proposal is appropriately sited, would provide a valuable contribution towards renewable energy targets, and draws clear support from national energy and planning policy and from the development plan.

The council submits that the importance of national energy policy to consideration of this proposal is not in dispute, but there is no indication in any of those policies of a diminution of protection for the environment. Due to its significant adverse landscape and visual effects the proposal is contrary to the up-to-date development plan. It would not, therefore, contribute to sustainable development.

The Reay Area Windfarm Opposition Group argues that the benefits of the proposal are outweighed by adverse landscape and visual impacts and the proposal is, therefore, contrary to the development plan.

Landscape and visual impact

The applicant contends that: the site is located within a modified landscape with capacity to absorb a wind farm of the size and scale proposed. Through careful choice of the site and turbine layout design, significant effects have been minimised on surrounding communities. No part of the site is subject to any form of statutory or non-statutory landscape planning designation. The number of residential properties that would experience significant visual effects is small and no residential properties would experience overbearing or dominant effects. The visual effects on the A836 tourist route would be limited in extent and would coincide with a stretch of the route that is already characterised by a significant amount and variety of developed uses, including existing wind farms. The principal cumulative impacts would arise with Baillie wind farm and would be confined to a localised area of the landscape which has adequate capacity to absorb the cumulative effects.

The council contends that the proposed wind farm would have significant adverse landscape and visual effects on Reay and Shebster, on the A836 tourist route and on National Cycle Route 1. In the case of Reay and Shebster the wind farm would be a significant and dominating feature on the horizon, adding to the effects of existing wind farms visible from these settlements. Many of the significant effects would result from the scale and extent of the current proposal. A significantly reduced scale of proposal would have a better landscape fit, noticeably reducing many of the significant adverse effects of the current proposals.

Mr Webster supports the council's reasons for objecting to the application. Baillie wind farm is 2.5 kilometres south of Mr Webster's home. The cumulative impacts of those turbines would be significantly adverse on his home and on the group of dwellings at Achreamie, Buldoo and Upper Dounreay.

Mr Young states that the taller of the Limekiln turbines, at 139 metres, would be significantly higher than the Baillie turbines, at 110 metres. The cumulative impacts of the proposal would result in a wind farm landscape even by the standards argued on behalf of the applicant. Cumulative and sequential cumulative visual impacts are such that parts of

Caithness are already a wind farm landscape and the addition of Limekiln wind farm would extend that in an unacceptable manner.

Impact on wild land

The applicant states that the council's grounds of objection did not include effects on wild land, although it was aware of core areas of wild land mapping. The applicant considers that there is no authority for the council to pursue an objection on these grounds.

Scottish Planning Policy states that the effects on wild land must be taken into account in the decision making process. If it were considered that some buffering around the edge of wild land areas was required then policy would have provided for that. Accordingly, while the impact on wild land is a material consideration the weight to be attached to it is for the decision maker. There is no presumption against development in wild land areas and some wild land areas contain or abut wind farms.

SNH's Interim Guidance remains in force and the applicant was entitled to rely on it and to adopt a wild land study area different from that of the wild land area. SNH's Advice to Government of 16 June 2014 acknowledges that particular characteristics and intensity of wildness will vary across a wild land area and that "the details of that variation may not always be picked up in the desk based analysis and broad brush approach we have used to define these areas. Consideration of individual proposals and their potential effect on wildness and areas of wild land will require individual field assessment." If the new wild land areas include at their boundaries areas of lower or minimal wildness, then it is important that there should not be a complete ban on development within wild land areas and no buffer zones outside them.

It is concluded for the applicant that there would be some significant landscape and visual effects, including cumulative effects, across the closest parts of the East Halladale Flows Wild Land Area, extending to approximately 6 to 7 kilometres from the wind farm where there is actual visibility. However, it is not accepted that this would harm the integrity of the wild land area due to the fact that the area in question is already characterised to a discernible degree by a range of external influences.

The council considers that it has appropriate authority to pursue an objection on wild land impacts. The applicant's assessment of effects on wild land is based on its wild land study area and predates the publication of SPP in June 2014 and the related mapping of wild land areas by SNH. Overall, the cumulative magnitude of change on the East Halladale Flows Wild Land Area would be medium, and given that wild land would be of high sensitivity, the effect of the proposal would be significant. The council endorses and adopts SNH's submissions, particularly in relation to the applicant's approach to restricting its assessment to areas it considers to have the characteristics of "true wild land". In any event, there would be an adverse impact on areas within the applicant's wild land study area. Reading SPP as a whole, impacts on wild land areas from outside are to be treated no differently from impacts within. NPF3 confirms that wild land is a nationally important asset. There is clear protection for wild land which should be given the weight accorded to other interests in table 1 of SPP. It is not, however, a policy of absolute embargo as submitted by the JMT.

Scottish Natural Heritage (SNH) did not formally object to the application on the grounds of its impact on wild land. It advises, however, that the applicant's approach to assessing the effects on wild land has been superseded by the publication of the SNH 2014 wild land

mapping and the adoption of the wild land areas by Scottish Ministers as the areas of wild land referred to in SPP. What is now required is an assessment of the impacts on the East Halladale Flows Wild Land Area, and not, as undertaken by the applicant, a smaller area. As a result, the applicant's assessment of the impacts on wild land is an incomplete and inaccurate determination of the magnitude and significance of the potential impacts that the development would have.

However, based on the available information and local knowledge it is considered that the wind farm could result in significant adverse effects on the East Halladale Flows Wild Land Area. There would be adverse effect on areas within the wild land area where currently there is none, or very little (but distant), visibility of obvious human artefacts. From some areas within the wild land area, the wind farm would have a significant effect on the sense of sanctuary or solitude that can currently be experienced.

In combination with existing wind farms (Baillie Hill, Forss, and Causeymire) and one under construction (Strathy North), there would be a cumulative effect on the wild land area. There is a good degree of distance and separation between these other wind farms and the wild land area that helps reduce their impact. Due to Limekiln having larger turbines, and being substantially closer, it would be likely to result in a greater degree of effect on the wild land area than other wind farms.

The John Muir Trust (JMT) states that the applicant's case is not well served by its refusal to provide adequate visualisations from within the wild land area, and this demonstrates a lack of confidence in its case. The visualisations from viewpoint 17 (Beinn Ratha) show very clearly that the proposal would diminish the wild land area in quality very significantly. A very considerable proportion of the area studied would have visibility of a varying number of turbines. Since the border of the wild land area is adjacent to the proposed site, that visibility for some of the wild land area would be completely overpowering. The overall evidence is that the effects on the East Halladale Flows Wild Land Area would be significantly adverse and are not outweighed by the mainly generic benefits of the proposal. It is contrary to national policy and to the development plan. Section 36 consent and deemed planning permission should be refused.

Local amenity impacts

We held an evening session at Reay Village Hall to which members of the public were invited to give them the opportunity to express their views on the impact of the proposal on the local community.

The key points made were that the development would result in long term environmental damage for a short term gain, which would have only limited benefits for the local community. The landscape and visual impacts, including cumulative impacts with Baillie and other wind farms, of the development would be damaging to nearby residents. The visualisations do not take account of the winter months when there is no foliage to screen the wind farm or the fact that the sun is low on the horizon. This would result in a 'flicker' effect. There are concerns about traffic and noise impacts. There is no local or regional need for a development of this scale. Contribution to renewable energy targets should not be given disproportionate weight over the impact on local communities.

The Action Group had received overwhelming support from the people of Reay and the surrounding area with the result that over 500 objections were made and a 150 signature petition was submitted to Caithness West Community Council.

Impact on ecology

For the applicant it is stated that mitigation measures identified in relation to protected species such as otter, water vole, pine marten and bats would ensure that there would be no significant adverse impacts on non-avian protected species. In regard to ornithology, the Environmental Statement concludes that the construction and operation of the wind farm would have no significant effects in terms of the EIA regulations. Nor would there be any adverse effect on the integrity of the Caithness and Sutherland Peatlands SPA, the Caithness Lochs SPA or the North Caithness Cliffs SPA. The proposed wind farm and its immediate surroundings are in habitat- commercial conifer forest- that eagles typically do not use in Scotland. If birds do not typically use a habitat there is little prospect of displacement or collision risk. These are well established facts and further survey work would be of little value. Over 100 hours of vantage point surveys and over 100 hours of ground work surveys were conducted between April and August 2014 in the vicinity of the proposed wind farm and, while eagles were seen over the open ground to the south, there were no sightings over the afforested location of the proposal.

The council does not object on natural heritage grounds.

SNH originally made no objection to the ornithological impacts of the proposal, subject to conditions. SNH's updated advice, in response to new information about the possible presence of a breeding pair of golden eagles, states that there would be likely significant effects on golden eagles (through loss of foraging habitat), hen harrier and merlin (through collision mortality) such that an appropriate assessment would be required. It further advises that the proposal would not adversely affect the integrity of the Caithness and Sutherland Peatlands SPA, provided a condition regarding deer fence management recommended is applied. This appraisal is based on the following factors: the predicted collision mortality figures for hen harrier and merlin are very low and would not affect the viability of the populations; the wind farm development would have a likely significant effect on golden eagles breeding in the SPA due to the ~0.5% loss of foraging range of the closest pair. This is however well below the figures for range loss known to have had an adverse impact on breeding eagles at other development sites.

Mr Maughan contends that a range of bird species would be adversely affected by the proposal. Significantly, although golden eagles would not hunt over dense forested areas they may overfly them to hunt for prey at the margins. A death due to collision with turbine blades in a low density population would have a severe effect on that local population. SNH's updated advice on the potential impact on golden eagles relies on modelling which makes incorrect assumptions about the foraging range of eagles and is not borne out by local observations. This is the only known pair of golden eagles breeding in Caithness and is the most north easterly pair of breeding golden eagles in the UK. Any chance of affecting the breeding performance of this pair should be given the most intense scrutiny.

RSPB originally confirmed that the SNH guidance on surveys appeared to have been followed and did not object on these grounds. It subsequently drew attention to the fact that a pair of golden eagles was nesting relatively close to the development. The re-occupation of this historic golden eagle home range is a material consideration in the determination of

the application. More eagle flights over the development site than are recorded in surveys are likely, with the potential for an enhanced risk of turbine collision, disturbance and displacement. It is not possible to rule out the possibility of an adverse effect on the Caithness and Sutherland Peatlands SPA and an appropriate assessment under the Habitats Regulations should be carried out. The RSPB conditionally objects to the proposal pending the supply of further information on this matter.

Impact on forestry

For the applicant it was stated that the proposed felling programme takes account of technical, landscape and visual and other environmental constraints. An area of around two hectares would be felled for each turbine. The net area of woodland loss would be 53.42 hectares. The applicant proposes to restock the site with conifers plus a mix of broadleaf species. All forestry operations would be carried out in accordance with Forestry Commission for Scotland (FCS) good practice and guidelines. The applicant indicated a willingness to enter into discussions with FCS regarding compensatory planting.

The council had no objection in relation to forestry. It noted that compensatory planting would be required to accord with the Scottish Government policy on woodland removal and that this would need to be secured by means of a condition or legal agreement.

The Forestry Commission for Scotland initially objected to the proposal. In its view, the removal of woodland associated with the construction of the wind farm would not meet the criteria set out in Scottish Government policy and that it should be a condition of any consent or permission that compensatory planting of 53.42 hectares should be undertaken. FCS noted that the applicant subsequently accepted that there should be compensatory planting and a long term forest plan and, on this basis, withdrew its objection subject to conditions.

SEPA also objected to the application on the basis of how the applicant proposed to deal with trees felled as a result of the construction of the wind farm. It also objected to the proposal to spread the mulched material over the site without further information about the benefit this would provide, or details of the locations where this was proposed. On receipt of further clarification SEPA withdrew its objection subject to the imposition of appropriate conditions.

Hydrology and hydrogeology

The applicant states that: the water assessment in the Environmental Statement highlights a number of potential effects on site hydrology and hydrogeology but mitigation measures incorporated into the scheme design would ensure that the proposal would not result in significant effects on hydrological and hydrogeological receptors. SEPA did not object to the proposal on water grounds and the applicant proposes conditions to safeguard those matters raised by SEPA. Marine Scotland has not objected, and the applicant accepts its recommendations regarding baseline, construction and post-construction hydrochemical, macroinvertebrate and fish monitoring and watercourse buffer zones.

In its subsequent response, Marine Scotland acknowledged the applicant's acceptance of those matters.

Climate change, carbon balance and peat management

In regard to carbon balance, Mr Young contends that carbon payback periods cannot be determined until site work has been carried out, sufficient to quantify the volumes of peat to be handled.

The applicant responds that their technical advisers assess that a 10% error on calculation of peat excavation volumes would be standard for a project such as this. Three iterations of the carbon calculator were requested for Limekiln by SEPA, and the range of payback times generated ranged from 1 to 3.1 years, using a range of scenarios. When the excavated peat volumes were increased by 10%, the difference to the final payback calculation was only 0.1 year.

In regard to peat management, ECDU's technical advisors conclude, arising from the difficulty in characterising the site due to the extent of dense plantation forestry, that it would be prudent to attach planning conditions to ensure that the Peat Landslide Hazard and Risk Assessment remains a live document as further information becomes available. Conditions are recommended in this regard.

Mr Young argues that the peat contour map cannot be relied upon. Site investigation work in respect of peat depths has not been carried out to the extent required before permission is sought. The environmental impact of the proposal cannot be determined until sufficient site investigation is undertaken. Consent cannot be granted when the environmental impact is not known.

The applicant states that the level of peat survey work at Limekiln is sufficient to carry out an accurate EIA, propose appropriate mitigation measures and devise the indicative peat management plan. Should consent be forthcoming, however, more detailed intrusive surveys would be carried out and this matter could be controlled by condition. The applicant is in general agreement with the additional planning conditions suggested by ECDU's technical advisors.

Reporter's Conclusions:

Landscape and visual impact

The significant landscape and visual impacts (including cumulative impacts) of the proposal, wild land impacts aside, would be experienced in a relatively restricted area of about 6-7 kilometres range. Although there is no dispute that the proposed wind farm would have a significant visual effect on the nearby settlements at Reay and Shebster (although neither are within 2.5 kilometres of the proposal), we conclude that it would not have an overbearing or dominant effect on any residential properties, including those nearest to it.

Impact on wild land

SPP and NPF3 were published in June 2014 along with SNH's mapping of wild land. The wild land area of relevance to this proposal is the East Halladale Flows Wild Land Area. Much of the western and southern boundary of the application site is coterminous with that Wild Land Area.

NPF3 and SPP recognise wild land as a nationally important asset and, in our view, the policy intention appears to be to confer on those areas of land identified in the SNH wild land map a high degree of protection, while also recognising that even within wild land areas some development may be appropriate. We agree with the applicant that paragraph 215 of SPP (which cross refers to the SNH wild land map) applies to development within a wild land area. There appears to be no policy justification for applying the criteria set out in that paragraph to development outside a wild land area. To do so would be to extend the strengthened policy protection afforded to wild land areas to areas well beyond their boundaries. We are conscious that the wild land areas are not restricted to the areas of highest wildness and that areas of lower wildness are included within wild land areas. This is demonstrated by the boundaries of the East Halladale Flows Wild Land Area, which include the overhead power line, the Limekiln plantation, the railway line, and the A897.

The applicant accepts that a proposed development located outside a wild land area would have to be subject to an assessment of potential effects on any nearby wild land area. We agree that, for proposals located outside a wild land area, any significant adverse effects on the qualities of the wild land area would have to be weighed in the planning balance, giving due weight to the status of wild land areas as a nationally important asset. Accordingly, our task in advising Ministers on this application is to consider the impacts of the proposal on the East Halladale Flows Wild Land Area. Our ability to do this is, however, constrained by the limited nature of the evidence before us concerning the potential impact on the wild land area as a whole.

The applicant's assessment of impacts on wild land is limited to its wild land study area. We accept that this was a reasonable approach when the assessment in the Environmental Statement was undertaken, but the policy position and the identification of wild land areas in June 2014 altered the context in which the proposal must be assessed. In delineating its wild land study area the applicant effectively screened out of consideration substantial areas of land which are now included within the wild land area. These include not just the area to the east of the ridgeline of Beinn Ratha, but also substantial areas to the south and south east of the site. There are no viewpoints or visualisations from those substantial areas to the south and south east. On receipt of SNH's updated advice regarding wild land we asked the applicant whether it was its intention to provide further visualisations from within the wild land area as recommended by SNH. The applicant's position was that it was satisfied that the visualisations supplied were adequate to assess the effects on wild land and that it did not intend to produce any further material for the inquiry.

We have only limited evidence, therefore, (apart from the evidence regarding the potential impact on the area to the east of the Beinn Ratha ridgeline) about the potential impact on the areas of the wild land area not included in the wild land study area. We have considered whether the significant effect of the proposal on the area to the east of the Beinn Ratha ridgeline alone would be sufficient to lead us to conclude that the impact on the wild land area as a whole would be unacceptable. We conclude that it would not. Although it is this part of the wild land area that would be most severely affected by the proposed wind farm it is an area that is already subject to human influences and any diminution in wild land qualities would have to be seen in that context. There are, however, parts of the wild land area excluded from the applicant's wild land study area that make an important contribution to the wild land area. Those parts are not currently subject to human influences to the same extent as the area to the east of the Beinn Ratha ridgeline.

We must consider the impact on the wild land area as a whole. As the applicant's detailed assessment was limited to its wild land study area and as we have only limited evidence about the rest of the wild land area, we do not consider that we have sufficient information to enable us to assess the impacts on the wild land area with a sufficient degree of confidence.

The exchange of legal submissions between the applicant and the council about the competency of the council's objection on wild land grounds, and our observations on these, are in Appendix 6 to this report.

Impact on ecology

Subject to the imposition of an appropriate condition, any likely significant effect on the Caithness and Sutherland Peatlands SAC and its component SSSIs could be avoided. The Environmental Statement proposes an adequate range of mitigation measures to safeguard protected non-avian species; these would be controlled by conditions. With those conditions in place we are satisfied that the proposed development would not have any significant adverse impacts on non-avian natural heritage interests.

The proposed development would not have a likely significant effect, for the purposes of the Habitats Regulations, on the North Caithness Cliffs SPA. So far as the Caithness Lochs SPA is concerned, there would be a likely significant effect on greylag geese so that Ministers are required to carry out an appropriate assessment. However, the predicted collision mortality rate is such that this would not affect the viability of the population. There would, therefore, be no adverse impact on the integrity of the SPA. A likely significant effect on the Caithness and Sutherland Peatlands SAC and SPA could be avoided by the imposition of a condition requiring steps to be taken regarding the control of deer movements. An appropriate assessment is required as regards golden eagle, hen harrier and merlin on account of the risk of displacement (golden eagle) or collision mortality (hen harrier and merlin). However, the degree of displacement and the predicted collision rate are so low that this would not have an adverse effect on the viability of the relevant populations and, therefore, there would be no adverse impact on the integrity of the SPA.

There is no evidence before us to suggest that any cumulative effects would arise, so far as natural heritage interests are concerned.

Impact on forestry

The wind farm has been designed to minimise the loss of woodland and the benefits of the proposal, through its contribution to renewable energy targets, would outweigh the loss of a relatively small area of commercial plantation of non-native species. In the event of consent being granted we recommend a condition requiring the applicant to provide compensatory planting of 53.42 hectares.

Hydrology and hydrogeology

We are satisfied that any outstanding issues on this topic have now been resolved. We conclude that the proposal would not have a significant impact on these interests, subject to the mitigation measures set out in the scheme design and in conditions.

Climate change, carbon balance and peat management

We conclude that the applicant's updated carbon balance calculation may be treated as a material consideration in Scottish Ministers' consideration of this case. The validated carbon balance calculation appears to us to be very favourable. In the event that consent were to be granted for a 30 year operational life, the carbon balance calculation would be further enhanced. The proposal, with an installed capacity of up to 75 MW, would make a significant contribution towards meeting the Scottish Government's challenging renewable energy targets.

We are satisfied that relevant outstanding issues on peat management have now been resolved. Having said that, the extent of peat probing undertaken for the applicant does not appear to us to be as extensive as guidance suggests. We conclude on balance, however, that sufficient environmental information has been provided on this matter, bearing in mind the characteristics of the site and the extensive experience of the applicant's technical advisers. We conclude that the proposal would not have a significant impact on these interests, subject to the mitigation measures set out in the scheme design and, significantly for this topic, safeguarded by conditions.

Other relevant issues

There are no other relevant issues, including traffic and transport, noise, cultural heritage impacts, shadow flicker and infrastructure and aviation safety which, subject to appropriate mitigation controlled by condition, point towards refusal of consent.

There would be positive, although largely short-term and not significant socio-economic impacts.

National policy

There is no doubt that the proposal is supported, in principle, by UK and Scottish Government policies which seek to meet ambitious targets for renewable energy generation in the drive to reduce carbon emissions, and which expect onshore wind to make a significant contribution to that objective. The UK Renewable Energy Strategy sets out how 15% of UK energy is to be provided by renewable sources by 2020. However, the UK Government is committed to ensuring that projects are built in the right places, with the support of local communities, and that they deliver real local economic benefits.

The 2020 Routemap for Renewable Energy in Scotland (2011) and Update (2013) reflect the Scottish Government target of the equivalent of 100% of Scotland's electricity demand to be supplied from renewable sources by 2020, with an interim target of 50% by 2015. The Renewable Energy Report by Audit Scotland (2013) notes that achievement of the 2020 target will require the continued expansion of wind technology and that average annual increases in installed capacity need to double.

National Planning Framework (NPF) 3 supports the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. The general location of the application site is consistent in principle with the approach to spatial frameworks set out in SPP 2014. We conclude that the proposal, with one important exception, meets the range of environmental, community and cumulative criteria which are set out in paragraph 169 of SPP. The exception is that

we do not have sufficient information to enable us to be satisfied that the proposal would not have an adverse impact on the qualities of the East Halladale Flows Wild Land Area as a whole.

The development plan

As stated above, we conclude that there is insufficient information in regard to impact on the qualities of the East Halladale Flows Wild Land Area. We are consequently unable, in the planning balance required by Policy 67 of the Highland-wide Local Development Plan, to safely attribute the degree of impact on that nationally important resource. In these circumstances, we are unable to find the proposal to be consistent with Policy 67. As it has not been satisfactorily demonstrated that the proposal would not have an unacceptable impact on the natural environment, we find the proposal also to be inconsistent with Policy 57. Otherwise we find no significant tension with the other relevant policies of the Highland-wide Local Development Plan. We conclude, however, that the proposal has not been demonstrated to be fully consistent with the development plan overall.

Overall conclusions

Schedule 9 of the Electricity Act 1989 requires Ministers to have regard to the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. With the exception of the preservation of natural beauty we are satisfied that, with the imposition of conditions, the granting of consent would not result in significant adverse impacts as regards those matters. We do not, however, have sufficient information to be satisfied that the proposed development would not have a significant adverse impact on the East Halladale Flows Wild Land Area.

Other than the potential impact on wild land, we conclude that the proposal would not give rise to any detrimental impacts, either singly or cumulatively, sufficient to outweigh the benefits of the proposal. However, due to the lack of information on wild land impacts, we conclude that the proposed development is not fully supported by national policies which promote the development of onshore wind farms in appropriate locations and which recognise wild land as a nationally important asset. For the same reason it is inconsistent with the those policies in the development plan and with supplementary planning guidance which afford protection to wild land.

We have given careful consideration as to whether the uncertainties regarding the potential impacts on wild land are sufficient to outweigh the positive benefits of the proposal and our conclusions that, in other respects, the environmental impacts of the proposal are acceptable. On balance, we conclude that that they are and that significant weight should be attached to the policies protecting wild land.

Recommendations:

We recommend that consent under Section 36 of the Electricity Act 1989 should be refused. Consequently, we recommend that there be no direction that planning permission is deemed to be granted under Section 57 of the Town and Country Planning (Scotland) Act 1997.

If Scottish Ministers disagree with our recommendations and are minded to grant Section 36 consent and direct that planning permission is deemed to be granted, we recommend that this should be subject to the conditions set out in Appendix 11 to this report.

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

File reference: WIN-270-1

The Scottish Ministers
Edinburgh

Ministers

In accordance with our minute of appointment dated 10 January 2014 we conducted a public inquiry in connection with an application to construct and operate the Limekiln Wind Farm at land 1137 metres south of Creag Leathan, Limekiln Estate, Reay, Caithness. The Highland Council as planning authority has lodged an objection to the proposal which has not been withdrawn.

We held a pre-examination meeting on 6 March 2014 to consider the arrangements and procedures for the inquiry. It was agreed that the following issues would be addressed at an inquiry session: impact of the proposal on wild land; landscape and visual impact. In addition it was agreed that there would be hearing sessions on the following issues: national energy and planning policy and the development plan; local amenity impacts; and planning conditions. It was also agreed that further written submissions would be invited on forestry; ornithology; peat; and hydrology.

The inquiry sessions were held on 25-28 August 2014, and the hearing sessions took place on 28 August. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 29 September 2014.

We conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence prior to the pre-examination meeting; and prior to, during and after the inquiry. Accompanied site inspections took place on 27 and 29 August 2014.

Our report, which is arranged on a topic basis, takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the Environmental Statement, Further Environmental Information and other environmental information submitted by the parties, and the consultations responses and written representations made in connection with the proposal.

Abbreviations

AA	Appropriate Assessment
CAWL	core area of wild land
CD	core document
CP	Core Path
ECDU	(Scottish Government) Energy Consents and Deployment Unit
EIA	Environmental Impact Assessment
ES	Environmental Statement
ETSU	The Assessment & Rating of Noise from Wind Farms (ETSU-R-97)
FEI	Further Environmental Information
GPG	Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise (IoA May 2013)
ha	hectares
HWLDP	Highland-wide Local Development Plan
IoA	Institute of Acoustics
km	kilometres
LCA	landscape character assessment
LVIA	Landscape and Visual Impact Assessment
LVR	landscape and visual report
MW	Megawatts
m	metres
m/s	metres per second
NPF3	National Planning Framework 3
RAWOG	Reay Area Windfarm Opposition Group
SAC	Special Area of Conservation
SAWL	search area for wild land
SEPA	Scottish Environment Protection Agency
SINC	Site of Importance for Nature Conservation
SLA	Special Landscape Area
SNH	Scottish Natural Heritage
SPG	Supplementary Planning Guidance
SPA	Special Protection Area
SPP	Scottish Planning Policy
VP	viewpoint
WLA	wild land area
WLSA	wild land study area
ZTV	zone of theoretical visibility

CHAPTER 1: BACKGROUND

The proposal

1.1 Infinergy Limited (the applicant) seeks consent under Section 36 of the Electricity Act and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 to construct and operate a wind farm on land 1137 metres south of Creag Leathan, Limekiln Estate, Reay, Caithness.

1.2 The application was submitted to Scottish Ministers in December 2012 and was accompanied by an Environmental Statement¹, including detailed drawings of the proposed layout and all components of the development. That Environmental Statement was supplemented by Further Environmental Information in July 2013², April 2014³ and July 2014⁴.

1.3 The proposed development would have a potential generating capacity of 75 MW. A full description of the development is set out in Chapter 3 of Volume 1 of the Environmental Statement⁵. The main components of the proposed development are:

- 24 wind turbines (15 with a maximum blade tip height of 139 metres; and 9 with a maximum blade tip height of 126 metres) and turbine foundations;
- 2 borrow pits;
- new vehicular access from the A836 at Bridge of Isauld;
- hardstanding areas including crane pads;
- new and upgraded on-site access tracks (approximately 19.4 kilometres);
- watercourse and service crossings;
- temporary works including construction compound; and
- control building and sub-station (if required) and cabling within the site.

Site description

1.4 The application site is located about 1.5 kilometres to the south of the village of Reay, in Caithness. The site extends to approximately 1,140 hectares and largely comprises a commercial plantation of coniferous woodland.

1.5 The site is bounded to the north by undulating moorland and semi-improved agricultural land with Reay village and dispersed settlement beyond. To the east lies further coniferous woodland. The land to the west and south is largely open moorland. The locally prominent Beinn Ratha (242 metres) is located about 1.2 kilometres to the west of the site boundary.

¹ APP-B1 to B7

² APP-C1

³ APP-D1

⁴ APP-K11

⁵ APP-B4

Consultation responses

1.6 The following consultees had no objection to the proposed development:

- The Mountaineering Council of Scotland
- The Crown Estate
- Scottish Rights of Way and Access Society
- Scottish Water
- Office for Nuclear Regulation
- NATS (En Route)
- Joint Radio Company
- John Muir Trust (initial position, superseded by later objection pursued at inquiry)
- Historic Scotland
- Highlands and Islands Airports Ltd
- Defence Infrastructure Organisation (Ministry of Defence)
- Caithness District Salmon Fishery Board
- Civil Aviation Authority
- British Telecom
- The British Horse Society
- Association of Salmon Fishery Boards

1.7 Scottish Natural Heritage (SNH) initially objected to the proposal due to lack of information⁶. Following the submission of Further Environmental Information it advised⁷ that an appropriate assessment would not be required, subject to the imposition of a condition. Although not objecting to the proposal, it further advised that the proposed development would “result in a range of significant adverse landscape and visual impacts, some of which are capable of mitigation”. Following the publication of revised SPP and wild land mapping in June 2014, SNH provided updated advice⁸ to ECDU on the topic of wild land.

1.8 The Scottish Environment Protection Agency (SEPA) initially objected to the proposal due to lack of information⁹. Following the submission of Further Environmental Information however, that objection was withdrawn¹⁰ subject to the imposition of conditions relating to a construction environmental management plan; micro-siting; a habitat management plan; watercourse buffers; decommissioning and restoration; flood risk; a peat management plan; and a felling management plan. It further confirmed¹¹ that the applicant’s updated carbon balance calculation could be treated as a material consideration in Scottish Ministers’ consideration of this case.

1.9 Marine Scotland did not object to the proposal but recommended that an integrated hydrochemical, macroinvertebrate and fish monitoring programme be implemented

⁶ APP-F14

⁷ APP-F15

⁸ APP-F56

⁹ APP-F1

¹⁰ APP-F2

¹¹ APP-F4

throughout the proposed development¹². This matter was subject to further written submissions and is considered in Chapter 8 of this report.

1.10 Halcrow undertook a Peatslide Hazard and Risk Assessment¹³ of the proposal, on behalf of ECDU. That concluded that the environmental information to date did not provide a sufficiently robust assessment of the peat landslide risk. This matter was subject to further written submissions and is considered in Chapter 9.

1.11 Transport Scotland had no objections subject to conditions¹⁴.

1.12 Forestry Commission Scotland had no objections subject to conditions¹⁵. This matter was subject to further written submissions and is considered in Chapter 7.

1.13 The RSPB did not initially object, but expressed certain reservations and concerns¹⁶. Following the submission of additional information on golden eagle, RSPB advised¹⁷, on the basis of information currently available, that it was not possible to rule out the possibility of an adverse effect on the Caithness and Sutherland Peatlands SPA in regard to that species. This matter was subject to further written submissions and is considered in Chapter 6 of this report.

1.14 VisitScotland did not object, but recommended that any potentially detrimental impact on tourism be identified and considered in full¹⁸.

1.15 Caithness West Community Council objected to the proposal based on landscape and visual impacts, community impact and cumulative impact¹⁹.

Representations

1.16 In response to public consultation, including press advertisement, 566 letters of objection were received. The grounds of objection can be summarised as follows:

- adverse landscape and visual impact, including cumulative impact;
- excessive turbine height;
- impact on the setting of Reay;
- adverse impact on wildlife (including raptors) and habitats;
- traffic impacts and damage to roads;
- shadow flicker;
- noise impacts;
- adverse health impacts on local residents;
- adverse tourism impacts;
- cultural heritage impacts, including impact on old lime kiln;
- recreational impacts: walkers, cyclists, golfers;
- adverse effect on local walking routes and hilltops;

¹² APP-F6

¹³ APP-F7

¹⁴ APP-F10

¹⁵ APP-F36

¹⁶ APP-F20/21

¹⁷ Letter to DPEA dated 17 September 2014

¹⁸ APP-F40

¹⁹ APP-F41

- impacts on peatland;
- carbon balance;
- adverse economic impact;
- inadequate Environmental Statement (visualisations); and
- alternative technologies available/ necessity/ impact on bills and fuel poverty/ impact on property values.

1.17 In addition, 17 letters of support were received. The grounds of support can be summarised as follows:

- reduction in carbon emissions;
- achievement of local and national energy targets;
- local economic impacts;
- no/ few adverse impacts; and
- community benefits.

Consideration by The Highland Council

1.18 The proposal was considered by the council's North Planning Applications Committee on 22 October 2013. The committee decided to object to the proposal for the following reason:

The application is contrary to the Highland wide Local Development Plan (Policy 67) in that there would be a significant detrimental impact on the visual amenity and landscape character of the area. This is due to:

- *the size of the turbines and the effect upon the village of Reay and the wider area;*
- *the cumulative impact on the area when considered along with Forss I and II and Baillie windfarms;*
- *the impact on the A836 tourist route between Thurso and Tongue;*
- *the effect on the Caithness Lochs SPA.*

1.19 That decision was notified to ECDU by letter dated 22 November 2013²⁰.

1.20 The council subsequently clarified by e-mail and in its Inquiry and Hearing Statement dated 14 July 2014 that, following further consideration of the position of SNH, it withdrew reference to the effect on the Caithness Lochs SPA.

1.21 Following publication of revised SPP and wild land mapping in June 2014, the council additionally pursued an objection to the wild land impacts of the proposal.

²⁰ APP-A2

CHAPTER 2: POLICY CONTEXT

2.1 This chapter sets out the national and local energy and planning policy context relevant to consideration of this proposal. The detailed policy context relating to wild land (and the position of the parties in regard to that) is considered in Chapter 4.

2.2 The overall policy context was considered by means of a hearing session. Hearing statements²¹ were submitted by the applicant²², the council²³ and RAWOG²⁴. In addition, the applicant and the council submitted a Statement of common understanding²⁵ ('the joint statement') which sets out an agreed position on a number of issues, including renewable energy context and planning policy.

Energy policy

2.3 The joint statement indicates that the parties (the applicant and the council) do not contest established EU, UK and Scottish Government energy policy. There is no dispute between the parties in regard to "(1) the seriousness of climate change and its potential effects (2) the seriousness of the need to cut carbon dioxide emissions or (3) the seriousness of the UK and Scottish Government's intentions regarding deployment of renewable energy generation".

2.4 The joint statement lists the most relevant renewable energy policy in regard to consideration of this proposal:

- The EU Renewable Energy Directive, European Commission, March 2009.
- The EU 2030 Energy and Climate Change Policy, January 2014.
- The UK Renewable Energy Strategy (2009)²⁶. This sets out how 15% of UK energy is to be provided by renewable sources by 2020. That will include more than 30% of electricity generated coming from renewables; much of this from onshore and offshore wind.
- The UK Renewable Energy Road Map (2011) and Road Map Update (2013)²⁷. An overview of onshore wind is set out in paragraphs 114-116. Onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a balanced UK energy policy. However, the UK Government is committed to ensuring that projects are built "in the right places".
- The UK Annual Energy Statement (2013)²⁸. Indicates that renewables accounted for 15% of electricity generation.
- The 2020 Routemap for Renewable Energy in Scotland (2011) and Update (2013)²⁹. Reflects the Scottish Government target of the equivalent of 100% (about 14 to

²¹ Appendix 7

²² APP-M9

²³ THC 20

²⁴ RAWOG/H/1

²⁵ APP-R1

²⁶ CD 1

²⁷ CD 3

²⁸ APP-M5

²⁹ CD 15

16 GW) of Scotland's electricity demand to be supplied from renewable sources by 2020, with an interim target of 50% by 2015. The update advises that 40.3% of gross electricity consumption was delivered by renewable sources in 2012.

- The Scottish Electricity Generation Policy Statement (2013)³⁰. Considers changes necessary to meet Scottish Government targets.
- The 'Renewable Energy' Report by Audit Scotland (2013)³¹. Notes that achievement of the 2020 target will require the continued expansion of wind technology and that average annual increases in installed capacity need to double.

National planning policy

2.5 The joint statement lists the most relevant sections of national planning policy in regard to consideration of this proposal.

2.6 National Planning Framework (NPF) 3³² states in paragraph 1.2 that the Scottish Government vision for Scotland is, amongst other things, as a low carbon place "arising from our ambition to be a world leader in low carbon generation, both onshore and offshore". Paragraph 3.7 recognises strong public support for wind energy as part of a renewables mix, but that opinions can vary depending on location, scale, proximity and impacts. At paragraph 3.9 it is stated that "We want to continue to capitalise on our wind resource...In time we expect the pace of onshore wind energy development to be overtaken by a growing focus on our significant marine energy opportunities..."

2.7 Scottish Planning Policy (2014)³³ sets out Policy Principles on page 9: "This SPP introduces a policy presumption in favour of development that contributes to sustainable development". This will entail, amongst other things, supporting the delivery of energy infrastructure; supporting climate change mitigation; and protecting the natural heritage, including landscape.

2.8 Paragraph 154 reflects the 100% equivalent by 2020 target and states that the planning system should "support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity".

2.9 Onshore wind is specifically considered at paragraphs 161-166. It is stated that spatial frameworks, identifying those areas likely to be most appropriate for onshore wind farms, should be included in development plans. Wind farm proposals should, however, continue to be determined whilst those frameworks and associated policies are being prepared. Table 1 on page 39 sets out the approach to be followed in such frameworks. As the application site does not overlap with any of the designations or assets, and the proposed turbines would be outwith the 2 kilometres buffer set out in Groups 1 and 2 of Table 1, the site would fall under Group 3: Areas with potential for wind farm development.

2.10 Paragraph 169 lists a range of considerations against which onshore wind farm proposals ought to be assessed at development management stage.

³⁰ CD 12

³¹ CD 16

³² APP-M1

³³ APP-M2

2.11 Although not referred to in the joint statement, the Scottish Government's web-based guidance on Onshore wind turbines³⁴ sets out further advice on the assessment of such proposals.

2.12 Relevant Scottish Government policy is also set out in Control of Woodland Removal³⁵ which states that there is a strong presumption in favour of protecting Scotland's woodland resources and against deforestation, with climate change considerations being a significant driver for that stance. Woodland removal should be allowed only where it would achieve significant and clearly defined public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Woodland removal, with compensatory planting, is most likely to be appropriate where it would, for example, contribute significantly to helping Scotland mitigate and adapt to climate change or enhancing sustainable economic growth or rural/ community development. That policy is closely mirrored by Policy 52 of the HWLDP, which adds that the council's Forest and Woodland Strategy will be a material consideration in applications involving development in woodland.

The development plan

2.13 The joint statement lists those parts of the development plan which are relevant to consideration of this proposal. We have briefly summarised the relevant provisions of these.

2.14 The development plan comprises the Highland-wide Local Development Plan³⁶ (HWLDP) (adopted April 2012), together with certain elements of the Caithness Local Plan³⁷. The parties agree though, that there are no continuing provisions of the latter which are relevant to assessment of this proposal.

2.15 Policy 67: Renewable Energy Developments of the HWLDP is the principal policy of the plan relating to the assessment of such proposals. It is the sole policy referred to by the council in its objection³⁸ to the proposal. The policy states that renewable energy developments should be well related to the source of the primary renewable resource that is needed for their operation. The council will consider the proposal's contribution towards meeting renewable energy targets, together with positive or negative effects on the local and national economy. Subject to balancing with these considerations the council is to support proposals where it is satisfied that they would not be significantly detrimental overall, either individually or cumulatively, having regard to a range of considerations. Proposals are also to be assessed against the other policies of the plan and the Highland Renewable Energy Strategy and Planning Guidelines³⁹, although it was conceded for the council that this document has largely been superseded and should be afforded minimal weight.

2.16 The policy goes on to state that, subject to balancing those considerations, the council will support proposals "where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively

³⁴ CD 13

³⁵ APP-J1

³⁶ CD 20

³⁷ CD 22

³⁸ APP-A2

³⁹ CD 19

with other developments (see Glossary), having regard in particular to any significant effects on the following:

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

2.17 Finally, the policy indicates that supplementary guidance will replace parts of the Highland Renewable Energy Strategy.

2.18 The other relevant policies of the HWLDP listed in the joint statement are:

- Policy 28: Sustainable Design
- Policy 31: Developer Contributions
- Policy 51: Trees and Development
- Policy 52: Principle of Development in Woodland
- Policy 53: Minerals
- Policy 55: Peat and Soils
- Policy 57: Natural, Built and Cultural Heritage
- Policy 58: Protected Species
- Policy 59: Other Important Species
- Policy 60: Other Important Habitats and Article 10 Features
- Policy 61: Landscape
- Policy 64: Flood Risk
- Policy 72: Pollution
- Policy 77: Public Access

2.19 The joint statement also briefly sets out relevant associated supplementary planning guidance. The Highland Renewable Energy Strategy and Planning Guidelines⁴⁰

⁴⁰ CD 19

(HRES) is referred to above; the joint statement indicates that the wind section has been superseded and is no longer relevant to assessment of this proposal. It was subsequently stated for the council that parts of HRES remained material to the consideration of wild land impacts. The council's [non-statutory] Interim Supplementary Guidance: Onshore Wind Energy⁴¹ was approved [by the council] in March 2012. The council and the applicant agree that the application site is mostly located within a 'Stage 3: Area of search', but that the northern part of the site falls within a 'Stage 2: Areas with potential constraints'. The council states⁴² this to be due to the proximity of the northern part of the site, where no turbines would be located, to the settlement area of Reay and Achvarasdal.

Main points for the parties:

2.20 Within the context of the foregoing policy position, the applicant submits⁴³ that:

- there remains a significant shortfall in the 2020 target of the equivalent of 100% of Scotland's electricity demand to be supplied from renewable sources by 2020;
- the proposal is consistent with relevant energy policy, particularly those at UK and Scottish Government level; the proposal would make a valuable contribution towards renewable energy (electricity generation) targets;
- NPF3 and SPP strongly support the achievement of renewable energy targets, recognising the key role of onshore wind, although not at any cost;
- the application site falls outwith any protected designation and is, therefore, strongly supported by SPP;
- SPP sets out a clear presumption in favour of sustainable development and states (paragraph 32) that development which is consistent with the development plan should be considered acceptable in principle;
- the proposal is consistent with the key development plan Policy 67: Renewable Energy Developments and is in accordance with the development plan read as a whole;
- in conclusion, the proposal is appropriately sited, would provide a valuable contribution towards renewable energy targets, and draws clear support from national energy and planning policy and from the development plan.

2.21 The council submits⁴⁴ that:

- the importance of UK and Scottish energy policy to consideration of this proposal is not in dispute, but there is no indication in any of those policies of a diminution of protection for the environment;
- SPP states that for proposals which do not accord with up-to-date development plans, the primacy of the plan is maintained and the SPP and the presumption in favour of development that contributes to sustainable development will be material considerations (paragraph 32);
- due to its significant adverse landscape and visual effects on the village of Reay and the wider area, significant cumulative effects on the landscape character and visual amenity of this part of Caithness, and adverse visual and cumulative effects on the A836 tourist route, the proposed development is contrary to Policy 67: Renewable

⁴¹ CD 21

⁴² THC 20

⁴³ APP-M10

⁴⁴ THC 20

Energy Development in the HWLDP, which is an up-to-date plan. This is a material consideration in the determination of this proposal;

- whilst the proposal may be considered as sustainable development in theory, whether the development contributes to sustainable development is dependent upon its overall impact in relation to this specific site. As the proposal is contrary to Policy 67 it is considered that the proposal would not contribute to sustainable development, and therefore does not engage the SPP paragraph 27 presumption in favour as a material consideration.

2.22 RAWOG submits⁴⁵ that:

- NPF3 and SPP take account of the wider energy policy framework, so there is no need to address such policy, which is supportive of renewable energy developments;
- Table 1 of SPP includes, under Group 2: Areas of significant protection, an area not exceeding 2 kilometres around settlements for the consideration of visual impact. Paragraph 169 of SPP confirms that impacts on communities and individual dwellings, including visual impact and residential amenity, are considerations in the determination of renewables proposals. Paragraph 164 states that individual properties will be protected by the safeguards set out in the local development plan policy criteria for determining wind farm proposals. In this case, most of the houses in Reay and surroundings would be within 2-3 kilometres of the nearest turbine;
- the benefits of the proposal are outweighed by adverse landscape and visual impacts on local viewpoints, local paths and on residential amenity, and by the adverse impact on local tourism and recreational businesses. The proposal is not, therefore, in accordance with Policy 67 of the HWLDP and is contrary to the development plan overall.

⁴⁵ RAWOG/H/1

CHAPTER 3: LANDSCAPE AND VISUAL IMPACT

3.1 This chapter considers the landscape and visual impacts of the proposal, except for those relating to wild land, which is considered separately under Chapter 4.

Evidence on landscape and visual impact

3.2 The applicant's landscape and visual impact assessment (LVIA) of the proposal is set out in Chapter 9 of Volume 1⁴⁶ of the November 2012 Environmental Statement. Technical appendices on landscape and visual impacts are contained in Appendices 9.A to 9.D of Volume 4⁴⁷ of the Environmental Statement. Accompanying LVIA figures are contained in Volume 3⁴⁸ of the Environmental Statement.

3.3 The Environmental Statement was supplemented by the following Further Environmental Information:

- in July 2013⁴⁹, containing amongst other things a response to SNH's comments on LVIA at Appendix F;
- in April 2014⁵⁰, containing amongst other things an updated cumulative LVIA and residential property wirelines; and
- in July 2014⁵¹, consisting of residential amenity visualisations.

3.4 A Statement of Common Understanding⁵² was submitted by the applicant and the council prior to commencement of the inquiry. This sets out areas of agreement between both parties on LVIA as follows:

- the LVIA is based on best practice guidance;
- the study area and representative viewpoint selection was agreed with the council and SNH. The selected viewpoints are representative of the types and locations from which there may be views of the proposal alone and cumulatively;
- the ZTVs, wirelines and photomontages are accurate for the purposes of LVIA and accord with SNH guidance and standards current at the time of preparation;
- no designated landscapes or gardens and designed landscapes would be significantly or unacceptably affected by the proposal;
- landscape impacts should be assessed against a baseline including the SNH Caithness and Sutherland Landscape Character Assessment⁵³;
- the Environmental Statement identifies significant visual effects occurring at 7 of the 20 representative viewpoints (VP1 Drum Hollistan Layby, 2 Reay Footpath, 3 Reay Church, 4 Shebster, 5 Sandside Bay Harbour, 15 Borlum Hill and 17 Beinn Ratha);
- no settlements are located within 2.5 kilometres of the turbines and there are no individual residences within 2 kilometres of the turbines;

⁴⁶ APP-B4

⁴⁷ APP-B7

⁴⁸ APP-B6

⁴⁹ APP-C1

⁵⁰ APP-D1

⁵¹ APP-K11

⁵² APP-R1

⁵³ CD 32

- there are 4 properties (Loanscorribest, Milton Cottage, Borlum House and Achins) located between 2 and 2.5 kilometres of the turbines, and the accuracy of wirelines and photomontages prepared for these properties is undisputed;
- the potential cumulative impacts of the scheme should be assessed against the baseline set out in the [April] 2014 FEI⁵⁴ and illustrated at Figure FEI 1;
- the [April] 2014 Further Environmental Information predicts significant cumulative visual effects occurring at 4 of the 20 representative viewpoints (VP4 Shebster, 6 A836/ Dounreay Road Junction, 8 Angler's Car Park Loch Calder and 17 Beinn Ratha).

3.5 Prior to the inquiry the applicant submitted a Landscape and Visual Report⁵⁵ (LVR) together with supporting illustrations⁵⁶. At the same time the council submitted an LVR⁵⁷ and supporting visualisations⁵⁸. Mr Webster submitted a visualisation from his dwelling⁵⁹ and Mr Young submitted various illustrations⁶⁰.

3.6 At the inquiry session, evidence on landscape and visual impacts was heard from witnesses for the applicant, the council, and from Mr Webster and Mr Young.

The main points for the applicant

3.7 The applicant's landscape and visual assessment methodology accords with the Landscape Institute's guidance, and the methodology it uses is appropriate to the nature of the project and site in question.⁶¹ Its assessment accords with other guidance published by SNH, specifically in relation to wind farm assessment and the preparation of visualisations. The photomontage illustrations produced within the ES, which are intended to inform professional judgement, also comply with guidance published by the council, current at the time the ES was prepared. The overall findings of the LVIA are accurate.

Landscape impact

3.8 The site for the proposed wind farm occupies a simple and very large scale piece of modified landscape which the wind farm siting reflects. The site itself is suited to the construction of a commercial wind farm, due to its gentle form, simple land cover and appearance, which combine to produce a large scale and simple landscape. Significant landscape and visual effects, including cumulative effects, would not occur beyond a 6-7 kilometres range from the wind farm.⁶²

3.9 The landscape character effects identified for Limekiln are considered to be acceptable in landscape terms because the development would be set within a large scale, simple and modified landscape which can accommodate the degree of change that the wind farm would introduce. The specific siting of the development responds to the land form and land use and takes advantage of being positioned within a wider bowl-shaped

⁵⁴ APP-D1

⁵⁵ APP-K9

⁵⁶ APP-K10

⁵⁷ THC 19

⁵⁸ THC 1

⁵⁹ W1

⁶⁰ SY2 and SY4

⁶¹ APP-K9

⁶² APP-K9

landscape which serves to reduce the influence of the wind farm within a relatively short distance from the site. This helps to mitigate wider effects not only for visual receptors but also in respect of the landscape character.

3.10 The study area for Limekiln wind farm is covered by the Caithness & Sutherland Landscape Character Assessment (LCA)⁶³. The site is located within landscape character type (LCT) 2, Coniferous Woodland Plantation (a subset of Sweeping Moorland). Although the boundaries of the character types defined by SNH suggest that the western part of the site is located in the adjoining, un-forested Sweeping Moorland LCT, this is a shape file inconsistency as the site is wholly within the forest. The key characteristics of the type, as defined by SNH, are set out at paragraphs 9.3.52 to 9.3.54 of the LVIA⁶⁴. The consented Strathy North wind farm is located within the same LCT as Limekiln, demonstrating the inherent suitability of plantation forests in the Sweeping Moorland to accommodate wind farms. The LVIA finds that the sensitivity of the character type to this type of development is 'low'.

3.11 The defining characteristics of landscape character within the forested sweeping moorland would not be removed, but the balance of key characteristics would be altered within close proximity to the site. There would be no unacceptable conflicts of scale⁶⁵.

3.12 The LVIA describes other character types surrounding the site where they have the potential to experience significant landscape effects. Of particular note is the area of Sweeping Moorland that exists to the west and south of the site. This character area is described as Sweeping Moorland 'West' to differentiate it from other parts of the Sweeping Moorland and accounts for about half of the new wild land area which has been identified by SNH. The assessment finds significant landscape effect on part of this character area where there is theoretical visibility, extending to approximately 6-7 kilometres in radius from the wind turbines.

3.13 In summary, there would be significant changes to the landscape character of the Coniferous Woodland Plantation: Limekiln LCA; the Sweeping Moorland: Broubster LCA in part; the Sweeping Moorland: West LCA in part; the Moorland Slopes and Hills: Beinn Ratha LCA in part; and the Mixed Agriculture and Settlement: North East LCA in part.⁶⁶

3.14 The application site is not subject to any statutorily or nationally protected landscape-based designations. The closest scenic landscape designation to the site is the regionally important Farr Bay, Strathy & Portskerra Special Landscape Area (SLA) at approximately 12 kilometres to the north west of the site. This designation is subject to limited theoretical visibility. At further range, the nationally important Kyle of Tongue National Scenic Area (NSA) is located some 25 kilometres from the site, but is not subject to any theoretical visibility where it lies within the study area. No significant effects on any designated landscapes are identified within the assessment.⁶⁷

⁶³ CD 32

⁶⁴ APP-B4

⁶⁵ Mr Welch's precognition

⁶⁶ APP-B4 paragraph 9.6.110

⁶⁷ APP-K9

Visual impact

3.15 The most intensive areas of theoretical visibility would be confined to an irregular shaped area, measuring approximately 6-7 kilometres from the proposed wind turbines. Beyond this distance, theoretical visibility would coincide mainly with high ground locations, including Spittal Hill on the A9, but at a range of 15-17 kilometres those visual effects are assessed to be not significant.⁶⁸

3.16 The principal visual receptors that may be affected by views of the development (or parts of it) include the following:

- people living within Reay, Isauld and Shebster and scattered individual houses in between these locations, who would experience visibility of parts of the wind farm from some of their homes, gardens and when travelling around the local area;
- people using the A836 National Tourist Route and Shebster Road and National Cycle Route (NCR) 1 which runs along both routes;
- people working at the Dounreay Nuclear Power Station complex and in the local farming landscape;
- people visiting Sandside Bay and its facilities;
- people/ walkers/ visitors accessing the site and surrounding area along the forest tracks and core paths connecting to Reay; and
- hill walkers accessing the Beinn Ratha hill summit.⁶⁹

3.17 There would be significant effects on representative views at VP1 Drum Hollistan Layby; VP2 Reay Footpath; VP3 Reay Church; VP4 Shebster; VP5 Sandside Bay Harbour; VP15 Borlum Hill; and VP17 Beinn Ratha. There would also be significant effects on principal visual receptors at Reay settlement; Shebster settlement; the A836/ NCR1 (in parts); and on the Shebster Road/ NCR 1 (in part).

Visual component of residential amenity

3.18 A visual assessment of the potential effects of the proposal on residential amenity is included within Appendices C and D of the applicant's Landscape and Visual report (LVR)⁷⁰. There are 5 residential receptors that lie within the ZTV shading within 2.5 kilometres of the turbines. The locations of these are identified in Figure 16 in Appendix B of the LVR and all have theoretical visibility of part of the wind turbines. The properties are

- Loanscorribest (2.03 kilometres to nearest turbine)
- Borlum House (2.16 kilometres to nearest turbine)
- Creag Leathan (vacant/ semi-derelict) (2.3 kilometres to nearest turbine)
- Milton Cottage (2.38 kilometres to nearest turbine)
- Achins (2.45 kilometres to nearest turbine).

3.19 There would be significant visual effects on the residential amenity of all of these properties, excepting Loanscorribest. There would also be significant effects on a further 6 properties located outwith 2.5 kilometres of the proposal.⁷¹ In no case did the assessment

⁶⁸ APP-K9

⁶⁹ APP-K9

⁷⁰ APP-K9

⁷¹ APP-K9 paragraph 7.17

find that the factors which inform the 'Lavender Test' would be encountered to a degree which would result in an overbearing or dominant visual effect, to the extent that the property might widely become regarded to be an unattractive place in which to live.

Cumulative impact

3.20 The principal wind farms with which Limekiln has the potential to lead to significant cumulative interactions are Baillie and Forss. While there may be cumulative interactions with some of the more distant sites and single wind turbines, these are assessed as being unlikely to give rise to significant cumulative effects.⁷²

3.21 There would be significant cumulative landscape impacts on the Sweeping Moorland: Broubster LCA and on the Mixed Agriculture & Settlement: North East LCA. There would be significant cumulative visual effects at VP4 Shebster; VP6 Dounreay access (A836); at Shebster settlement; and at the Shebster Road. The 2014 FEI also identified additional significant cumulative landscape and visual effects in combination with the scoping stage Broubster wind farm. That scheme should be afforded little or no weight, however, as it has been at scoping stage for a considerable time and there is no evidence of it progressing beyond that stage.⁷³

3.22 The reporters requested additional information on the likely cumulative effects on the A836 and Shebster roads at the PEM. The applicant responded to this request with the inclusion of a specific assessment within the April 2014 FEI. That assessment found that significant cumulative effects would be confined to intermittent stretches on the A836 between Drum Hollistan and the entrance to the Dounreay plant and from Isauld to east of Shebster on the Shebster Road. In these instances the significant cumulative effects would arise as a consequence of Limekiln with Baillie. In all cases the wind farms would read as separate wind farms in the landscape rather than a single larger group.

3.23 In regard specifically to cumulative effects on the A836 tourist route, at no point along the route would Limekiln be seen in isolation of other development. On the stretch of route from where it could be seen, the amenity of travellers is strongly influenced by a host of other uses and activities in the landscape. This section of the route is through a highly modified landscape and the proposed wind farm would not be out of place or uncharacteristic in this respect. It is not accept that the council's objection in respect of the effect on the amenity of users of the A836 is well founded or justifiable in visual terms.

3.24 In the Caithness context a number of separate clusters of wind farms is emerging, as illustrated on Figure FEI1 in the 2014 FEI⁷⁴. This includes the grouping of sites comprising Burn of Whilk, Camster, Flex Hill and Wathegar in the south east, the cluster around Halsary and Causeymire in the middle and Baillie and Forss in the north west. Many of these sites are located within plantation forests. Limekiln would relate closely to the Baillie and Forss grouping around Dounreay, sharing similar ZTV coverage to Baillie and avoiding the introduction of cumulative visibility into an area which is not influenced by wind farms at present.

3.25 However, while Limekiln would add to the visual influence of wind farms in the Dounreay area, it would read as a separate development, leading to an incremental

⁷² APP-K9

⁷³ Applicant's closing submissions

⁷⁴ APP-D1

expansion of the cumulative effects (a 'landscape with wind farms') rather than leading to a combined effect of sufficient magnitude to redefine landscape character as a 'wind farm landscape'. The inherently large scale of the landscape in and surrounding the site has a substantial capacity to absorb the large scale of wind turbines, having regard to the cumulative baseline that exists.⁷⁵

The council's reduced scale scheme

3.26 It will always be possible to put forward an alternative scheme which has fewer or less intense significant landscape and visual effects, simply by reducing the number of turbines or lowering their height. No environmental impact assessment of the alternative scheme has been submitted. In any event, it is the scheme as submitted by the applicant, and no other, that requires to be assessed.

Applicant's conclusions

3.27 It is concluded⁷⁶ for the applicant that:

- the proposal has been carefully designed to reflect the landform and existing land use of the site and to mitigate adverse visual effects on sensitive surrounding receptors;
- the site is located within a modified landscape character type that has appropriate physical and visual characteristics that underpin its capacity to absorb a wind farm of the size and scale proposed;
- the significant effects that have been assessed on the adjoining character types and areas are very localised, and do not extend to an effect on the character types as a whole;
- no part of the site is subject to any form of statutory or non-statutory landscape designation intended to protect it for its quality or character;
- the number of residential properties that would experience significant visual effects is small and no residential properties would experience significant, overbearing or dominant effects on the visual component of their residential amenity, to the extent that they would widely be regarded as unattractive places in which to live;
- the visual effects on the A836 tourist route would be limited in extent and would coincide with a stretch of the route that is already characterised by a significant amount and variety of developed uses, including Baillie and Forss wind farms;
- the extent of significant cumulative landscape and visual effects generated by Limekiln and existing operational, under construction and consented wind farms is limited in extent. The principal cumulative interaction would arise with Baillie wind farm and would be confined to a localised area of the landscape, which has adequate capacity to be able to absorb the cumulative effects without 'tipping the balance' in cumulative terms; and
- the choice of site is an appropriate one in strategic landscape planning terms and it is located within character types that have an appropriate carrying capacity to accommodate a wind farm of the size proposed. Through careful choice of the site and turbine layout design, significant effects have been minimised on surrounding communities. The design process has resulted in a coherent and logical layout that responds well to the site's characteristics.

⁷⁵ APP-K9

⁷⁶ APP-K9

3.28 It is not accepted, therefore, that the reasons for objection put forward by the council or the objections and/ or concerns of the other parties to the inquiry are well founded in landscape and visual terms.

The main points for the council

3.29 The council is in broad agreement with the approach taken on behalf of the applicant in the assessment of the proposal, and the detailed methodologies used. There are, however, some reservations concerning the detailed method and some disagreement with the assessment findings. Those differences on methodology are set out at paragraph 4.5 of the council's Landscape and Visual Report.⁷⁷

Landscape impact

3.30 The council broadly agrees with the applicant's assessment of landscape impact. However, the significant effects on some areas are considered to be more extensive. The applicant's assessment of magnitude of change and significance mainly considers the visual experience of a human receptor traversing the area at ground level. This is normally the basis of a visual impact assessment. A holistic landscape assessment takes a broader view of the landscape as a resource which is at least partly independent of the human experience. The glossary in GLVIA 3rd Edition⁷⁸ describes landscape effects as 'effects on the landscape as a resource in its own right'.

3.31 In terms of the landscape assessment it is considered that the effects on Beinn Ratha would be significant for the whole LCA. It is a relatively small area of prominent landform in close proximity to the proposed wind farm which is of similar area and height. This fundamentally alters the perception of this area from within and from the surrounding area. Given the local prominence of Beinn Ratha and its location in a wild land area it is considered that its sensitivity would be at least medium to high.

3.32 There is no dispute that there would be no potential for significant effects on landscape designations.

Visual impact

3.33 The applicant assesses significant effects at 7 representative viewpoints. It is considered for the council that significant effects would arise at a further 3 viewpoints:

- VP6 A836/ Dounreay Road Junction: in the ES the impact is assessed as not significant, based on receptors of medium to low sensitivity (road users) and a medium magnitude of change. For the council it is argued that the effect would be significant. This is because the receptors would be of medium or medium to high sensitivity (due to motoring tourists on the national tourist route) and there would be a medium magnitude of change. The impact would be adverse;
- VP8 Angler's Car Park, Loch Calder: in the ES the impact is assessed as not significant, based on receptors of medium sensitivity (visitors and road users) and a medium magnitude of change. For the council it is argued that the effect would be

⁷⁷ THC 19

⁷⁸ CD 30

significant. This is because the receptors would be of medium or medium to high sensitivity (this is a scenic viewpoint with a wide and varied panorama, with seating and some parking provided; many visitors would be focusing on the landscape) and there would be a medium magnitude of change. The impact would be adverse; and

- VP9 Ben Dorrery: in the ES the impact is assessed as not significant, based on receptors of medium sensitivity (walkers to the hilltop) and a medium magnitude of change. For the council it is argued that the effect would be significant. This is because the receptors would be of medium to high sensitivity (whilst this would not be visited by large numbers of people, it is the most accessible hilltop panoramic viewpoint in this part of Caithness). There is a signposted path and the hillfort on the neighbouring summit is a scheduled monument. Visitors would be focusing on the landscape and would have made some effort to get to this point, and there would be a medium magnitude of change. The impact would be adverse.

3.34 The applicant assesses potentially significant effects on 5 principal visual receptors. It is considered for the council that significant effects would potentially arise for a further 3 receptors:

- National Cycle Route 1 (which follows both the A836 and Shebster minor road) has not been separately assessed in the LVIA. On the basis of the LVIA assessment on general road users it is considered that significant effects on cyclists are more likely and potentially more extensive. This is primarily because of the higher sensitivity of cyclists on a national route, which would be high as opposed to the assessment of low to medium and medium which has been applied to general road users on these roads;
- Core paths (around Reay and through the wind farm site) have not been assessed in the LVIA. There are a number of well signposted core paths in the vicinity of Reay and the proposed wind farm.⁷⁹ All of core paths CA11.03 Limekiln Forest, CA11.04 Fresgoe to Sandside Head, CA11.05 Achins/Helshetter, CA11.06 Reay Roadside Link, CA11.07 Reay Golfcourse via Mary's Cottage, CA11.08 Reay Golfcourse to Clubhouse, and CA11.09 Borlum Circuit lie within 5 kilometres of the site, are largely within the ZTV and, due to the openness of the landscape, would have comprehensive views of the proposed turbines. Users of core paths would be at least medium to high sensitivity. It is likely that magnitude of effect would vary between medium and high across these paths, which means that all would be significantly affected; and
- Cnoc Freiceadain Long Cairns (scheduled monument near Shebster) is a significant visitor location that was not assessed in the LVIA. Visitors to the site are likely to be interested in the cairns and their position in the landscape, which includes the comprehensive views to the south and west. Their sensitivity would be at least medium to high and the magnitude of effect would be medium to high as the wind farm is in the mainly undeveloped section of the view. The effect would be significant.

Cumulative impact

3.35 The detailed assessment of cumulative visual effects in the ES considers three scenarios:

⁷⁹ THC 18

- Scenario 1: operational and under construction wind farms
- Scenario 2: consented wind farms in addition to 1
- Scenario 3: application stage wind farms in addition to 1 and 2

3.36 The council broadly agrees with the identified significant cumulative landscape effects but considers that there would be other significant effects in additional areas⁸⁰:

- Sweeping Moorland-Broubster would be significant in Scenario 2; as Scenario 1 is significant and Scenario 2 is assessed in column 4 as having no material change. It is presumed this is an error in the assessment table; and
- Sweeping Moorland-West would be significant in Scenario 1 and 2 due to Strathy North and Scenario 3 due to Strathy North, South and Wood. These wind farms have extensive visibility over the LCA with the closest turbines having visibility over approximately 7-13 kilometres distance. Although this is a moderate distance of separation, their visual influence would be pervasive due to the relatively flat landform, and on the opposite side of the LCA from the Scenario 1 wind farms including Limekiln.

3.37 There would be a significant cumulative effect because wind farms would become one of the defining features of the landscape. Limekiln would extend and intensify the effect of existing wind farms. The applicant sets the target too high – requiring a wind farm landscape before a significant effect could be produced.⁸¹

3.38 The council agrees with the significant visual effects identified but considers that there would be many more receptors affected by significant cumulative visual effects:

- VP1 Drum Holliston Layby, A836 (all scenarios)
- VP3 Reay Church, A836 (all scenarios)
- VP5 Sandside Bay Harbour (all scenarios)
- VP8 Angler's Car Park, Loch Calder (all scenarios)
- VP9 Ben Dorrery (scenarios 1 and 2)
- VP15 Borlum Hill (all scenarios)
- VP17 Beinn Ratha (all scenarios)
- Reay Village (all scenarios)
- A836 Eastbound Drum Holliston and Reay (all scenarios)
- A836 Westbound between Hill of Lybster and Reay (all scenarios)
- NCR1 between Drum Holliston and Westfield (all scenarios)
- Core Paths around Reay (some paths – all scenarios)
- Cnoc Freiceadain Long Cairns (all scenarios)

SNH advice and the applicant's response

3.39 The council has prepared panoramas and wireframes in order to carry out its own review of SNH's suggested mitigation measures⁸². These have been prepared by removing the 12 turbines identified by SNH and by reducing the height of all turbines to 110 metres. None of the remaining turbine locations has been amended. The visualisations show the reduced scheme from 9 of the viewpoints in the LVIA.

⁸⁰ THC 19

⁸¹ THC closing submissions

⁸² THC 01

3.40 The visualisations show that a reduced scheme presents a more compact array which addresses many of the points made by SNH:

- Beinn Ratha: the reduced turbine numbers and heights, together with a greater degree of separation from the hill, would significantly reduce effects; both in terms of views from the summit and in terms of the wind farm competing in scale and prominence with this locally significant landscape feature;
- there would be significantly reduced visual effects on the most sensitive local receptors such as Reay village, Shebster and the A836 as, although visible, the wind farm would be a much less dominant and eye-catching feature; and
- the wind farm would appear more similar in scale to the existing Baillie and Forss wind farms, presenting a more balanced cumulative picture and reducing the potential for significant effects on landscape character and on views.

The council's conclusions

3.41 It is contended for the council that:

- the proposed wind farm would have significant adverse landscape and visual effects on sensitive receptors and significant adverse cumulative landscape and visual effects together with other wind farms in the wider area. The key issues in this case include effects on settlements, the A836 national tourist route and on NCR1;
- in the case of Reay and Shebster the wind farm would be a significant and dominating feature on the horizon, adding to the effects of existing wind farms visible from these settlements and their environs;
- the significant cumulative effects on the A836 national tourist route would affect the section between Drum Hollistan and Hill of Forss and the effects on NCR1 between Drum Hollistan and Newlands of Geise. Sequential effects would extend further west due to the effects of Strathy North, and potentially the other Strathy wind farms; and
- many of the significant effects would result from the scale and extent of the current proposals. Analysis of SNH's mitigation advice indicates that a significantly reduced scale of proposal would have a better landscape fit, noticeably reducing many of the significant adverse effects of the current proposals.

The main points for Mr Webster

3.42 The council's reasons for objecting to the application are well founded and coherent.⁸³ The operational Baillie wind farm is 2.5 kilometres south of Mr Webster's home. Viewed from there they appear disordered. The one remaining window which has no views of turbines (taking Baillie and Forss into account) would have views of the proposed Limekiln turbines. The cumulative impacts of those turbines, together with the proposed Dounreay/ Mybster line upgrade, would be significantly adverse on his home and on the group of dwellings at Achreamie, Buldoo and Upper Dounreay.

⁸³ Mr Webster's precognition

The main points for Mr Young

3.43 The taller of the Limekiln turbines, at 139 metres, would be very significantly higher than the Baillie turbines, at 110 metres.⁸⁴ Parts of Caithness have the attributes of a wind farm landscape, typified by views from the Tesco car park at Wick. The cumulative impacts of the proposal, viewed from VP1 Drum Hollistan, would result in a wind farm landscape even by the standards argued on behalf of the applicant.

3.44 Visual material prepared by Mr Young and submitted to the inquiry is intended to demonstrate the height of the turbines when compared with Baillie. Compliance with THC visualisation standards is not necessary for the production of accurate photomontages. The applicant led no evidence to support the rejection of the visual material which Mr Young had submitted.

3.45 Cumulative and sequential cumulative visual impacts are such that parts of Caithness are already a wind farm landscape and the addition of Limekiln wind farm would extend that in an unacceptable manner.⁸⁵

Conclusions on landscape and visual impact

Methodology

3.46 There is clearly disagreement between the parties as to the extent and severity of the landscape and visual impacts of the proposal. We set out our conclusions on those impacts below. We conclude, however, that the LVIA methodology is generally sound and that the applicant's environmental impact assessment was undertaken in accordance with best practice guidance in place at the time. There is no dispute between the parties that there was any need to update that assessment to reflect revised Landscape Institute guidance.

3.47 The ZTV diagrams, wirelines and photomontages contained within the Environmental Statement accord with SNH and council guidelines. We note also that the study area and representative viewpoints were agreed between the applicant, the council and SNH. We are satisfied that the Environmental Statement and Further Environmental Information prepared on behalf of the applicant, together with relevant material prepared by other parties to the inquiry, notably the council and Mr Young, provide a sound basis for our consideration of landscape and visual impacts.

Landscape impact

3.48 We note the contention for the council, citing the GLVIA 3rd Edition⁸⁶, that landscape effects ought to be interpreted as effects on the landscape as a resource in its own right. We find that approach to have merit and have approached our assessment of the landscape effects of the proposal on that basis.

3.49 There is no dispute between the parties, and we have no evidence to disagree, that no landscape designations would be significantly affected by the proposal.

⁸⁴ Mr Young's closing submissions

⁸⁵ Mr Young's closing submissions

⁸⁶ CD 30

3.50 The application site is located almost wholly within a Coniferous Woodland Plantation Landscape Character Type (LCT), a subset of the Sweeping Moorland LCT. As the site is located wholly within the Limekiln coniferous plantation, we accept that the identification of the western site boundary extending into the adjacent un-forested Sweeping Moorland LCT is a shape file inconsistency. As the Caithness and Sutherland Landscape Character Assessment⁸⁷ does not contain an assessment specifically of the Coniferous Woodland Plantation LCT, we accept as reasonable the applicant's approach of assessing the landscape impacts of the proposal based on the characteristics of the Sweeping Moorland LCT, but taking into account the additional influence of extensive coniferous plantation.

3.51 The landscape character assessment defines some of the key characteristics of the Sweeping Moorland LCT as being dominated by its wide open space, possessing a simple visual composition. In our experience this landscape type, in principle, is more capable than most of successfully accommodating large scale wind farm development. In this regard we note that the guidance on wind energy development set out for this LCT in the Caithness and Sutherland Landscape Character Assessment is generally supportive of such development, subject of course to certain criteria. Taking these factors into account, we concur with the conclusion of the applicant's LVIA⁸⁸ that the sensitivity of this character type to wind farm development is medium to low.

3.52 Figure 9.9 of Volume 3 of the Environmental Statement⁸⁹ indicates that there would be theoretical visibility of the proposal over almost the entire Limekiln Coniferous Woodland Plantation landscape character area (LCA), with 21 to 24 turbines being visible over the majority. In addition, it is conceded for the applicant that, due to their height, the proposed turbines would be visible above the plantation woodland. In these circumstances we agree that the magnitude of change over the landscape character area would be high and that the effect would, therefore, be significant.

3.53 That is not to say, however, that we find the landscape characteristics of the site to be unsuited to the proposed development. In particular, we do not consider the proposal to exceed the capacity of the site to accommodate it, taking the scale, simple form and land cover of the site, together with the scale and design of the proposal into account.

3.54 There would, in addition, be impacts on surrounding landscape character areas. The Environmental Statement concludes that such effects would be significant in the case of 5 surrounding LCAs, but that the Beinn Ratha Moorland Slopes and Hills LCA would experience a significant effect at the summit and on the eastern side only. It is contended for the council that significant effects would extend over the entire LCA. We agree, as the landscape ought to be treated as a resource in its own right, and taking into account the relatively modest scale of this LCA, its proximity to the proposal, and the relative heights of the landform and the proposed turbines, that the effect of the proposal would be significant for this LCA as a whole. That is, of course, to be differentiated from the consideration of visual impacts.

3.55 We conclude that the significant landscape impacts of the proposal would be restricted to a relatively limited area in and around (to a 6-7 kilometres range) the

⁸⁷ CD 32

⁸⁸ APP-B4 (paragraph 9.6.15)

⁸⁹ APP-B6

application site. We do not consider that the proposal, considered alone, would exceed the capacity of the landscape to accommodate it.

Visual impact

3.56 It is concluded for the applicant that there would be significant effects on principal visual receptors at Reay and Shebster settlements and on users of the A836/ NCR1 (in parts) and the Shebster Road/ NCR 1 (in part). It is also concluded that there would be significant effects at 7 of the 20 representative viewpoints (VP1, 2, 3, 4, 5, 15 and 17) agreed with the council and SNH. Based on the evidence before us, taken together with our site observations, we agree that significant effects would occur for those principal visual receptors and at those representative viewpoints.

3.57 It is contended for the council that significant effects would potentially arise for a further 3 principal visual receptors. We consider each of these in turn as follows:

- NCR1: the council points out that this has not been assessed separately from its host roads. We agree that cyclists using this national cycle route are more likely to be sensitive to the impacts of the proposal than the average road user along these routes. We conclude, taking the magnitude of impacts into account, that this route, as far as it lies within the study area, would be significantly affected;
- core paths around Reay and through the site: we did not walk all of the paths referred to by the council but found those that we did to be relatively well used. Many of these lie within the zone of theoretical visibility of the proposal, mostly at fairly close quarters. We agree with the council that users of these paths would be of at least medium to high sensitivity and that the magnitude of impact is likely to vary between medium and high. We conclude, therefore, that the Reay core paths would, as a resource, be significantly affected; and
- the Cnoc Freiceadain Long Cairns: we consider that the average visitor to this scheduled monument is likely to be interested in the setting of the feature within the wider landscape, and likely also to take advantage of the extensive views which the elevated position offers. We concur with the sensitivity of the site ascribed to this monument by the council, but not with the likely magnitude of impact. In its response of 1 March 2013 on the proposal, Historic Scotland points out that, given the 4.4 kilometres distance to the turbines, the impact is likely to be higher than negligible, but that the magnitude of impact is likely to result in a less than significant effect. Based on that assessment, and on our observations from and around the monument, we conclude that there would not be a significant effect on the setting of this asset.

3.58 It is also contended for the council that significant effects would potentially arise at a further 3 representative viewpoints. We consider these in turn as follows:

- VP6 A836/ Dounreay Road Junction: we agree with the applicant that the close proximity of the Dounreay nuclear establishment reduces the sensitivity of this viewpoint. Road users, of whatever nature, would in our opinion be likely to be focussing on the presence of that facility, and on the sea views beyond. All 24 of the turbines would be visible, albeit at a distance of about 5 kilometres to the nearest turbine. Importantly, the operational Baillie wind farm is prominent in views from this location. It is significantly closer than the proposal would be, and would tend to

diminish the effect of the proposal itself. All told, we concur with the applicant's assessment that there would not be a significant effect at this viewpoint;

- VP8 Angler's Car Park, Loch Calder: we visited this viewpoint on several occasions and did not note it to be particularly well frequented. Although seating is provided, we agree with the applicant that visitors are more likely to be focussed on activities at, or views of, the nearby Loch Calder. Although the turbines would interfere with views of the distant Beinn Ratha, and to some extent would tend to diminish the scale of that hill, we are satisfied on balance that at a viewing distance of 8 kilometres the effects would not be significant; and
- VP9 Ben Dorrery: we agree with the applicant and the council that the impact of the proposal at this viewpoint would be medium. At contention is the sensitivity of the location. The path to the summit is sign-posted and the surfaced track is likely to encourage less adventurous or less active walkers. Against that, the presence of the mast is likely to detract from a sense of remoteness which most walkers are likely to seek. Overall, we conclude that the sensitivity of this viewpoint is medium and that effect would not be significant.

3.59 We concur overall with the applicant's assessment that the significant visual effects of the proposal would largely be confined to within a range of about 6-7 kilometres. We agree also that, beyond that range, theoretical visibility would coincide largely with areas of higher ground but that effects would not be significant due to distance.

Visual component of residential amenity

3.60 Having noted from the material before us that there appeared to be a number of residential properties in relatively close proximity to the proposal, we requested⁹⁰ at the PEM that wireline diagrams be provided for the 4 properties identified in the council's committee report. The applicant undertook to provide that information, and offered to provide wirelines for any other properties whose owners requested it. That material is contained in the April 2014 Further Environmental Information and is supplemented by visualisations⁹¹ for a total of 15 properties.

3.61 It is concluded for the applicant that, of the 5 properties located within 2.5 kilometres of the proposed turbines, there would be significant visual effects on the residential amenity of 4 (Borum House, Creag Leathan, Milton Cottage and Achins). It is also concluded for the applicant that there would be significant effects on a further 6 properties outwith 2.5 kilometres, but that in no cases would the proposal result in overbearing or dominant visual effects.

3.62 We have carefully assessed the material before us, from both the applicant and objectors, and undertook extensive accompanied and unaccompanied site inspections in and around Reay. There is no dispute that significant effects would occur at the properties identified by the applicant. However, we have no evidence to lead us to reasonably conclude that significant effects would arise at other properties.

3.63 We heard Mr Webster's evidence of the likely impact of the proposal at his and other residences at Buldoo, about 5 kilometres to the north of the nearest turbine. Mr Webster did not request that the applicant produce a wireline for his property, but we have

⁹⁰ Note of PEM paragraph 7b

⁹¹ APP-K11

the benefit of the visualisation prepared by Mr Young, together with the visualisations for the nearby VP6. We note the intervening distance of around 5 kilometres, that the Baillie wind farm currently influences views from the location, and that extensive sea views are available to the north-west. All told, we do not consider that a significant effect would occur on the visual component of residential amenity, and certainly not that the proposal would be overbearing or visually dominant from this location. We have insufficient information on the overhead line upgrade(s) referred to by Mr Webster to reach any conclusion on cumulative impacts with the proposed development.

3.64 We recognise that to some extent the assessment of visual impacts on residential amenity has to be subjective, and that some residents are likely to be more sensitive to change than others. In that regard though, we note that the applicant has ascribed a high sensitivity to all properties assessed. We conclude overall that no residential properties would experience overbearing or visually dominant visual effects to the extent that residential amenity would be unacceptably affected. In reaching this conclusion, we take support from the fact that the council has not disputed the applicant's residential amenity conclusions.

Cumulative impact

3.65 The applicant's assessment of cumulative impacts considers 3 scenarios (1: operational and under construction; 2: adding consented schemes; and 3: adding application stage proposals). We agree that the principal wind farms with which Limekiln has the potential to lead to significant cumulative impacts are Baillie and Forss. We agree also that cumulative impacts with more distant sites and single wind turbines are unlikely to result in significant cumulative effects.

3.66 In our experience, the assessment of cumulative effects requires a degree of subjective judgement. We are not convinced by the proposition that significant cumulative effects can arise only where wind farms become the primary defining influence. Conversely, it is overly simplistic to conclude that significant effects arise simply because a number of wind farms would be visible together or in sequence.

3.67 The applicant predicts significant cumulative landscape impacts on the Sweeping Moorland: Broubster LCA and on the Mixed Agriculture & Settlement: North East LCA. The 2014 FEI⁹² identifies significant cumulative landscape and visual effects in combination with the scoping stage Broubster wind farm. We are satisfied that that scheme should be afforded very little weight as it has been at scoping stage for a considerable time and there is no evidence of it progressing beyond that stage. In any event we afford lesser weight to Scenario 3 (application and scoping stage) proposals generally, as the cumulative impacts of these with the proposal would likely stand to be assessed following a decision in this case.

3.68 The council disagrees with the applicant's conclusion that cumulative landscape effects on the Sweeping Moorland – West LCA would not be significant in Scenarios 1 and 2, due to interaction with the Strathy North wind farm. We accept that the relatively flat landform over that LCA would tend to lend itself to the visual influence of the proposal. We conclude, however, largely due to the moderate distance of separation, that the cumulative effect on this LCA would not be significant.

⁹² APP-D1

3.69 It is concluded for the applicant that there would be significant cumulative visual effects at VP4 Shebster; VP6 Dounreay access (A836); at Shebster settlement; and at the Shebster Road. These are said to arise from the cumulative impact of the proposal with the Baillie wind farm. For the council it is argued that significant cumulative visual effects would arise at a further 13 locations. We consider these in turn as follows:

- VP1 Drum Holliston Layby, A836 (all scenarios): although all 24 turbines would be visible, to varying degrees, at about 4.5 kilometres, receptors are likely to be focussing on sea views and there would be significant relief between the proposal and Baillie. We consider that there would be no significant cumulative visual effects;
- VP3 Reay Church, A836 (all scenarios): the proposal, at about 2.9 kilometres, would be the nearest wind farm to this viewpoint. Baillie and Forss would largely be obscured, or at least their impact would be diminished by intervening landform, built features and vegetation. We consider that there would be no significant cumulative visual effects;
- VP5 Sandside Bay Harbour (all scenarios): the proposal would be the nearest and most prominent wind farm in views from this location. Although the extensive sea and harbour views are likely to be the focus of attention here, we acknowledge that the proposal would largely occupy the remaining naturalistic landward views. We conclude, therefore, that there would be a significant cumulative visual effect at this location;
- VP8 Angler's Car Park, Loch Calder (all scenarios): the principle interaction here would be the proposal with Baillie. We give very little weight to Broubster (scoping) and are satisfied that the other turbines visible are at significant distance. The proposal and Baillie would be sufficiently visually separate, the proposal would appear to be contained within its host landscape, and baseline characteristics would be apparent over a large part of views. We consider that there would be no significant cumulative visual effects;
- VP9 Ben Dorrery (scenarios 1 and 2): the height and location of this viewpoint would offer potential visibility of the proposal with many other wind farms and turbines. We are satisfied, however, that the viewing distance of many of these is such that there would be no significant cumulative visual effects;
- VP15 Borlum Hill (all scenarios): the proposal would be visible here at very close quarters (1.56 kilometres) to the south, and Baillie would be visible at 4.7 kilometres to the east. Although we accept that baseline and seaward views would be largely available to the north and west respectively, we consider that there would be a significant cumulative visual effect at this location;
- VP17 Beinn Ratha (all scenarios): the proposal would be the clear focus of views to the east. Other turbines would be visible in that direction, but at greater distance. Turbines would be visible also to the west and north, but at greater distance still. Views to the south, a likely focus of attention, would remain largely naturalistic. We consider that there would be no significant cumulative visual effects;
- Reay Village (all scenarios): we are satisfied that the limited extent of actual visibility of the proposal and Baillie from within the village would result in there being no significant cumulative visual effects;
- A836 Eastbound Drum Hollistan and Reay (all scenarios); A836 Westbound between Hill of Lybster and Reay (all scenarios); and NCR1 between Drum Hollistan and Westfield (all scenarios): we consider cumulative visual impacts on this route below;

- Core Paths around Reay (some paths - all scenarios): cumulative effects on core paths have not been assessed in the Environmental Statement, nor has such an assessment been carried out for the council. We are consequently unable to reach a firm view on this matter, but note that we have already concluded above that the proposal alone would result in significant effects on this resource; and
- Cnoc Freiceadain Long Cairns (all scenarios): we are to a degree hindered by the lack of illustrative material from this viewpoint. Baillie features prominently and close at hand in views to the east, and the proposal would be about 4.4 kilometres to the south-west. On balance, and bearing in mind the consultation response of Historic Scotland, we conclude that there would be no significant cumulative effects at this location.

3.70 As noted above, we requested additional information on the likely cumulative effects on the A836 and Shebster roads. A cumulative assessment was provided within the April 2014 Further Environmental Information.⁹³ That assessment found that significant cumulative effects would be confined to intermittent stretches on the A836 between Drum Hollistan and the entrance to the Dounreay plant and from Isauld to east of Shebster on the Shebster Road. In these instances the significant cumulative effects would arise as a consequence of Limekiln with Baillie. In all cases the wind farms would read as separate wind farms in the landscape rather than a single larger group.

3.71 We find it significant, in regard to cumulative effects on the A836 tourist route, that at no point along the route would Limekiln be seen in isolation of other development. We agree with the conclusion of the study that on the stretches of route from where the proposal could be seen, the perceptions of travellers would be strongly influenced by a range of other uses and activities in the landscape. We agree also that this part of the route runs through a modified landscape and the proposed wind farm would not appear significantly out of place or uncharacteristic.

3.72 We conclude that there would be significant cumulative visual effects along limited stretches of both the A836 and the Shebster Road, which together host NCR1.

3.73 We note Mr Young's contention that large parts of Caithness have the attributes of a wind farm landscape. While we are required only to consider the cumulative impacts of this proposal, we did take the opportunity to view wider cumulative impacts from the routes we were directed to in Mr Young's evidence. In reporting to Ministers we are required to make no comment on those wider impacts, but conclude overall that the cumulative impacts of the proposal would not lead to the creation of a wind farm landscape within the study area. We find it significant in this regard that the proposal would relate closely to the Baillie and Forss grouping around Dounreay, sharing similar ZTV coverage to Baillie. It would thus largely avoid the introduction of cumulative visibility into areas which are not influenced by wind farms at present.

SNH advice/ the council's 'alternative scheme'

3.74 The council has prepared visualisations⁹⁴ intended to illustrate a reduced-scale scheme based on the advice provided by SNH in its consultation responses.⁹⁵ It appears to us as unremarkable that a scheme of half the number of turbines (12), with a reduced

⁹³ APP-D1

⁹⁴ THC1

⁹⁵ APP-F14 and F15

height of 110 metres, would result in lesser landscape and visual impacts than would the applicant's proposal. This material has assisted our comprehension of the SNH advice. We are clear, however, that we are required to assess and report on the effects of the scheme before us.

Overall conclusions on landscape and visual impact

3.75 We conclude overall that the significant landscape and visual impacts (including cumulative impacts) of the proposal, wild land impacts aside, would be experienced in a relatively restricted area of about 6-7 kilometres range. Although there is no dispute that the proposed wind farm would have a significant visual effect on the nearby settlements at Reay and Shebster (although neither are within 2.5 kilometres of the proposal), we conclude that it would not have an overbearing or dominant effect on any residential properties, including those nearest to it.

CHAPTER 4: IMPACT ON WILD LAND

National policy on wild land

4.1 National Planning Framework 3 (2014)⁹⁶ states that “Scotland’s landscapes are spectacular, contributing to our quality of life, our national identity and the visitor economy. Landscape quality is found across Scotland and all landscapes support place-making. National Scenic Areas and National Parks attract many visitors and reinforce our international image. We also want to continue our strong protection for our wildest landscapes – wild land is a nationally important asset”. Scottish Planning Policy (SPP)⁹⁷ at paragraph 215 (Areas of Wild Land) states “In areas of wild land (see paragraph 200), development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.” Under the heading Development Plans, paragraph 200 states that “Wild land character is displayed in some of Scotland’s remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. Plans should identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas.”

4.2 Paragraphs 169 to 174 of SPP set out national policy on onshore wind energy. Development plans are to include a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities. The spatial framework should follow the approach in table 1 which identifies three groups: Group 1: Areas where wind farms will not be acceptable; Group 2: Areas of significant protection; and Group 3: Areas with potential for wind farm development. Group 2 includes areas of wild land as shown on the 2014 SNH map of wild land areas.

4.3 Paragraph 169 deals with development management and states that development proposals should take account of spatial frameworks. “Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include...landscape and visual impacts, including effects on wild land.”

SNH mapping of wild land

4.4 The SNH map of wild land⁹⁸ referred to in SPP, was published in June 2014 and replaces the Core Areas of Wild Land 2013 map⁹⁹ that was published in support of the draft SPP in April 2013. The 2014 map also supersedes the Search Areas for Wild Land map originally published with SNH’s policy statement on wild land¹⁰⁰ in 2002.

4.5 SNH has also published *Advice to the Scottish Government* explaining how the mapping exercise was undertaken¹⁰¹. The Wild Land Map is a result of a desk based analysis, utilising GIS and statistical analysis and informed judgement. Detailed field survey was not undertaken in preparing the map.

⁹⁶ APP-M1

⁹⁷ APP-M2

⁹⁸ APP-K7

⁹⁹ CD-38

¹⁰⁰ CD-35

¹⁰¹ APP-K15

4.6 The map is intended to be a strategic planning tool¹⁰² to assist in informing spatial plans, supporting strategic plans, and promoting Scotland's assets. So far as development management is concerned, the advice states: "The map provides greater clarity and certainty for development management. However, the particular characteristics and intensity of wildness that is found will vary across a wild land area and the detail of that variation may not always be picked up in a desk based analysis and broad brush approach we have used in defining these areas. Consideration of individual proposals and their potential effect on wildness and areas of wild land will require individual field assessment."¹⁰³

4.7 The area of wild land of relevance to this proposal is the East Halladale Flows Wild Land Area (area 39). This is the same as area 38 on the 2013 Core Areas of Wild Land map. It was not identified as a Search Area for Wild Land in the 2002 map.

4.8 SNH has published Relative Wildness Mapping, updated in April 2014, which rates degrees of wildness on a colour spectrum where areas of highest wildness are coloured dark green and areas of lowest wildness are coloured dark brown. APP-K13 shows the East Halladale Flows Wild Land Area, the Core Area of Wild Land (CAWL), the Search Area of Wild Land (SAWL), the 2014 Relative Wildness Mapping, the Limekiln site boundary, and the applicant's wild land study area which was assessed in its Environmental Statement. Much of the western and southern boundary of the application site is coterminous with the Wild Land Area.

4.9 SNH has also published *Interim Guidance on Assessing Impacts on Wild Land*¹⁰⁴. This is being reviewed to take account of the publication of SPP, the 2014 wild land map, and SNH's *Advice to Government*. However, it is still current and sets out SNH's preferred methodology for carrying out an assessment of the impact of a proposal on wild land.

The development plan and supplementary guidance

4.10 So far as the development plan is concerned, there is no specific policy relating to wild land in the Highland-wide Local Development Plan (HWLDP)¹⁰⁵, the adoption of which predated NPF3 and SPP. However, wild land is referred to in Appendix 2 in the definition of natural, built and cultural heritage features under the heading "Features of local/regional importance." The definition states that "these will encompass the most extensive, remotest and sensitive areas of wildness, most commonly found within hill and mountain areas, remote moorland, and on remote coasts and islands. These areas possess wildness qualities that are of value for amenity, recreation and in contributing to the unique identity of the Highlands. This is of high value for residents and visitors for tourism, film and other commercial operations. These areas will also encompass other areas of wildness qualities which are more easily accessed or are nearer to populated areas." Reference is made to the then pending mapping exercise being undertaken by SNH and to its *Interim Guidance* on assessing impacts on wild land. It is stated that "the assessment should include consideration of impacts that occur cumulatively as well as individually: they may occur incrementally, particularly through fragmentation and/ or erosion in marginal areas. There may be cases where wildness could be adversely affected by development close to wild

¹⁰² Paragraph 5.2

¹⁰³ Paragraph 5.3

¹⁰⁴ APP-K6

¹⁰⁵ CD-20

land but not within it. When determining whether there is an unacceptable impact from outwith: noise, impact on views, and light pollution will need to be assessed.”

4.11 Policy 57 applies to the natural, built and cultural heritage and provides that “for features of local/ regional importance we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.”

4.12 The Highland Renewable Energy Strategy and Planning Guidelines (HRES)¹⁰⁶ were approved by the council as supplementary planning guidance. Although largely overtaken by the council’s *Interim Supplementary Guidance - Onshore Wind Energy*, certain parts of the HRES remain in place, particularly, policy V2 on Wild Land at paragraph 8.2.7 which provides that: “The indirect effects of renewables development, especially wind farms, located outwith areas with qualities of wildness but visible from them, will be taken into account, especially if viewing distances are relatively close.”¹⁰⁷

The main points for the applicant

4.13 The potential effects of the proposed development on wild land are addressed in Appendix 9.E of Volume 4 of the (ES)¹⁰⁸. The preparation of the ES predated the publication of the Core Areas of Wild Land in April 2013. The ES scoped out the potential effects on a Search Area for Wild Land some 15 kilometres to the south of the Limekiln site due to the separation distance and limited ZTV coverage. The ES did, however, undertake an assessment of the area to the south west of the site on the basis that this displayed some wild land characteristics. This area is referred to as the Wild Land Study Area (WLSA) and is shown in APP-K13.

4.14 The assessment was undertaken in accordance with the methodology prescribed by the SNH *Interim Guidance*. Table 2 of the SNH guidance describes the physical attributes and perceptual responses evoked by wild land in relation to which an area may be assessed for qualities of wildness. The strength of the physical attributes is assessed as high, medium, low or negligible and perceptual responses are assessed as being present or absent.

4.15 In assessing the WLSA the ES¹⁰⁹ ascribes the following values to the physical attributes: perceived naturalness (high), lack of constructions or artefacts (medium), little evidence of contemporary land uses (medium), rugged or otherwise challenging terrain (medium), remoteness and inaccessibility (high). The perceptual responses are rated as follows: a sense of sanctuary, solitude or refuge (present to some degree), risk or anxiety/ hazard (present to a large degree), arresting/ inspiring qualities/ sense of awe (present to some degree), physically challenging (present to a large degree).

4.16 The assessment concluded that although there might be some change to the physical and perceptual attributes as a result of the introduction of the proposed development, these would be sufficiently small in scale to ensure that the ratings of the attributes would remain unaltered and that there would be no significant effect on the WLSA, due principally to the absence of visibility of the development from it.

¹⁰⁶ CD-19

¹⁰⁷ THC 20, paragraph 4.3

¹⁰⁸ APP-B7

¹⁰⁹ Table 2, Appendix 9.E

4.17 The reason why the WLSA is considerably smaller than the East Halladale Flows Wild Land Area identified in June 2014 is that the applicant's assessment found that the influence from the Limekiln commercial plantation and existing development within the settled farmland to the north east (including the Dounreay nuclear power facility, the settlements of Reay and Dounreay, a large grid connection, and the Baillie and Forss wind farms) meant that the north east facing slopes of Beinn Ratha (facing Limekiln plantation) did not have all of the perceptual responses present and could not, therefore, be considered 'true' wild land, applying the criteria set out in SNH's *Interim Guidance*. Paragraph 2.1.3 of the guidance states that; "If one of the perceptual responses is not present, that location will not be true 'wild land' ..."

4.18 The boundary of the WLSA was defined by the ridgeline running north to south through Beinn Ratha, with the only area having potential to be considered as true wild land lying to the west of the ridgeline. The applicant agrees with SNH that the landscape to the south and west of the Limekiln Forest contains some high wildness physical and perceptual attributes but this increases in strength incrementally towards the core of the WLA and is not true wild land along the northern boundary where it adjoins the commercial plantation, where external perceptual influences diminish the wild land experience.

4.19 Paragraph 2.7 of SNH's *Advice to Government* recognises that sensitively sited development can be integrated into Wild Land Areas. There is no presumption against development in Wild Land Areas and some WLAs contain or abut wind farms or are close to physical human interventions in the landscape such as commercial forestry plantations. Examples are given in Figure 13 of Appendix B to the applicant's Landscape and Visual Report¹¹⁰. This indicates that SNH has been content to draw the boundaries of WLAs close to operational commercial wind farms and must have assessed the relationship in each case to be acceptable in national interest terms.

4.20 The SNH Relative Wildness Mapping published in April 2014 indicates that only small parts of the East Halladale Flows Wild Land Area are in the highest category of wildness, with parts within the WLA (the boundaries of which are defined largely by man-made features) reflecting the adjoining human influences such as the railway, forestry, and A897. It is implicit from the mapping that there is a transition from the edge of the WLA to its core where external influences are less notable. This is also alluded to in SNH's *Advice to Government*, paragraph A9 in Annex A, which states that "experience of areas of highest wildness is inherently dependent on an adjacent contiguous area of lower wildness. Generally, wildness is a quality which strengthens progressively as a person moves into an area. Our approach to identifying areas of wild land therefore seeks to capture this whole. The inclusion of lower wildness is therefore intrinsic to the area itself, and not a buffer." In the applicant's view this is not the correct approach in landscape terms and dilutes the integrity of the core of the WLA. The fact that the WLA boundary includes land which may not have all of the physical characteristics and perceptual responses to be true wild land around its perimeter must be taken into account when assessing the effects of the wind farm on wildness characteristics.

4.21 There would be some significant landscape and visual effects, including cumulative effects, across the closest parts of the WLA extending to approximately 6 to 7 kilometres from the wind farm where there is actual visibility. However, it is not accepted that this

¹¹⁰ APP-K9

would harm the integrity of the WLA due to the fact that the area in question is already characterised to a discernible degree by a range of external influences.

4.22 When The Highland Council (THC) considered the application and resolved to object to it the grounds of objection did not include effects on wild land, although it was aware of the CAWL mapping. The applicant considers that the council's representatives do not have the legal authority of the council to pursue an objection on these grounds. This issue is addressed in detail in an exchange of written submissions between the applicant and THC.¹¹¹

4.23 The expert witness for THC accepts that there may be differing degrees of wildness within a WLA, for example, where these are close to development or a road. He also accepted that the wild land maps are a strategic tool and that fieldwork is required in order to assess individual proposals.

4.24 SNH does not object to the application notwithstanding that it considers that the development would have some significant adverse effects on an area with some high wildness qualities in the new WLA. It must be inferred that it does not consider the effects to be of sufficient magnitude to warrant an objection on national interest grounds. In its evidence SNH agreed that large forestry plantations have been excluded from WLAs and that forestry which adjoins a WLA would influence the perceptual qualities of the WLA. SNH's overall conclusion that there would be a significant impact on the WLA is surprising given that its expert witness found one medium impact, two low impacts, and two instances of no impact in relation to physical attributes; and in relation to perceptual qualities one medium impact, two low impacts and one instance of no change. In the *Interim Guidance* a medium impact is described as "a partial loss or alteration to an attribute" and a low magnitude of change represents a "minor loss or alteration".

4.25 The John Muir Trust (JMT) only recently decided to object to the application notwithstanding that it was aware of the CAWL mapping at the time of its initial consultation response on 26 August 2013. It had confirmed as recently as 21 May 2014¹¹² that it did not object. JMT's suggestion that the applicant's LVIA evidence is flawed and fails to acknowledge when effects are significant is strongly refuted. The evidence given by the JMT was based on a desk based analysis of the ZTVs and not on any fieldwork. JMT's position that any adverse effect on wild land must inevitably lead to refusal of consent is inconsistent with SPP which envisages situations in which development within WLAs may be acceptable.

4.26 So far as policy is concerned, SPP is the key policy. Paragraphs 161 and 200 are concerned with the preparation of spatial frameworks and development plans. Paragraph 215 is concerned with developments within wild land. The only guidance given in SPP regarding developments that lie outside wild land but which may have an impact on it is paragraph 169, which states that the effects on wild land must be taken into account in the decision making process. However, SPP attributes no fixed or special weight to the interests of wild land when considering the impact of development outside WLAs. If it were considered that some buffering around the edge of WLAs was required then policy would have provided for that. Accordingly, while the impact on wild land is a material consideration the weight to be attached to it is for the decision maker.

¹¹¹ Appendix 6

¹¹² APP-F55

4.27 SNH's *Interim Guidance* remains in force and the applicant was entitled to rely on it and to adopt a wild land study area different from that of the WLA. SNH's *Advice to Government* of 16 June 2014 emphasises that the map is intended for use as a strategic planning tool reflecting the fact that it is the product of desk based analytical study. The advice acknowledges that particular characteristics and intensity of wildness will vary across a wild land area and that "the details of that variation may not always be picked up in the desk based analysis and broad brush approach we have used to define these areas. Consideration of individual proposals and their potential effect on wildness and areas of wild land will require individual field assessment." It is not possible to map perceptual qualities.

4.28 The WLAs are accordingly a guide to what may or may not be found at a local level. The *Interim Guidance* notes that different parts of the wild land resource will inevitably vary in the strength to which they portray physical and perceptual attributes but that low scoring areas contribute to the whole, especially at the edge. The enlargement of the SAWLs to WLAs means that there has been some dilution of the concept of wildness through the new wild land mapping. If the new WLAs include at their boundaries areas of lower or minimal wildness then it is important that there should not be a complete ban on development within WLAs and no buffer zones outside them.

The main points for Scottish Natural Heritage

4.29 SNH has not formally objected to the application on the grounds of its impact on wild land. It has, however, corresponded with the applicant regarding the proposal; submitted consultation responses to the Scottish Government at scoping stage, application stage, and in response to the publication of further environmental information; and updated that advice following the publication of SPP and the SNH wild land map in June 2014. At our request a witness from SNH attended the inquiry and gave evidence about the potential effects on the East Halladale Flows WLA.

4.30 In commenting on the application SNH advised that the proposed development would significantly affect parts of an area of land with strong qualities of wildness (but not classified as a SAWL) located to the south west between the A897 and the proposed development site. The cumulative effect of the proposal in combination with other wind farms would be likely to significantly reduce the qualities of wildness experienced across the area.

4.31 On 13 May 2014¹¹³ SNH confirmed its advice that the proposal would result in significant adverse effects on an area of wildness to the west of the proposed wind farm identified as a CAWL in the 2013 wild land mapping¹¹⁴. SNH indicated that it might wish to review its advice on publication of NPF3, SPP and SNH's finalised wild land areas mapping.

4.32 The advice was updated on 25 July 2014.¹¹⁵ SNH could not provide definitive advice about the implications of these impacts on the WLA as there was only one viewpoint in the ES from within the area subsequently identified as a WLA. Had the ES been submitted now SNH would have requested additional viewpoints and visualisations from within the WLA, particularly from the south and east where it appears that Limekiln would introduce visibility of wind farm development over a relatively large area. Without this additional information it is not possible to confirm the extent and magnitude of impacts on

¹¹³ APP-F54

¹¹⁴ CD-38

¹¹⁵ APP-F56

the WLA. However, based on the available information and local knowledge it was considered that the wind farm could result in significant adverse effects on the East Halladale Flows WLA:

- Adverse effect on areas within the WLA where currently there is none, or very little (but distant), visibility of obvious human artefacts. From some areas within the WLA, the wind farm would have a significant effect on the sense of sanctuary or solitude that can currently be experienced. Much of the area is low lying, with undulating landform that limits outward views, such as towards the surrounding forestry plantations that in part demarcate its northeast extent. The wind farm would introduce turbines into views from parts of the WLA where other development, including consented and built wind farms, would not be visible, or only at greater distance. The larger turbines and relative proximity of Limekiln is also likely to significantly reduce the perceived scale of the WLA, particularly from elevated locations (as can be seen from Beinn Ratha in particular, figure 9.36c of the ES);
- In combination with existing wind farms - three constructed (Bailie Hill, Forss, Causeymire) and one under construction (Strathy North) - there would be a cumulative effect on the WLA. Wind farms are/ would be visible from the WLA to the west, north-east, and south-east, but at a distance of approximately 5.5 and 15 kilometres from its periphery. There is a good degree of distance and separation between these wind farms and the WLA that helps reduce the impact they have on the WLA. Due to Limekiln having larger turbines, and being substantially closer, it would be likely to result in a greater degree of effect on the WLA than other wind farms.

4.33 SNH had previously identified five potential measures that could mitigate some of the significant adverse landscape and visual impacts of the proposed development. However, that advice had not taken account of wild land. Further assessment would be required to determine if it would be possible to accommodate any form of wind farm development at this location without significant adverse impacts on the WLA.

4.34 At inquiry SNH noted the reasons given by the applicant for defining the boundaries of the WLSA¹¹⁶: “To the east and north east of this ridge (Beinn Ratha, Sean Airigh, Clachgeal Hill and Beinn nam Bad Mor) the landform is part of the afforested, farmed and developed landscape which lie in these directions. The ridge separates this area from the wilder and more remote landscapes to the south and west. This divide means that the area to the east and north-east does not have the potential to be wild land.”

4.35 SNH disagrees that the area to the north east of this ridge relates more closely to the landscape of the Limekiln plantation and the north coastal edge than it does to the large extent of sweeping moorland to its immediate south west. This area does express wild land attributes and the ridge and its north east slopes encompass areas which are important contributors to the WLA as a whole. Further, SNH disagrees with the exclusion of the area to the south of the WLSA: wildness is experienced to a high degree up to the Flows coniferous plantation and the Thurso/ Wick to Inverness railway line and this area contributes to the WLA as a whole.

¹¹⁶ Appendix 9.E of the ES

4.36 Therefore, the WLSA in the ES is not sufficiently extensive to encompass all the areas that are of high wildness which are now included in the East Halladale Flows WLA. In particular, the contribution of the north eastern area of the Beinn Ratha ridge and the large area of moorland extending as far as the Shurrery Lodge are important parts of the WLA.

4.37 SNH assesses the impact of the proposed development by reference to the WLA rather than the more restricted WLSA in the ES. It assesses¹¹⁷ the physical attributes of perceived naturalness, lack of constructions or other artefacts and remoteness and inaccessibility as high; and little evidence of contemporary land use and rugged or otherwise challenging terrain as medium. The perceptual response of sanctuary or solitude is assessed as present (strongly expressed) with the remaining perceptual responses of risk or anxiety, arresting/ inspiring qualities, sense of awe, and physically challenging as present.

4.38 In terms of magnitude of change as regards physical attributes SNH concludes that there would be no change in relation to perceived naturalness or rugged or otherwise challenging terrain; low as regards little evidence of contemporary land use and remoteness and inaccessibility; and medium as regards lack of constructions or other artefacts.

4.39 And in relation to perceptual responses: no change as regards physically challenging; low for risk or anxiety and arresting/ inspiring qualities, sense of awe; and a medium change for sanctuary or solitude.

4.40 The assessment concludes that the magnitude of change to the various physical attributes and perceptual responses, together with the high sensitivity of the resource, would have significant adverse effects on parts of the East Halladale Flows WLA, including the Beinn Ratha ridge area. The wind farm would have a significant cumulative effect on the sense of sanctuary experienced particularly within some of the 'hidden' parts of the WLA.

4.41 Although much of the WLA is already affected to a degree by the visibility of turbines, as shown in the cumulative ZTVs¹¹⁸, the addition of Limekiln would introduce visibility of turbines into some of the small pockets within the WLA where turbines are not already visible, mainly the central spine of the WLA. The ES acknowledges that "Across the marshy land to the south of Cnoc an Fhuarain Bhain, visibility occurs in large patches but typically of less than 6 turbines which will be seen as blades behind the ridge of low hills and at some distance in excess of 7 km. The partial concealment of the turbines and containment by the landform reduces the influence they will have on this area."¹¹⁹ SNH does not accept that if the turbines are seen without their bases, tracks and surrounding forestry there would be a reduced effect on the WLA.

4.42 The areas of the WLA omitted from the applicant's assessment can be seen by a comparison of APP-K27(e) with the WLSA. Figure CTZV revision 2 submitted at inquiry in response to questions by the reporters¹²⁰ graphically illustrates the extent of the WLA that would have either cumulative visibility of Limekiln plus one or more wind farms, or of Limekiln alone. The Limekiln visibility alone areas confirm that there would be a number of

¹¹⁷ Precognition of Catherine Harry

¹¹⁸ APP-B6

¹¹⁹ Appendix 9.E, page 9

¹²⁰ APP-K28

areas, some in the heart and wildest parts of the WLA, and sometimes very close to the application site, where the development would result in significant adverse impacts on and to the qualities of wildness where currently there is no wind farm visibility.

4.43 In assessing the magnitude and scale of relative impacts of Limekiln in comparison with the other wind farms included in the CZTV it should be borne in mind that the other wind farms are very much further away from the central part of the WLA and that the height and scale of the Limekiln turbines are greater than, for example, Causeymire.

4.44 The applicant's approach to assessing the effects on wild land has been superseded by the publication of the SNH 2014 wild land mapping and the adoption of the WLAs by Scottish Ministers as the areas of wild land described in SPP paragraphs 161 (table 1), 200 and 215. What is now required in the case of any relevant development is an assessment of the impacts on the relevant WLA or WLAs, in this case the East Halladale Flows WLA, and not, as undertaken by the applicant, a smaller area. As a result, the applicant's assessment of the impacts on wild land is an incomplete and inaccurate determination of the magnitude and significance of the potential impacts that the development would have, as a considerable proportion of the WLA has not been assessed by the applicant.

4.45 The assessment is further undermined by the fact that it appears to have been based on a superseded version of SNH's relative wildness mapping and failed, therefore, to take account of the areas of wild land now included in WLA 39. Only the experts for SNH and THC carried out a full wild land assessment of the whole WLA and their evidence should be preferred to that of the applicant.

4.46 The witnesses for both SNH and THC were of the view that while it is not uncommon for areas of relatively lower wildness to be included within a WLA, and that wildness tends to strengthen away from the edge, these areas are nevertheless important contributors to the WLA as a whole. These are intrinsic to the area as a whole and should not be regarded as a buffer. The exclusion of such areas from WLAs would have the effect of undermining the whole area of a WLA by a process of attrition. This is supported by the *Interim Guidance and Advice to Government of 2014*.

4.47 Scottish Ministers' consideration of the effects on wild land should be based on the WLA as a whole and not on the smaller study area assessed by the applicant.

4.48 The applicant's use of terms such as "true wild land" and "core areas of wild land" is apt to lead to confusion. All land comprised within a WLA is properly to be regarded as "wild land". All land within WLAs benefits from the protective policy set out in SPP.

4.49 The applicant argues that because the boundaries of some WLAs have been drawn close to constructed or consented wind farms SNH must be taken to have accepted that such developments are acceptable on the boundary of a WLA. This is misguided. The different phases of the mapping process are described in SNH6. The approach was to exclude from wild land areas the footprint of all known constructed or consented wind farms. SNH has not, however, carried out a detailed site specific assessment of each of those schemes and has not concluded that the impacts are acceptable. Such an exercise would not have been practicable nor necessary for the development of a strategic map¹²¹.

¹²¹ APP-K15, paragraph A.13 of Annex A

4.50 Schemes that were consented in the past were assessed against the previous policies and search areas and can provide no useful guidance as to the acceptability of the Limekiln proposal.

The main points for The Highland Council

4.51 The applicant's assessment of effects on wild land is based on its WLSA and predates the publication of SPP in June 2014 and the related mapping of wild land areas by SNH.

4.52 THC's assessment of effects¹²² was carried out largely on the basis of SNH's *Interim Guidance*. The concept of wild land in Scotland accepts that areas of lower wildness and some effects of human intervention will be captured within the boundaries of WLAs. Areas of greatest wildness are likely to be furthest in from the boundaries of the defined area as the concept of wild land includes remoteness and inaccessibility. Although the physical attributes of wild land and perceptual responses are likely to be weaker close to the boundaries, these areas are integral to the WLA as a whole and any assessment of the effects on wild land should take this into account.

4.53 THC's wild land assessment was based on a desktop review of mapping and site visits to Beinn Ratha, the western edge of the WLA above Strath Halladale, and Ben Dorrery close to the eastern boundary of the WLA.

4.54 The following assessment was made regarding physical attributes:¹²³

Physical attribute	Current strength	Effects of Limekiln wind farm
Perceived naturalness	High	Low
Rugged or challenging terrain	Medium	None
Remoteness from public roads	Medium to high	Low
Lack of modern built artefacts	Medium (periphery) to high (middle of the WLA)	Medium to high (NE part of the WLA including Beinn Ratha) Medium to low (areas south and west of the ridge)

4.55 The effects regarding perceptual responses were assessed as follows:¹²⁴

Perceptual response	Current strength	Effects of Limekiln wind farm
Sense of sanctuary, solitude or refuge	Present to a high degree in the central part of the WLA	Significant effect

¹²² Section 6 of the Landscape and Visual Report (THC19) and the precognition of Dr Guy Wimble

¹²³ Table 1, paragraph 6.32 of THC-19

¹²⁴ Table 2, paragraph 6.33 of THC-19

	Present to some degree on the periphery of the WLA	Scale and proximity would lead to a loss of this response from the northeast part of the WLA. Partial loss from areas to south and west with intermittent visibility Little effect on areas to the west of Beinn Ratha and in the far southwest
Risk or anxiety-hazard	Present to a high degree across much of the WLA Present to some degree in the northeast	Response would be reduced but not eliminated in the northeast close to the wind farm
Arresting/inspiring qualities, sense of awe	Present to a high degree across much of the WLA Present to some degree along the eastern margins	Response would be reduced in the northeast
Physically challenging	Present to a large degree	No effect

4.56 In summary, the main effects would be:

- on the perception of lack of built artefacts and on areas of sanctuary and solitude;
- significant across the northeast of the site due to scale and proximity by comparison with existing developments;
- lesser effects to the south and west of the high ground where there would be intermittent visibility but significantly more and closer visibility of turbines than currently prevails.

4.57 There would be significant cumulative effects on the WLA arising from Limekiln in addition to operational, consented and proposed wind farms. The principal reasons for this are:

- the pervasive background effect from the extensive visibility of existing/ consented wind farms, most notably Baillie Hill (THC-15, Figure D) and Forss in the northeast, Causeymire (THC-15, Figure F) in the southeast and Strathy North (THC-15, Figure E) to the west;
- the patterns of cumulative visibility across the WLA include combined visibility in northeast and southwest areas and sequential visibility across the west as a result of Strathy North;
- Limekiln adds significantly to the effect of the other wind farms. Due to its scale and proximity it contributes to a much greater intensity of effect and an increase in overall visibility of wind farms;
- wind farms at application stage (for example, Strathy Wood and Strathy South) would add to the background effect but Limekiln would remain much the most significant contributor to cumulative effects.

Overall, the cumulative magnitude of change would be medium, and given that wild land would be of high sensitivity, the effect would be significant.

4.58 So far as wild land policy is concerned, THC refers to paragraphs 193, 200 and 215 of SPP. These policies indicate the critical importance of safeguarding the character and qualities of wild land. The East Halladale Flows WLA is to be afforded this new level of protection. This requires consideration of the effects of development both within and outwith the WLA where this has the potential to generate adverse impacts on the WLA. Not to consider the latter would be to run the risk of development that would not safeguard its character and qualities. This would also run counter to the Ministerial announcement on the launch of NPF3 and SPP¹²⁵. As the wind farm boundary is coterminous with the WLA, with four turbines between 79 and 198 metres of the boundary, it would not comply with the requirement to safeguard the character of the WLA. The text of table 1 suggests that the scope for wind farms in wild land areas is limited and few in number. The test is whether any significant effects can be overcome or not. As it falls within a Group 2 area, wild land is to be afforded the same level of protection as World Heritage Sites, Natura 2000 and Ramsar sites, SSSIs, National Nature Reserves and sites identified in the Inventories of Gardens and Designed Landscapes and Historic Battlefields.

4.59 Guidance on the assessment of effects of development outwith wild land is contained in SNH's *Interim Guidance*. Principle B states that: "A detractor does not have to be within an area of wild land to affect it. For example, a prominent development outside an area of wild land may well be visible from many places within the wild land area and so detract from the quality of wildness and remoteness." Principle C states: "Gradual attrition at the edge of wild land should be avoided if possible. Wild land can be damaged, if not lost, through the cumulative effect of detractors around the edges reducing the central area." The SNH approach to the consideration of the effects of development both within and outwith wild land areas was adopted in the Dunbeath report and decision letter¹²⁶.

4.60 THC endorses and adopts SNH's submissions, particularly in relation to the applicant's approach to restricting its assessment to areas it considers to have the characteristics of "true wild land". In any event, there would be an adverse impact on areas within the applicant's WLSA such as the headwaters of the Sandside Burn. Albeit a strategic tool WLAs are intended to inform development management decisions. Reading SPP as a whole, impacts on WLAs from outside are to be treated no differently from impacts within. NPF3 confirms that wild land is a nationally important asset. There is clear protection for wild land which should be given the weight accorded to other interests in table 1 of SPP. It is not, however, a policy of absolute embargo as submitted by the JMT. NPF3 and SPP should be read with SNH's advice to Government¹²⁷ and its Non Technical Description of Methodology¹²⁸.

The main points for the John Muir Trust

4.61 The Trust has campaigned to ensure the unique quality of Scotland's wild land, nationally and internationally important, is explicitly recognised in planning policy. The Trust welcomed the clear recognition of this in NPF3 and SPP, alongside the WLA map.

4.62 The Trust did not lodge a formal objection to the Limekiln proposal when the application was lodged. The key factors were:

¹²⁵ THC-09

¹²⁶ THC-04

¹²⁷ THC12/APP-K15

¹²⁸ THC14b/SNH6

- the Trust has very limited staff for planning work and when Limekiln was considered the Trust was under pressure;
- there was no SAWL in this area;
- although the area that has been identified as the East Halladale Flows WLA was previously proposed as a CAWL there was to be further public consultation on the CAWL map and its relationship to planning policy and the policy position regarding this site was uncertain.

4.63 The publication of NPF3, SPP and of SNH's Wild Land Areas map changed circumstances considerably.

4.64 JMT agrees with the criticisms made by THC and Mr Young of the landscape and visual impact assessment undertaken by the applicant. The approach to assessment here appears to differ from that adopted in other cases, for example, in relation to the capacity of the open landscape to accommodate significant development. The report relies heavily on the absence of a landscape or visual designation of the area but that has been superseded by the identification of the East Halladale Flows WLA.

4.65 The applicant's case is not well served by its refusal to provide adequate visualisations from within the WLA and this demonstrates a lack of confidence in its case. The visualisations from viewpoint 17 (Beinn Ratha) show very clearly that the proposal would diminish the WLA in quality very significantly. Figure 9.11 in the ES, showing the ZTV and the WLSA, demonstrates that a very considerable proportion of the area studied would have visibility of a varying number of turbines. Since the border of the WLA is adjacent to the proposed site, that visibility for some of the WLA would be completely overpowering.

4.66 The applicant's ES and landscape and visual reports claim that very severe impacts on landscape and residents alike are not significant despite all evidence to the contrary. The applicant's expert rarely seems to think a marginal decision should be classed as significant. The evidence suggests that he has under-estimated various receptors' sensitivity and that the assessment minimises significance rather than accurately records it. Having heard the evidence of SNH the Trust agrees with the conclusions reached by its witness.

4.67 The Scottish Government's policy intention to ensure that the WLAs are safeguarded and remain a special feature of our landscape is now crystal clear. The test is: "Will the proposed development impact in such a way that WLA 39 will be significantly adversely affected such that, if it were re-considered after the development was built, the WLA area would be redrawn as a smaller WLA or even diminished to the extent that it would no longer be considered a WLA by SNH?" If the answer is "yes" the application must be refused.

4.68 JMT is also concerned about the approach to cumulative impact. Scots are now being asked to accept developments of the scale of Limekiln in very sensitive landscapes, as if they were not major industrial developments. Because other developments have already intruded into an area, communities are told "it's already impacted". But cumulative impact is a valid and compelling reason to refuse developments. The strengthened policy protection afforded to wild land is needed in order to prevent this area of the Highlands becoming a "wind farm landscape".

4.69 Consenting Limekiln would greatly adversely affect Scotland's precious wild land resource. It would be a significant loss for Scotland's reputation as a country with large landscapes and a major loss to Scotland's sense of place. It would be clearly contrary to the new national planning policy.

4.70 JMT asked Dr Carver of Leeds University to carry out a preliminary assessment of the effects of the proposed wind farm on the WLA. In the limited time available he carried out a desk based assessment using the SNH mapping layer attributable to the absence of modern human artefacts. He did not consider impact on remoteness and perceived naturalness but focused on visual impact. He concluded that the Limekiln development would be likely to reduce the area of wild land by approximately 2,330 ha or 13%. This is represented in JMT/I/7. It is similar to the area to the east of the Beinn Ratha ridgeline excluded from the applicant's WLSA but extends beyond the area coloured blue on the applicant's ZTV. In JMT's view this is the area of wild land within the WLA that would be subject to a significant adverse impact.

4.71 In response to questions it was acknowledged that the site of the proposed wind farm is not included in JMT's list of top ten wild areas. However, the JMT mapping is not nearly as detailed as that of SNH. Things have moved on. JMT will, in the future, as it has here, use the WLAs as the starting point for considering whether to object to a proposal. While the maps are said to be a strategic tool they are nevertheless useful in a development management context.

4.72 So far as wild land policy is concerned, JMT draws attention to paragraphs 3.23, 3.24 and 4.4 of NPF3, table 1 and paragraphs 169, 200, and 215 of SPP, and the press release issued at the launch of NPF3 and SPP in which it is said "we have strengthened the protection of wild land". The intention of NPF3/ SPP is that significant adverse effects of a wind farm on wild land would lead to proposals not being in accord with policy and thus being refused.

4.73 The overall evidence is that the LVIA effects on the East Halladale Flows WLA are significantly adverse and are not outweighed by the mainly generic benefits of the proposal. It is contrary to national policy and to the development plan. There are no material considerations that would justify approval. The outcome of this inquiry should be absolutely clear: that section 36 consent and deemed planning permission should be refused.

Conclusions on wild land impacts

4.74 So far as wild land policy is concerned, we note that wild land is described in NPF3 as a nationally important asset; that paragraph 215 of SPP states that in areas of wild land development may be appropriate in some circumstances and that further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation; and that paragraph 200 of SPP states that wild land areas are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development and that for this reason plans should identify and safeguard the character of the areas of wild land mapping identified on the SNH map of wild land areas. We consider that paragraphs 161 to 166 (including table 1) of SPP are concerned with the preparation of development plans and spatial frameworks and that it is to paragraph 169 that one must look for guidance on development management decisions. This paragraph highlights the need to consider the effects on wild land.

4.75 Paragraph 215, read with paragraph 200 to which it refers, addresses the criteria to be applied to proposed developments within an area of wild land defined by reference to the SNH map published in June 2014. Developments within that category would have to demonstrate that significant effects on the quality of the wild land area can be substantially overcome. The difference between the parties is whether that test applies to developments located outwith a WLA but which may have a significant effect on the WLA.

4.76 JMT submits that NPF3 and SPP should be read as introducing a prohibition against development that has a significant adverse effect on wild land. THC argues that the criteria set out in paragraph 215 apply equally to developments outside wild land as to developments within it. The applicant argues that paragraph 215 applies only to developments within a WLA and that in other cases any adverse effects on wild land have to be weighed in the planning balance, having regard to the policy protection afforded to wild land in NPF3, SPP and the development plan.

4.77 In our view NPF3 and SPP recognise wild land as a nationally important asset and the policy intention appears to be to confer on those areas of land identified in the SNH wild land map a high degree of protection, while also recognising that even within WLAs some development may be appropriate. The purpose of the mapping exercise was to identify those areas to which that policy protection applies.

4.78 Paragraph 160 of SPP explains that the development plan should include a spatial framework identifying those areas likely to be most appropriate for onshore wind farms as a guide for developers and communities and paragraph 200, referred to above, requires areas of wild land as mapped by SNH to be safeguarded.

4.79 We agree with the applicant that paragraph 215 (which cross refers to the SNH wild land map) applies to development within a wild land area. There appears to be no policy justification for applying the criteria set out in that paragraph to development outside a WLA. To do so would be to extend the strengthened policy protection afforded to wild land areas to areas well beyond their boundaries. We are conscious that the WLAs are not restricted to the areas of highest wildness and that areas of lower wildness are included within WLAs with the boundaries being drawn using features recognisable on the ground. This is demonstrated by the boundaries of the East Halladale Flows WLA which include the overhead power line, the Limekiln plantation, the railway line, and the A897.

4.80 The applicant accepts that a proposed development located outside a wild land area would have to be subject to an assessment of potential effects on any nearby WLA. We agree that, for proposals located outside a WLA, any significant adverse effects on the qualities of the wild land area would have to be weighed in the planning balance, giving due weight to the status of wild land areas as a nationally important asset.

4.81 Accordingly, our task in advising Ministers on this application is to consider the impacts of the proposal on the East Halladale Flows WLA. Our ability to do this is, however, constrained by the limited nature of the evidence before us concerning the potential impact on the WLA as a whole. For the reasons explained above, the applicant's assessment of impacts on wild land is limited to its WLSA. We accept that this was a reasonable approach when the assessment in the ES was undertaken but the policy position and the identification of wild land areas in June 2014 altered the context in which the proposal must be assessed. In delineating its WLSA the applicant effectively screened

out of consideration substantial areas of land which are now included within the WLA. These include not just the area to the east of the ridgeline of Beinn Ratha but also substantial areas to the south and south east of the site.

4.82 As parties have highlighted, there is only one viewpoint and visualisation in the ES from within the WLA, that is, viewpoint 17 (Beinn Ratha), although viewpoint 9 (Ben Dorrery) lies just outside the eastern boundary of the WLA. There are, however, no viewpoints or visualisations from the substantial areas to the south and south east of the applicant's WLSA. On receipt of SNH's updated advice regarding wild land we asked the applicant whether it was its intention to provide further visualisations from within the wild land area as recommended by SNH. The applicant's position was that it was satisfied that the visualisations supplied were adequate to assess the effects on wild land and that it did not intend to produce any further material for the inquiry¹²⁹.

4.83 The applicant's position is that the areas of wild land outside its WLSA but which are included in the East Halladale Flows WLA encompass a large tract of landscape which covers widely ranging levels of wildness up to boundaries which are defined largely by manmade features. There is a clear gradation in wildness characteristics from the periphery to the centre of the WLA where only some limited pockets of high wildness occur. The areas on the periphery are less likely to be susceptible to change than core areas of wild land.

4.84 While we accept that there may be some areas within a WLA that have lower wildness qualities than others, we agree with SNH and THC that these may nevertheless contribute to the WLA as a whole. Having regard to the SNH relative wildness mapping submitted at the inquiry and our own observations from our site visits we consider that areas excluded from the applicant's WLSA make an important contribution to the WLA as a whole. For example, although the southern boundary and south eastern boundary of the WLA are delineated by human influences in the form of the Flows coniferous plantation and the railway line, respectively, these open expanses of moorland are characteristic of the Flow country and it is not difficult to see why these were included in the WLA. We agree with SNH and THC that these are important areas of the WLA.

4.85 The difficulty that we face is that, the applicant having declined to provide any further visualisations from areas within the WLA, we have only limited evidence (apart from the evidence regarding the potential impact on the area to the east of the Beinn Ratha ridgeline discussed below) about the potential impact on the areas of the WLA not included in the WLSA. That evidence would include what we observed on our site inspections, for example, from the track from Shurrery Lodge and the summit of Beinn nam Bad Mor; the ZTVs, principally figures 9.7b, 9.8b and 9.11 in the ES; the Cumulative ZTV: Limekiln with Baillie Hill, Causeymire, Forss and/ or Strathy North (August 2014) submitted at the inquiry¹³⁰; the Limekiln Blade Tip ZTV overlays on the SNH relative wildness mapping¹³¹ submitted at the inquiry; and THC-15, figures C,D,E and F.

4.86 The Limekiln Blade Tip ZTV overlay on to SNH13¹³² shows theoretical visibility over a substantial proportion of the WLA not just from the summit and east flanks of Beinn Ratha itself, and from the hills immediately to the south and south east of Beinn Ratha, but also

¹²⁹ Emails of 28 and 29 July 2014, Appendix 6d

¹³⁰ APP-K28

¹³¹ APP-K27

¹³² APP-K27(e) relative wildness

from lower lying areas to the south in the vicinity of the Flows National Nature Reserve and from the south-eastern boundary of the WLA referred to in paragraph 4.84 above. The ZTV does not show how many turbines would be visible from these areas which are characterised as possessing relatively high degrees of wildness.

4.87 Figure C of THC-15 shows the WLA superimposed onto the Blade Tip ZTV. The highest number (21-24) of turbines would be visible from the summit and north east facing slopes of Beinn Ratha and from the hills to the south west and south of the application site. However, there are extensive areas in the southern and south-eastern parts of the WLA where between 1 and 10 turbines would be visible, albeit at a distance of more than 5 kilometres.

4.88 APP-K28 is a ZTV showing the cumulative impact within the WLA of Limekiln with Baillie, Causeymire, Forss and Strathy North. This shows that there are areas within the WLA from which Limekiln would be visible and from where, at present, there are no wind farms visible. These would include the Helshetter strath and the headwaters of the Sandyside burn; the lower northeast slopes of Cnoc Bad Mhairtein and Cnoc an Fhuarain Bhain; areas within the moorland to the south of those hills in the vicinity of Loch Tuim Ghlais and the other lochs and lochans to the south; an area to the south and east of Loch Scye; the western part of Loch Caluim, and a small area to the east and west of Caol Loch. However, it is not possible to ascertain from this ZTV the number of turbines that would be visible and whether they would be visible at blade tip or hub height. The ZTV shows the relatively small areas within the WLA from which wind turbines would not be visible.

4.89 Comparison of the blade tip and hub height ZTVs in the ES suggests that when Limekiln is visible from low lying areas in the southern and south eastern parts of the WLA, visibility would be of blade tips rather than hubs and that 1 to 5 turbines would generally be visible in the vicinity of Loch Tuim Ghlas and the other lochs to the south. However, in the area to the south and south east of Shurrery in the vicinity of the railway line the blade tip ZTV shows areas where 6-10 and 11-15 turbines would theoretically be visible.

4.90 The ZTVs, while useful, do not give us sufficient information to be able to fully assess the impact of the proposal on those areas of the WLA that were not included in the WLSA. The absence of visualisations from other areas of the WLA and detailed assessment of the physical and perceptual attributes of those areas makes it difficult to assess the magnitude of change and hence the significance of the impacts, either individually or cumulatively, of the proposal on these areas. For this reason, we are unable to conclude that the proposal would not have a significant adverse impact on the WLA as a whole.

4.91 Much of the evidence at the inquiry was focused on the impact on the area to the east of the ridgeline of Beinn Ratha as it was common ground between the parties that this part of the WLA would be the area most affected by the proposed wind farm. The nearest turbines would be around 100 metres from the WLA boundary and could, as a result of micro-siting, be even closer. The potential effect is illustrated in the wirelines and photomontages from viewpoint 17 (Beinn Ratha). The applicant accepts that the visual impact from here would be significant. Its case is that this area lacks the qualities of true wild land and that any adverse impact has to be judged in this context.

4.92 On the basis of the evidence submitted and our own observations we consider that the impact on this part of the WLA would be significant due to the proximity and height of

the turbines. We agree with the applicant that the qualities of wildness in that part of the WLA lying to the northeast of the ridgeline of Beinn Ratha are diminished by human influences such as the extensive commercial forestry plantations, the Dounreay nuclear facility, the overhead power line, Baillie Hill and Forss wind farms and the settlement of Reay. However, the Helshetter strath and the hillside on the approach to the summit of Beinn Ratha provide a sense of transition from a landscape with multiple human interventions to the areas of higher wildness west of the ridgeline and to the south where there are extensive views across the WLA to Morven, south west to Ben Griam Beg and to the west. This is also shown in THC-17 in the views from Ceann Mor. The wind farm would have a negative effect on the physical attribute of lack of modern built artefacts and the perceptual responses of sense of sanctuary and solitude and arresting/ inspiring qualities.

4.93 We have considered whether the significant effect of the proposal on this part of the WLA alone would be sufficient to lead us to conclude that the impact on the WLA as a whole would be unacceptable. We conclude that it would not. While this part of the WLA has value in terms of a transitional zone from a managed and developed landscape to one with high qualities of wildness, this lies mainly in the rugged and challenging terrain and the perceived naturalness of the strath and hillside in contrast to the adjacent commercial forestry. The perceptual responses of a sense of sanctuary, solitude or refuge and arresting/ inspiring qualities or sense of awe are strongest when the summit is reached and there are extensive views to the south and west. These views would not be directly affected by the proposed wind farm. The perceptual responses, that is, when looking into the wild land area from the summit of Beinn Ratha, would not be reduced to the same extent as when looking outwards from the WLA towards to the northeast. The part of the WLA to the east of the ridgeline would still have value as an area of wild land although the perceptual responses would be diminished in views to the northeast. Views to the north east from the WLA are already subject to a range of human influences as described above and in this area of the WLA the perceptual responses are, in our view, only weakly present.

4.94 For these reasons, although the impact of the proposal on this part of the WLA would be significant, we do not consider that it would be unacceptable. It does not follow, however, that the impact on the WLA as a whole would be acceptable. Although it is this part of the WLA that would be most severely affected by the proposed wind farm it is an area that is already subject to human influences and any diminution in wild land qualities would have to be seen in that context. However, as discussed in paragraph 4.84, there are areas of the WLA excluded from the applicant's WLSA that make an important contribution to the WLA. Those areas are not currently subject to human influences to the same extent as the area to the east of the Beinn Ratha ridgeline. We must consider the impact on the WLA as a whole and, for the reasons given in paragraph 4.90, we do not have sufficient information to be able to assess the impacts on the WLA with a sufficient degree of confidence.

4.95 The exchange of legal submissions between the applicant and THC about the competency of THC's objection on wild land grounds, and our observations on these, are in Appendix 6.

CHAPTER 5: LOCAL AMENITY IMPACTS

5.1 We held an evening session at Reay Village Hall on 28 August to which members of the public were invited to give them the opportunity to express their views on the impact of the proposed development on the local community.

5.2 A list of the people who participated in the evening session is at Appendix 12, along with copies of their statements or presentations. Some of those who had intended to attend the session were unable to do so and their statements were read out on their behalf. Some additional statements and presentations were submitted after the session and these are included in the appendix.

5.3 The key points made were that the development would result in long term environmental damage, including damage to wildlife and biodiversity, for a short term gain which would have only limited benefits for the local community. There would be no long term economic benefit to the local community in terms of job creation. The landscape and visual impacts of the development would be damaging to nearby residents, would depress house prices, and discourage tourists from visiting the area. The construction of the wind farm, which would require abnormal loads and a significant increase in HGV traffic, would result in additional hazards and inconvenience for local people. There were concerns about noise from the turbine blades and reference was made to problems that people who live near Baillie wind farm had experienced.

5.4 Others questioned the need for the development which, according to the ES, would provide electricity for 43,000 homes. There was, however, no local or regional need for a development of this scale. There is sufficient arable and pasture land available in Scotland to meet the Scottish Government's targets for onshore renewable energy without building wind farms on currently undeveloped land which is valued for its lack of development. If more wind generation is needed from Caithness then this should be located on peat free farmland in the east of the county, without impacting wild land. In any event, contribution to renewable energy targets should not be given disproportionate weight over the impact on local communities.

5.5 The wind farm would also result in the loss of local amenities in terms of paths in and around the Limekiln forest and the village of Reay itself, including those designated as core paths, and would have an impact on views of Beinn Ratha. The turbines would be visible from virtually every property in the village and from important facilities of the village such as Reay church and the golf course.

5.6 The scale of the proposed wind farm, with turbines as high as 139 metres to blade tip, would be enormous and would have a significant adverse impact on the local landscape, including Beinn Ratha. These are huge structures – taller than the London Eye – compared to the scale of the landscape. As the human eye is extremely sensitive to movement they would capture attention from many miles away, in a way that built structures such as Dounreay do not. The turbines at Limekiln would be significantly higher than those at Baillie, Causeymire, and Forss. The only operational wind farm with turbines as high as those proposed at Limekiln is at Fallago Rig where the nearest settlements are 7.5 kilometres away: three times the distance from Reay.

5.7 Many people spoke of the cumulative effect of the proposed development, both in relation to the area around Reay, when travelling between Reay and Thurso, and also Caithness more generally. “Just because Baillie and Forss already exist this shouldn’t be an excuse for building more windfarms in the area.” They spoke of the unique landscape of West Caithness, including its qualities of wildness, which has come under pressure for development because of its proximity to access to the national grid. Due to the undulating landscape wind farms can be seen from a great distance, much further than the 7-8 kilometres which the applicant regards as significant in landscape terms. The Caithness landscape is now awash with turbines and wind farms and there are further proposals for wind farms to the west at Strathy and Melvich. The area has reached turbine saturation point.

5.8 There was agreement with SNH’s concerns about the sequential impact, when travelling east or west along the A836 which is a designated national tourist route, of the proposed wind farm when considered alongside existing wind farms or those under construction or proposed in Sutherland. There would be a perception when travelling along either the A836 or the Shebster Road of being within a ‘tunnel’ of wind farms in which turbines would be visible almost continuously, albeit at different distances, scale and size. Limekiln would be the most prominent of these.

5.9 It was considered that the applicant’s expert had underestimated the significance of the visual effects on those properties closest to the proposed wind farm in concluding that in no case would the impact be so severe as to result in an overbearing or dominant impact. The sample of properties was small and the visualisations were from a single point outside a property at a single point in time. They did not, therefore, take account of the winter months when there is no foliage to screen the wind farm or the fact that the sun is low on the horizon. This, it is feared, would result in a “flicker” effect. Visualisations cannot capture the impact of the movement of the blades.

5.10 Others thought, based on their experience of the visualisations of the Baillie wind farm, that the visual impact of the proposed wind farm would be greater than suggested by the photomontages.

5.11 The Action Group had received overwhelming support from the people of Reay and the surrounding area with the result that over 500 objections were made and a 150 signature petition was submitted to Caithness West Community Council. The planning system appears to be weighted in favour of developers who can make repeated applications until protest groups are exhausted and/ or unable to raise further funding. There is also an uneven playing field in that developers can afford to pay for legal and other professional representation, making it expensive and intimidating for local people to participate. The net result is a cynical and disaffected community: a feeling that it’s all settled ‘up there’ and that local opinion and feelings don’t count.

5.12 We are grateful to those who took part in the evening session. It was a useful elaboration of the points that had been made in the representations on the application and helped us gain a better understanding of the issues.

CHAPTER 6: IMPACT ON ECOLOGY

6.1 Chapter 11 of the ES deals with the potential impact of the proposed development on ecology generally and chapter 12 deals with potential impacts on ornithology more specifically. For ease of reference we shall follow that division in discussing the representations made on these issues and reaching our conclusions on them.

6.2 Although the proposed development site does not lie within an area designated for any natural heritage interest it is within the range of several qualifying interests of the following Special Protection Areas (SPA), Special Area of Conservation (SAC) and Ramsar sites:

- The Caithness and Sutherland Peatlands SPA, SAC and Ramsar site. Component Sites of Special Scientific Interest (SSSIs): Loch Caluim Flows and East Halladale. Qualifying interests for the SPA/ Ramsar are red-throated diver, black-throated diver, wigeon, common scoter, hen harrier, golden eagle, merlin, golden plover, dunlin, wood sandpiper, greenshank, and short-eared owl.
- The Caithness Lochs SPA and Ramsar site. Component SSSIs: Broubster Leans and Loch Calder. The qualifying interests of this SPA are wintering populations of whooper swan, Greenland white-fronted goose, and greylag goose.
- The North Caithness Cliffs SPA whose qualifying interests include breeding peregrine and guillemot along with its assemblage of breeding seabirds: puffin, fulmar, kittiwake, guillemot and razorbill.

Ecology (other than birds)

The applicant's assessment

6.3 The applicant's ecological assessment was based on a combination of a desk top study, habitat surveys, and consultation with relevant nature conservation bodies. These established that the site is dominated by habitats of relatively low conservation value, principally dense conifer plantation, woodland and grassland. However, there are areas within the site of greater conservation value such as wet heath, blanket bog and mire plant communities.

6.4 Discussions were held with SNH and other stakeholders to identify issues relating to deer management. There is a population of red deer within the Limekiln forest which, at present, is surrounded by a deer proof fence so that deer are not able to pass freely between the estate and the open ground surrounding the site.

6.5 Species surveys established that there were signs of otters, including resting sites, along the Reay and Achvarasdal burns. Active water vole colonies were found to be widespread within the site boundary. Evidence of pine martens suggested that they ranged throughout the development site. No dens were found, although a number of potential sites were identified and investigated. The common pipistrelle was the only bat species found on site. There were no major commuting routes within the site boundary. The evidence suggested that the site is used for foraging and that potential roost sites were located to the north of the site.

6.6 The site was classified as of regional importance for otter; of district importance for water vole and pine marten; and of local importance for common pipistrelle bats¹³³.

6.7 The ES identified a number of potentially harmful impacts of the proposed development including habitat loss or damage, the risk of pollution, displacement or collision risk, and the effects of scheme construction and operation on deer movements.¹³⁴

6.8 These potential impacts were taken into account in the design of wind farm, such as minimising the number of watercourse crossings, using existing access tracks where possible, the use of key holing rather than clear felling, and the location of turbines at least 200 metres from features that have been identified as a potential bat roost¹³⁵.

6.9 During construction, various control measures would be put in place and an Ecological Clerk of Works (ECOW) would be appointed to ensure compliance with the Construction Environmental Management Plan, to provide advice in the event of issues arising in relation to protected species, and to oversee the implementation of the mitigation measures specified in table 3.8 of the ES. The design and mitigation measures proposed in the ES would be incorporated into Habitat and Species Management Plans¹³⁶.

6.10 The potential effects on decommissioning are expected to be the same as during the construction phase and similar mitigation measures are likely to be required. Issues to be addressed would include habitat restoration, protection of watercourses, and potential effect on protected species.

6.11 Having regard to the proposed mitigation in the form of the design of the development and the control measures proposed at construction, operational and decommissioning stages, the ES concludes that the magnitude of effect on the Caithness and Sutherland SAC is negligible and that there is no likely significant effect in terms of the Habitats Regulations¹³⁷ and hence no need for the decision maker to carry out an appropriate assessment.

6.12 The mitigation measures identified in relation to protected species such as otter, water vole, pine marten and bats would ensure that any adverse effects would be of negligible magnitude and that there would be no significant adverse impacts on protected species for the purposes of the Environmental Impact Assessment Regulations¹³⁸.

Consultation responses

6.13 THC does not object on natural heritage grounds.

6.14 In its comments on the application¹³⁹ SNH advises that, other than matters relating to deer management, there would be no likely significant effects on the Caithness and Sutherland Peatlands SAC. So far as protected species are concerned, the proposed development would not be detrimental to the maintenance of bat or otter populations at a

¹³³ APP-B4, chapter 11, table 11.6

¹³⁴ Paragraph 11.5.1

¹³⁵ Paragraph 11.5.2

¹³⁶ Paragraph 11.5.7

¹³⁷ The Conservation of Habitats and Species Regulations 2010

¹³⁸ The Electricity Works (Environmental Impact Assessment)(Scotland)Regulations 2000

¹³⁹ APP-F14

favourable conservation status in their natural range. It recommended that pre-construction surveys for protected species including otter, water vole, pine marten and bats should be carried out in the year preceding construction.

6.15 It is unlikely that a licence would be required for otter as the holts and resting places were currently outwith the recognised disturbance distances. If the situation were to change prior to construction it is likely that the tests for otter would be met and that licences would be granted.

6.16 SNH proposes that the role of the ECOW should include ecological advice on micro-siting and construction activity; and that the ECOW should have the power to stop works if an unexpected event occurred such as the discovery of an unknown otter holt, or heavy rainfall increasing the risk of sediment release.

6.17 Representations made by SEPA and Marine Scotland in relation to the water environment and impact on hydrology and hydrogeology are addressed in chapter 8 of this report.

Other representations

6.18 A number of representations made in response to the application raised concerns about the impact of the proposal on wildlife, biodiversity and local habitats.

Conclusions on ecology (other than birds)

6.19 So far as protected sites are concerned, the proposal has the potential to indirectly affect the Caithness and Sutherland Peatlands SAC and its component SSSIs primarily through the risk of deer damaging the site through grazing in the event of the effectiveness of the deer fence being compromised during the construction, operation and decommissioning of the wind farm. The issue of deer management is addressed in greater detail below. Subject to the imposition of an appropriate condition, any likely significant effect on the SAC and its component SSSIs could be avoided.

6.20 So far as protected species are concerned, the proposal has the potential to affect otter, water vole and pine marten, primarily during the construction and decommissioning phases. The ES proposes a range of mitigation measures set out in table 3.8¹⁴⁰ in order to minimise disturbance of these and other protected species. The proposed construction and environmental management plan would incorporate the mitigation measures set out in the ES.

6.21 We note that SNH is satisfied that, on the information currently available, the construction works are unlikely to require licences to be obtained but if licences were required these would probably be granted.

6.22 The pre-construction surveys recommended by SNH and its suggestions regarding the role of the ECOW are discussed in greater detail in chapter 11.

6.23 With those conditions in place we are satisfied that the proposed development would not have any significant adverse impacts on natural heritage interests.

¹⁴⁰ APP-B4, chapter 3

Ornithology

Procedural matters

6.24 We set out below the procedure that was adopted in relation to this topic and the objections that remain outstanding.

6.25 At the pre-examination meeting (PEM) it was not entirely clear whether THC's objection in relation to the impact on the Caithness Lochs SPA was concerned with landscape and visual impact or to a potential adverse effect on the natural heritage interests of the SPA. We took the view that, if the latter, it would be appropriate to hold an inquiry session on this topic.

6.26 Following the PEM THC confirmed that its objection did not relate to ornithology and Mr Eric Maughan, who had objected to the application on these grounds, confirmed that he was content for the topic to be dealt with in further written submissions. There then followed an exchange of written submissions, described below, between the applicant and Mr Maughan. In those submissions Mr Maughan indicated that there was recent evidence of a pair of breeding golden eagles in the vicinity of the application site.

6.27 This information was drawn to the attention of SNH and it updated its advice to Scottish Ministers on the potential effects of the proposed development on the Caithness and Sutherland Peatlands SPA. That advice is contained in an email dated 3 July 2014¹⁴¹ in which SNH confirmed that it had no outstanding objection regarding ornithology, subject to the imposition of certain conditions. Mr Maughan commented on that advice in his email of 6 July 2014¹⁴².

6.28 It became clear that this new evidence might have a bearing on the procedure to be adopted for this topic. There was a discussion between the parties about whether an oral session should be held and, if so, whether this should be a hearing session or an inquiry session. There was also a debate about whether SNH should be invited or compelled to attend such a session. We asked for clarification of the scope of the evidence to be given by the applicant's expert, in particular, whether he would be giving evidence about the PAT modelling and the assumptions made in that modelling. Having received that clarification we did not consider it necessary for SNH to attend the session. However, given the nature of the areas in dispute between Mr Maughan and the applicant we thought that we would be assisted by an inquiry session at which cross examination would be permitted rather than a hearing session. In making that decision we took into account the fact that Mr Maughan had by then engaged a professional representative.

6.29 We accordingly ruled, on 1 August 2014, that a half day's inquiry session on ornithology would be held on 28 August and that precognitions on this topic should be submitted by 13 August¹⁴³. On submitting a precognition on ornithology the applicant also submitted a considerable volume of additional documents comprising eight scientific papers running to 393 pages¹⁴⁴. Mr Maughan raised concerns about the late lodging of such a significant amount of documentation.

¹⁴¹ Appendix 9

¹⁴² Appendix 9

¹⁴³ The precognitions of Dr Whitfield, for the applicant, and Mr Maughan are in Appendix 9

¹⁴⁴ APP-S1-8

6.30 On 15 August we indicated that we were minded to accept this documentation given Scottish Ministers' statutory duties regarding protected species and habitats and in the interests of receiving the best evidence on this topic. We did not consider that Mr Maughan would be prejudiced to the extent that the inquiry session should be delayed.

6.31 Mr Maughan did not agree that he would have sufficient time to consider the material lodged and, on 18 August, he formally withdrew from giving evidence at the inquiry and indicated that he would submit evidence direct to Ministers on this subject. We indicated our regret at his decision but noted that as his objection had not been withdrawn we would report to Ministers on the representations that he had made. The inquiry session was accordingly cancelled.

6.32 RSPB wrote to the Scottish Government (ECDU) on 31 July 2014 objecting to the proposal on the basis of the new evidence regarding the pair of nesting golden eagles to which Mr Maughan had drawn attention. The applicant provided further information to RSPB regarding the additional surveys of golden eagle undertaken between April and August 2014 and the results of the PAT modelling. Its position, however, remains one of objection. It considers that further survey work is required and that it is not possible, on the basis of the information currently available, to conclude that there would not be a significant adverse effect on the Caithness and Sutherland Peatlands SPA.

The main points for the applicant

The Environmental Statement

6.33 The applicant's assessment of the potential impact of the proposed wind farm on birds is set out in chapter 12 of the ES¹⁴⁵ and its supporting technical appendices 12A-12C¹⁴⁶.

6.34 The applicant undertook detailed ornithological surveys with the objective of:

- mapping the distribution of breeding birds, including species of high conservation value specified in Annex 1 of the Birds Directive and schedule 1 of the Wildlife and Countryside Act 1981;
- quantifying the level of bird flight activity by breeding, wintering, foraging and migratory birds of potential conservation importance;
- recording the presence and abundance of other birds of conservation importance such as those listed in Biodiversity Action Plan or on the Red List of Birds of Conservation Concern.

6.35 Historical data was obtained from the RSPB and the Highland Raptors Study Group (HRSG). In addition, the applicant conducted field surveys from April 2010 to June 2012. These surveys encompassed the original site boundary (SA1) and the reduced site boundary (SA2) plus buffer zones of 500 metres, 1 kilometre and 2 kilometres. Habitats within 2 kilometres of the original survey area were mapped by habitat type and evaluated for their potential to support different bird species. Information on bird flight activity was collected during timed watches from strategic Generic Vantage Points (GVPs). In addition,

¹⁴⁵ APP-B4

¹⁴⁶ APP-B7

migratory movements were recorded in respect of target species, mainly, geese, swans and waders.

6.36 Priority was given to detecting the species of raptors and owls that were considered most likely to be present: hen harrier, merlin, peregrine, short-eared owl, and barn owl. In addition to GVP watches, searches were made for scarce breeding raptors.

6.37 Breeding divers were monitored by making a series of visits to each water body within 2 kilometres of the survey area. Surveys were also undertaken for moorland and woodland breeding birds.

6.38 The ES concluded that although the proposed wind farm site lies close to the Caithness and Sutherland Peatlands SPA it is not as rich in ornithological interest as the adjacent SPA or land lying to the north or east of the site as commercial forestry is a relatively poor habitat for birds. The site does not underlie any major aerial pathways for bird movements, either migratory birds, for breeding birds commuting between nesting and feedings sites, or for overwintering birds flying between roosting and feeding sites.

6.39 The significance of the potential effects on birds was determined by the nature conservation importance of the species in question, their behavioural sensitivity to potential effects, and the potential magnitude of each effect spatially and temporally. Consideration was given to the conservation status of the species and trends within national and regional populations. Detectable changes on regional populations were treated as significant effects for the purpose of the EIA regulations.

6.40 The direct loss of habitat resulting from the development was not considered to be significant. Habitat modification through key holing was considered to have a neutral effect. Disturbance of birds during the construction and decommissioning phases of the project was predicted to have short-term adverse effects of negligible magnitude. Similarly, disturbance during the operation of the wind farm and mortality through collision with rotating rotor blades were predicted to have adverse effects of negligible magnitude on bird populations.

6.41 As the contribution of adverse effects of the proposed development to regional bird populations would be undetectable, the cumulative effects of the wind farm and existing and proposed wind farms in the region were judged unlikely to have a significant effect on existing bird populations.

6.42 Overall, the ES concluded that the construction and operation of the wind farm would have no significant effects in terms of the EIA regulations. Nor would there be any adverse effect on the integrity of the Caithness and Sutherland Peatlands SPA, the Caithness Lochs SPA or the North Caithness Cliffs SPA.

Further Environmental Information

6.43 In commenting on the application SNH submitted a holding objection on the grounds that there was insufficient information to be able to determine whether there would be a likely significant effect on the Caithness and Sutherland Peatlands SPA. It sought further information on the proposed control of deer movements from the development site during the construction and operation of the wind farm.

6.44 The applicant addressed this issue in its Further Environmental Information (FEI) of July 2013¹⁴⁷ in which it noted that the deer fencing surrounding the estate complied with the standards recommended by the Forestry Commission and was checked on a periodic basis. A further inspection revealed some damage which required to be repaired. The applicant concluded that once the fence was repaired the fence would be strong enough to withstand deer movement into the Caithness and Sutherland Peatlands SAC/ SPA during the construction, operation and decommissioning of the wind farm, and that there would be no likely significant effect on these protected sites. A deer management plan prepared in accordance with SNH's advice would form part of the Environmental Management Plan.

Response to Mr Maughan's objection

6.45 The applicant's response to Mr Maughan's objection to the application, in which he raised concerns about the impact on nesting sites for peregrine, merlin and golden eagles, is set out in the written submission by Dr Phil Whitfield¹⁴⁸.

6.46 Neither the applicant's surveys nor RSPB records disclosed the existence of any peregrine or merlin nests within a distance of the proposed development site that could give rise to the risk of disturbance. The application area and many kilometres around it are wholly unsuitable as habitat for golden eagles. Only a single flight was recorded during the many hours of watches over the site.

6.47 In his further written submissions¹⁴⁹ Mr Maughan made a number of criticisms of the survey methods and results recorded in the ES regarding black and red throated divers, swans and geese, common scoter, hen harriers, golden eagles and greenshank. Dr Whitfield responded to these points in his rebuttal dated 22 May 2014¹⁵⁰.

6.48 The nesting or breeding sites identified by Mr Maughan in relation to black and red throated divers, common scoter, hen harriers and greenshank are at such a distance from the development site that there would be no risk of disturbance. The evidence does not suggest that the site is overflowed by any of these species nor, in the case of hen harriers, used for foraging.

6.49 The site does not lie on a regular migratory route for geese and swans nor is it overflowed on routine commutes between roosting and feeding sites. The collision risk assessment predicts that a handful of greylag geese might be killed each year but the number would be insignificant given the substantial overwintering population and would not have any discernible effect on the conservation status of migratory or overwintering populations.

6.50 So far as golden eagles are concerned, the sites to which Mr Maughan refers were known to the field work team through consultation with the HRGS and the applicant was aware that these sites had historically been used by breeding pairs. However, there was no recent evidence of use by breeding pairs and no eagles were recorded in surveys conducted in 2010, 2011 and 2012. A further visit in May 2014 revealed a few signs of roosting eagles, rather than the presence of a resident pair near to a breeding location.

¹⁴⁷ APP-C1

¹⁴⁸ APP-N9

¹⁴⁹ APP-N10

¹⁵⁰ APP-N12

6.51 The development site is not suitable for golden eagles because it is densely planted commercial forest and also because it is low lying and flat and eagles prefer ridges and areas with sharper topographical relief. Even if there were eagle activity in the wider area they would not use the development site to any extent and would not therefore suffer any adverse consequences from being displaced from it, nor would they be prone to serious collision risk.

6.52 Dr Whitfield responded to Mr Maughan's criticism of the PAT modelling in his precognition. The PAT model can be used to predict the extent of range use loss that may result from eagles' displacement due to the creation of unsuitable habitat such as a proposed wind farm. The modelling was undertaken using the nest site location provided by Mr Maughan and predicted that there was a less than 1% range use loss based on the area of the proposed wind farm site plus a 500 metre buffer.

6.53 Contrary to Mr Maughan's understanding, the PAT model is not just based on studies of two areas in the west of Scotland with different topography from that of the proposed development site. It has been used in other cases where large parts of golden eagle territories have relatively flat terrain, similar to that in Caithness.

6.54 While SNH has stated that PAT modelling is no substitute for actual field data this is in the context where field data is available in the form of records made of the movements of tagged birds. Although Mr Maughan asserts that local observations have shown that the eagles noted by him hunt at least 8 kilometres from the site, there is no evidential link between those hunting birds and those seen near the nest. Studies of radio tagged birds have noted that, in the absence of near neighbours, territorial eagles ranged up to 9 kilometres from the nest site, however, 99% of range use was within 6 kilometres of the nest. This is why a range of 6 kilometres was chosen for the PAT model, as is common practice.

6.55 Although, for the reasons given, Mr Maughan's proposed range of 9 kilometres was not considered to be appropriate, the PAT model was run using that distance. This makes very little difference to the predicted range loss as it is still less than 1% of the pairs' range. This prediction is well below the documented adverse effects due to habitat loss in golden eagles¹⁵¹.

6.56 The pair of eagles have nest sites about 3.5 kilometres from the proposed development, well beyond any possibility of the wind farm and associated activities causing any direct disturbance of breeding attempts¹⁵².

6.57 The proposed wind farm and its immediate surroundings are in habitat- commercial conifer forest- that eagles typically do not use in Scotland¹⁵³. If birds do not typically use a habitat there is little prospect of displacement or collision risk.

6.58 These are well established facts and further survey work would be of little value. Over 100 hours of vantage point surveys and over 100 hours of ground work surveys were conducted between April and August 2014 in the vicinity of the proposed wind farm and, while eagles were seen over the open ground to the south, there were no sightings over the afforested location of the proposal.

¹⁵¹ APP-S4

¹⁵² APP-S6 and APP-S7

¹⁵³ APP-S4 and APP-S5

Consultation responses and advice given by SNH

6.59 SNH advises¹⁵⁴ that there would be a likely significant effect on the Caithness and Sutherland Peatlands SPA as regards hen harriers and that an appropriate assessment would be required. However, the predicted collision mortality figures are very low and would not affect the viability of the population.

6.60 As regards the Caithness Lochs SPA, SNH advises that there would be a likely significant effect on grey lag geese as a result of predicted collision mortality and that an appropriate assessment would be required. However, the predicted collision mortality was at a level that could be accommodated without affecting the viability of the population. Due to the distance between the development site and the SPA there would no other likely significant effects and, therefore, no adverse effect on the integrity of the SPA.

6.61 In its comments on the FEI¹⁵⁵ SNH advises that, subject to an appropriate condition being imposed, there would be no likely significant effects (and no need to carry out an appropriate assessment) in relation to issues arising from deer management on the SACs or SPAs.

6.62 SNH further updated its advice in an email of 3 July 2014¹⁵⁶ in the light of the new information about the possible presence of a breeding pair of golden eagles provided by Mr Maughan. It advises that there would be likely significant effects on golden eagles (through loss of foraging habitat), hen harrier and merlin (through collision mortality) such that an appropriate assessment would be required.

6.63 It further advises that the proposal would not adversely affect the integrity of the Caithness and Sutherland Peatlands SPA, provided the condition regarding the deer fence recommended in its letter of 31 July 2013¹⁵⁷ is applied. This appraisal is based on the following factors:

- the predicted collision mortality figures for hen harrier and merlin are very low and would not affect the viability of the populations;
- the wind farm development would have a likely significant effect on golden eagles breeding in the SPA due to the ~0.5% loss of foraging range of the closest pair. This is however well below the figures for range loss known to have had an adverse impact on breeding eagles at other development sites. The loss of range would be so small and peripheral to the main modelled hunting range that it would not affect the viability of the population. SNH did not consider that there would be any disturbance caused by the construction or operation of the proposed wind farm, due to the distance between the closest working area/ turbine/ development boundary and the nest location.

The main points for Mr Maughan

6.64 Mr Maughan is a keen ornithologist with 50 years' bird watching experience and has lived in Reay for the past 40 years. He has been a member of the British Ornithology

¹⁵⁴ APP-F14

¹⁵⁵ APP-F16

¹⁵⁶ Appendix 9

¹⁵⁷ APP-F15

Trust and a licensed bird ringer for 44 years. He is also an active member of the Scottish Ornithologist's Club and has carried out surveys for the RSPB. In his objection to the application¹⁵⁸ he raised concerns about the impact on nesting sites for peregrine, merlin and golden eagles. He expanded on these concerns in his further written submissions¹⁵⁹.

6.65 *Black throated divers* are known to breed at a particular site and would be vulnerable to collision when flying back to their breeding loch after feeding at other freshwater lochs or at sea. *Red-throated divers* feed at Sandside Bay and fly in a south/south-easterly direction to return to their breeding lochs. This would involve flying over the development site.

6.66 Both *pink-footed and greylag geese* regularly fly over Reay during the spring and autumn migration and are recorded as roosting at locations within two kilometres of the boundary of the proposed site. Both species would be vulnerable to collision.

6.67 There is a small overwintering population of *white-fronted geese* in the vicinity of the application site. These follow a similar flight path on autumn migration as the pink-fronted and greylag geese and are also at risk of collision with turbine blades.

6.68 *Common scoter* have successfully bred at a location within 2 kilometres of the application site in recent years. This does not appear to have been recorded in the applicant's surveys.

6.69 Greater consideration should have been given in the ES to the probable size of the population of hen harriers in the area.

6.70 Sightings of *greenshank* in the area of Strath Helshetter suggest that there may be a breeding pair within or very close to the 500 metre site boundary. Records from local ornithologists suggest that there may, in addition, be breeding pairs to the east of the application site.

6.71 The ES is incorrect when it concludes that there is no evidence of *golden eagles* breeding within the surrounding area. Golden eagles traditionally bred at a site within 1-2 kilometres of the site boundary up until the end of the 1970's. Recent occasional sightings south of the village of Reay and west of the application site suggest that golden eagles may be holding territory in this area again. A visit was made to the traditional territory on 18 June 2013 and a pair of golden eagles were found in residence with one of the nests showing evidence of breeding activity. A further visit was made in May 2014 when a pair of eagles was found to be in residence. Because of the close proximity of the proposed development to this golden eagle territory it is likely that displacement through indirect loss of habitat would occur and that the effect on the local population would be severe.

6.72 Although golden eagles would not hunt over dense forested areas they may overfly them to hunt for prey at the margins. A death due to collision with turbine blades in a low density population would have a severe effect on that local population.

6.73 As regards SNH's updated advice on the potential impact on golden eagles, Mr Maughan's position is that the PAT model makes incorrect assumptions about the foraging range of eagles. Local observations have shown that the golden eagles noted by him hunt

¹⁵⁸ APP-G1

¹⁵⁹ APP-N10

as far as 8 kilometres from the nest site so that there can be no justification to apply an arbitrary territory boundary of only 6 kilometres. Other published data notes that in the absence of near neighbours eagles range up to 9 kilometres from their territory centre. Given the relatively flat terrain of this pairs' territory and the absence of near neighbours a minimum of 9 kilometres should have been assumed. No allowance was made for the fact that the eagles may have another eyrie or two closer to the development.

6.74 This is the only known pair of golden eagles breeding in Caithness at this time and is the most north easterly pair of breeding golden eagles in the UK. Any chance of affecting the breeding performance of this pair should be given the most intense scrutiny as they are crucial to the survival and regeneration of the species in this part of Scotland.

6.75 In his precognition Mr Maughan makes a number of additional points regarding the impact of felling trees to accommodate the wind turbines: species that may naturally shun close canopy forest would return to hunt over clear felled areas, bringing them into potential conflict with any erected turbines; the failure to carry out nocturnal surveys which would have captured a greater number of migratory flights; the timing of the migration watch surveys; and the migration watch points.

6.76 Mr Maughan agrees with the points made by the RSPB in its letter of 31 July 2014 and considers that the application should be refused consent and deemed planning permission.

Representations made by RSPB

6.77 RSPB commented on the application on 1 March 2013¹⁶⁰ raising concerns about the impact on blanket bog and recommending that the applicant produce a forestry management plan. It was satisfied that the implications for the nearby Caithness and Sutherland SPA/ SAC had been adequately considered in the ES. It did not agree that there was no future risk to hen harriers and suggested that the applicant should be asked to provide further information.

6.78 As regards the Caithness Lochs SPA, the RSPB considered that there was a possible under recording of Greenland white-fronted geese, however, it did not believe that the Limekiln development would be a significant threat to this population due to the site's northerly position within the forest. Accordingly it did not object on this ground.

6.79 RSPB confirmed that the SNH guidance on surveys appeared to have been followed and did not object on these grounds.

6.80 RSPB commented on the FEI¹⁶¹ provided by the applicant and confirmed that it did not object as regards the SPAs and any impact on Greenland white-fronted geese. It noted the further research on hen harriers referred to by the applicant but was reluctant to discount the possibility that a wind farm site that has been felled and replanted could be attractive for foraging or nesting hen harriers and that this should be borne in mind by the decision maker.

¹⁶⁰ APP-F20

¹⁶¹ APP-F21

6.81 In its letter of 31 July 2014 to the Scottish Government¹⁶² RSPB drew attention to the fact that a pair of golden eagles was, after an absence of many years, now nesting relatively close to the development. In its view the re-occupation of this historic golden eagle home range is a material consideration in the determination of the application. More eagle flights over the development site than are recorded in the VP surveys are likely, with the potential for an enhanced risk of turbine collision, disturbance and displacement. As the nest site is within the Caithness and Sutherland Peatlands SPA a very high standard of proof is required that the proposal would not adversely affect the integrity of the site.

6.82 RSPB noted that National Heritage Zone 5, within which the proposal lies, is not currently within a favourable conservation status on account of failing the Level 1 test of territory occupancy by golden eagle. RSPB considered that consented developments in the area had already adversely affected the productivity of one formerly productive pair and are concerned that a similar effect on a second occupied territory may occur if Strathy South is consented. RSPB stated that it was concerned about the potential for cumulative effects posed by these developments, which is not limited to predicted collision risk. These territories contribute to the SPA and NHZ breeding populations, cited as being five and nine pairs respectively, and an effect on either would be significant. RSPB did not think it possible to rule out the possibility of an impact on this territory should the proposal be granted consent.

6.83 It strongly recommended that further flight information be collected and that observation of eagle range use be presented along with an assessment of habitat quality (including likely predicted changes associated with forestry felling), prey abundance and availability, to quantify risk before any determination of the application is made. It asked for its position to be changed to one of conditional objection pending the supply of further information.

6.84 On 18 August¹⁶³ RSPB noted the content of the precognitions of Mr Maughan and Dr Whitfield and asked for further information about the additional golden eagle surveys undertaken in 2014 and the results of the PAT modelling to reconsider, if necessary, its position.

6.84 The applicant provided further information to RSPB which wrote to DPEA on 17 September 2014¹⁶⁴ commenting on the additional surveys which it considered to be inadequate to present a full picture of golden eagle activity in relation to the proposed development site. It acknowledged that eagle home range is likely to be compromised already by the existing forestry and that eagle avoidance of turbine proximity is likely to extend this effect by a small percentage. However, it was not possible to determine whether golden eagles would continue to use the 2014 nest site and whether the home range should be centred there. Important hunting areas may lie beyond the predicted home range and could lead to greater collision risk if birds traverse the turbine array to reach these areas.

6.85 Reference was made to RSPB's comments on the Strathy North proposal and a potential causal link between the construction of a wind farm and golden eagle productivity attributable, perhaps, to increased human activity.

¹⁶² Appendix 9

¹⁶³ Appendix 9

¹⁶⁴ Appendix 9

6.86 Accordingly, it is not possible to rule out the possibility of an adverse effect on the SPA and an appropriate assessment under the Habitats Regulations should be carried out.

Conclusions on ornithology

6.87 Although the proposed development site is not within a site designated at international, national or local level for the protection of birds, it lies in close proximity to three Special Protection Areas: the Caithness and Sutherland Peatlands SPA, the Caithness Lochs SPA and the North Caithness Cliffs SPA.

6.88 In addition, the surveys undertaken by the applicant established the presence of a number of bird species protected at international or national level in the vicinity of the development site. They also established that a number of protected species overfly the development site in order to commute from breeding or roosting locations to areas where they feed, or during migration in the autumn and spring.

6.89 This means that, as well as considering whether the proposed development would have significant effects on these sites and species in terms of the EIA Regulations, it is necessary for Ministers to consider, under the Habitats Regulations, whether there would be a likely significant effect on any of the SPAs. If there is such an effect on any of the SPAs then Ministers would require to undertake an appropriate assessment to establish that the development would not adversely affect the integrity of the SPAs in question before consent or permission could be granted for the development. Although it is for Ministers to carry out that assessment we reach our own conclusions on these matters on the basis of the evidence before us.

6.90 Although the North Caithness Cliffs SPA was mentioned by consultees at scoping stage and was, therefore, addressed in the ES it concluded that, owing to the distance of the development site from the SPA (approximately 5 kilometres to the north) and the habitats utilised by the species for which the SPA is designated (mainly sea birds), there was no likely significant effect on the SPA. Neither SNH nor RSPB address the North Cliffs SPA in their representations. We conclude, therefore, that the development would not be likely to have a significant effect on the North Caithness Cliffs SPA and that there is no need for Ministers to carry out an appropriate assessment.

6.91 So far as the Caithness Lochs SPA is concerned, SNH's advice is that there would be a likely significant effect on greylag geese so that an appropriate assessment is required. However, the predicted collision mortality rate is such that this would not affect the viability of the population. RSPB has no objection in relation to the potential impact on this SPA taking the view that the Limekiln development would not be a significant threat due to its northerly position within the forest.

6.92 The applicant's collision risk model for greylag geese is contained in technical appendix 12.2 of the ES and predicts that, taking account of avoidance, 1.4 birds would be killed by turbine strike each year. The model included a precautionary provision that 25% of flights were not observed because they occurred during the hours of darkness. The overwintering population of greylag geese was recorded as 6,872 based on peak counts in the five winters 1991/1992 and 1995/1996 according to the SPA citation. On that basis we agree with SNH that the predicted collision mortality would not have an adverse effect on the viability of the population of grey lag geese and that there would, therefore, be no adverse effect on the integrity of the SPA.

6.93 As outlined above, as regards the Caithness and Sutherland Peatlands SPA, SNH's initial position was one of objection based on insufficient information about deer management. SNH's concern was that during the construction or operation of the wind farm the fence, which contains deer within the forestry plantation, might be damaged or removed with the result that deer would be free to graze at the nearby SPA, causing damage to the habitat of the SPA (which is also a Special Area of Conservation) with an indirect effect on the bird species that are reliant upon that habitat.

6.94 The applicant provided further information about the proposed controls regarding the movement of deer and agreed that this should form part of the construction environmental management plan (CEMP) and SNH withdrew its objection. Proposed condition 12 stipulates that a deer fence management plan would form part of the CEMP. The fence is to be improved/ strengthened prior to the commencement of construction. The plan would set out a programme for on-going annual inspections and maintenance during the operational phase. We are satisfied that this condition meets the concerns expressed by SNH.

6.95 The principal issue concerning this SPA is the potential impacts on golden eagle. The applicant's surveys did not record any breeding or nesting sites within the development or in close proximity to it. The applicant was aware, from historical records, that there had been a site nearby used by breeding pairs but this had been abandoned in the 1970s and no eagles were recorded in surveys conducted in 2010, 2011 and 2012. A further visit in May 2014 revealed a few signs of roosting eagles rather than a breeding pair. The site in question is around 3.5 kilometres from the development site although there are other eyries in the vicinity which have, historically, been used by eagles. It became apparent in the course of the inquiry from further information provided by Mr Maughan that there was, in fact, a breeding pair at the nest site identified by him and that a chick had been hatched. As outlined above, this new information prompted RSPB to reconsider its position and to change this to one of objection.

6.96 The applicant undertook PAT modelling to assess the potential loss of habitat that might arise through displacement as a consequence of the construction and operation of the wind farm and concluded that there would be a less than 1% loss of range based on the area of the wind farm site plus a 500 metre buffer. This was based on an assumed foraging range of 6 kilometres. Mr Maughan maintains that his own observations lead him to conclude that a foraging range of 9 kilometres would be more appropriate. The applicant disagrees, pointing to published research on this topic, but in any event ran the model again using Mr Maughan's assumption of 9 kilometres. This resulted in a predicted loss of less than 1%, well below the documented adverse effects on eagles due to habitat loss.

6.97 Mr Maughan also raised a number of other issues about the PAT model including whether the topography upon which the model is based was representative of that in Caithness. The applicant's position is that the model has the capacity to assess different terrain types and we note that SNH has no concerns about the outcome of the PAT modelling and was content to use this as the basis of its updated advice that there would be no adverse effect on the integrity of the Caithness and Sutherland Peatlands SPA.

6.98 Given SNH's position, the fact that the PAT modelling using Mr Maughan's assumption of a foraging range of 9 kilometres predicted a less than 1% loss of range, and

that there are no neighbouring eagles to constrain the ability to forage in alternative areas, we are satisfied that the effects of displacement would be negligible.

6.99 Mr Maughan and RSPB also have concerns about collision risk. Given that the recently re-established nest is only a few kilometres from the proposed development their concern is that eagles would be more likely to overfly the site than is suggested by the survey counts. All parties agree that eagles would not use the development site for foraging or nesting as this type of habitat (commercial coniferous plantation) is unsuitable for these purposes. The risk, therefore, would only arise if the development site lay between the nest and a preferred foraging habitat. There is no evidence before us that suggests that this is the case. The development site is part of a larger area of forestry plantation lying to the east and to the south and land to the north and north east of the proposed wind farm is affected by development and human influences. Eagles are more likely to forage in the higher lying areas to the west and south of the proposed development, as noted by Mr Maughan and in the additional surveys carried out in 2014.

6.100 We note RSPB's concerns about the potential causal link between wind farm construction to the west and golden eagle productivity but these have not been documented. In contrast, the applicant has provided research evidence about displacement effects attributable to development¹⁶⁵ which suggests that while a loss of range may have an adverse effect on productivity, much depends on the previous breeding success of the pair in question and whether there is suitable alternative habitat available. The studies referred to were mainly concerned with direct loss of habitat due to afforestation. In this case there would be no direct loss of habitat of value to golden eagles for nesting or foraging and assuming foraging patterns did alter slightly as a result of the construction of the wind farm, there appear to be no constraints in the form of nearby occupied territories that would prevent the pair identified by Mr Maughan from foraging at other, more suitable, habitats.

6.101 We see no reason why productivity should be affected by this proposal. The current nesting site is at a distance of around 3.5 kilometres from the proposed development. This is well beyond the range at which published research and expert opinion would regard as likely to give rise to disturbance¹⁶⁶.

6.102 It is possible, as suggested by Mr Maughan and the RSPB, that the eagles would move to a location nearer to the site and that if this happened the results of the PAT modelling might be different. We do not consider, however, that this would justify further surveys being undertaken at this stage. In the event of consent or permission being granted, the CEMP provides for pre-construction surveys to be undertaken and those would reveal whether this had in fact occurred and, if so, what the consequences would be in terms of habitat loss or collision risk.

6.103 For all these reasons, we accept the advice given by SNH that the proposed development would not have an adverse effect on the integrity of the SPA, so far as the interests of golden eagle are concerned.

6.104 SNH also advises that there would be a likely significant effect in relation to hen harriers and that an appropriate assessment is accordingly required. However, it advises

¹⁶⁵ APP-S4, APP-S5 and APP-S8

¹⁶⁶ APP-S6 and APP-S7

that the predicted collision mortality figures are very low and that there would be no adverse effect on the integrity of the SPA.

6.105 In its representations RSPB raised concerns about hen harriers, in particular, the risk of their foraging or nesting in areas felled for the turbines and their buffer zones. Mr Maughan shares these concerns. The ES concluded that the key-holed areas would be of little interest to hen harriers because the buffer zones around the turbines would not be of a sufficient size and the habitat would not be suitable. We have no evidence to suggest that this is incorrect. We accordingly conclude that there would be no adverse effect on the integrity of the SPA.

6.106 SNH's advice regarding merlin is that there is a likely significant effect as regards collision mortality but that the predicted mortality figures are very low and would not affect the viability of the population and that the proposal would not, therefore, have an adverse effect on the integrity of the SPA.

6.107 We note the information contained in the ES¹⁶⁷, Technical Appendix 12.A¹⁶⁸, and in Dr Whitfield's written submission¹⁶⁹ about the location of merlin nests and his conclusion that there are no documented nest sites within a distance that would make them vulnerable to disturbance during the construction, operation or decommissioning of the project. The nests or potential nesting sites identified in the baseline surveys were more than a kilometre from the nearest turbines, a distance well beyond that suggested in published research and expert opinion that would give rise to disturbance¹⁷⁰.

6.108 Only a single flight was recorded over the development site in almost 300 hours of VP surveys over two breeding seasons, over 270 hours over two non-breeding seasons, and 82 hours of observations during spring and autumn migration periods.

6.109 Accordingly we conclude that there would be no likely significant effect as regards displacement and we agree with SNH that the collision risk is very low and would not affect the viability of the population. We consider that, on the evidence available, there would be no adverse effect on the integrity of the SPA, although this is a matter for Ministers.

6.110 As regards black throated divers, a species for which the SPA is designated, we note that the breeding loch is some 4 kilometres from where the nearest turbines would be located; and that black throated divers generally feed in the vicinity of the breeding loch and use the sea less frequently than red throated divers. This appears to be borne out by the fact that there were no recorded flights over the development site during VP surveys from April 2010 to June 2012. We conclude, therefore, that the proposed development would have no likely significant effect on the SPA for the purposes of the Habitats Regulations.

6.111 We reach the same conclusion regarding red throated divers which breed within the region but not within 2 kilometres of the development site. This species uses Sandside Bay as a feeding site and it is possible, therefore, that some would overfly the site from time to time on journeys to and from the breeding loch. However, we note that the VP surveys recorded only one flight of a single bird over the development site, suggesting that this is not a favoured route and that the collision risk would be very small.

¹⁶⁷ Paragraphs 12.4.19 to 12.4.23

¹⁶⁸ APP-B7

¹⁶⁹ APP-N9

¹⁷⁰ APP-S6

6.112 There is no dispute between the parties that there is a breeding pair of common scoter in the vicinity of the development site. However, at a distance of over 1 kilometre, this is unlikely to result in any direct disturbance¹⁷¹. This species tends to feed at the breeding loch rather than at other locations. This appears to be supported by the lack of any records of birds overflying the development site. We conclude, therefore, that the proposed development would have no likely significant effect on the SPA for the purposes of the Habitats Regulations.

6.113 So far as green shank are concerned, we note that two sites were found during the baseline surveys and that these were well to the east of the development site. Any recorded flights were also well to the east towards Loch Thormaid. There is no evidence before us to suggest that there is any risk of displacement or collision so far as this species is concerned and we conclude, therefore, that the proposed development would have no likely significant effect on the SPA for the purposes of the Habitats Regulations.

6.114 For the reasons given by Dr Whitfield we do not think that it was necessary to carry out nocturnal surveys. The species mentioned by Mr Maughan fly predominantly during the day and the numbers of flights recorded was very low. We note that neither SNH nor RSPB had any criticisms of the survey methodology.

6.115 In summary, our conclusions on ornithology are that the proposed development would not have a likely significant effect, for the purposes of the Habitats Regulations, on the North Caithness Cliffs SPA.

6.116 So far as the Caithness Lochs SPA is concerned, there would be a likely significant effect on greylag geese so that Ministers are required to carry out an appropriate assessment. However, the predicted collision mortality rate is such that this would not affect the viability of the population. There would, therefore, be no adverse impact on the integrity of the SPA.

6.117 A likely significant effect on the Caithness and Sutherland Peatlands SAC and SPA could be avoided by the imposition of a condition requiring steps to be taken regarding the control of deer movements during the construction, operation and decommissioning of the wind farm. An appropriate assessment is required as regards golden eagle, hen harrier and merlin on account of the risk of displacement (golden eagle) or collision mortality (hen harrier and merlin). However, for the reasons given above the degree of displacement and the predicted collision rate are so low that this would not have an adverse effect on the viability of the relevant populations and, therefore, there would be no adverse impact on the integrity of the SPA.

6.118 Our conclusions relating to the SPAs apply equally to their component SSSIs and the Ramsar site.

6.119 There is no evidence before us to suggest that any cumulative effects would arise, so far as natural heritage interests are concerned, if consent/ permission were granted for the proposed development. SNH has not raised any concerns about cumulative impact and it is accepted that there are no neighbouring golden eagle territories that might constrain the ability of the pair identified by Mr Maughan from foraging in alternative areas. There is no

¹⁷¹ APP-S6 and Dr Whitfield

evidence before us that the limited displacement predicted to occur would have an adverse effect on the golden eagle population. Although RSPB has mentioned the possibility of a link between the construction of a wind farm in Sutherland and golden eagle productivity we have no evidence of a causal connection between the two.

6.120 Subject to the mitigation measures proposed in the ES and the condition proposed by SNH, we agree with the conclusions of the ES that the development would not have a significant adverse effect on bird species.

CHAPTER 7: IMPACT ON FORESTRY

The main points for the applicant

7.1 The applicant's assessment of the impacts of the proposed development, so far as forestry is concerned, is set out in Appendix 3A of volume 4 of the ES¹⁷². It explains that the woodlands were planted in 1989 and 1990 and consist largely of Sitka spruce/ Lodgepole pine mixtures.

7.2 The proposed felling programme took account of technical, landscape and visual and other environmental constraints. Areas of forestry would require to be felled in order to accommodate the construction and operation of the wind farm. An area of around two hectares would be felled for each turbine including a buffer of 15 metres around each item of infrastructure and a 20 metre swathe for access roads. Most of the areas felled in order to carry out the construction works would be restocked (with the exception of the buffer zones). Otherwise, the forest would continue to be managed as a commercial plantation. The net area of woodland loss is 53.42 hectares.

7.3 The trees felled would be exported from site and sold as merchantable timber. Lop and top from such felling would be used as brush mats to aid extraction of timber to the roadside. Unmerchantable crops would be removed by whole tree chipping or mulching, with the mulched material being spread evenly across the site.

7.4 The applicant proposes to restock the site with conifers plus a mix of broadleaf species in accordance with the current UK Forestry Standard. Existing broadleaf woodland would be designated as a natural reserve and managed as a non-intervention/ low intensity silvicultural system.

7.5 All forestry operations would be carried out in accordance with Forestry Commission for Scotland (FCS) good practice and guidelines.

7.6 The applicant indicated a willingness to enter into discussions with FCS regarding compensatory planting, the extent, location and composition of such to be agreed to take account of any revision to the felling and restocking plans prior to the commencement of construction. Although the requirement to have in place a long term forestry management plan is not directly attributable to the proposed development and is essentially a matter for the landowner (whose forestry interests extend well beyond the proposed development site), the applicant would be prepared to accept a condition that a long term forest plan, incorporating the landowner's objectives, would be prepared prior to the commencement of construction¹⁷³.

THC's position

7.7 THC had no objection in relation to forestry and considered that the approach to integrating turbines within woodland was supported by its *Interim Supplementary Guidance on Trees, Woodlands and Development*. It noted that compensatory planting would be

¹⁷² APP-B7

¹⁷³ APP-D1, chapter 4

required to accord with the Scottish Government policy on woodland removal and that this would need to be secured by means of a condition or legal agreement¹⁷⁴.

Representations and responses by consultees

7.8 The position of FCS was initially one of objection¹⁷⁵. In its view, the removal of woodland associated with the construction of the wind farm would not meet the criteria set out in Scottish Government policy and that it should, therefore, be a condition of any consent or permission that compensatory planting of 53.42 hectares should be undertaken subject to relevant environmental impact assessment. The planting could take place at any suitable site in Scotland but it noted that THC's preference would be for this to be within the council area and suggested that the applicant might wish to refer to the council's *Forest and Woodland Strategy* for suitable sites.

7.9 FCS also noted the absence of a long term forestry plan for the Limekiln plantation and suggested that a condition be imposed requiring one to be prepared and approved before the commencement of development. This would show how the area would be managed during the lifetime of the wind farm and would be the basis for approving felling and restocking. The plan in the ES is incomplete and does not conform to current guidance.

7.10 On 20 May 2014¹⁷⁶ the FCS noted that the applicant accepted, in principle, that there should be compensatory planting and a long term forest plan and, on this basis, withdrew its objection subject to the imposition of conditions regarding those matters.

7.11 SEPA also objected¹⁷⁷ to the application on the basis of how the applicant proposed to deal with trees felled as a result of the construction of the wind farm. As noted above, trees capable of commercial exploitation would be felled and removed from site. Trees too immature to be of commercial value would be removed and mulched and brash mats would be used in the construction of access roads. The circumference of the stem of the tree was used as an indicator of commercial value, with the applicant proposing a diameter of 7 centimetres. SEPA considered this too large and suggested a different approach based on its pending guidance on the management of forestry waste.

7.12 SEPA also objected to the proposal to spread the mulched material over the site without further information about the benefit this would provide or details of the locations where this was proposed.

7.13 The applicant proposed an alternative approach which offered a degree of flexibility in identifying trees that were not of merchantable quality and also clarified that there was no intention to spread mulch on the buffer areas round each turbine: only in areas that were to be restocked after the construction of the wind farm.

7.14 On receipt of that clarification SEPA withdrew that aspect of its objection¹⁷⁸ subject to the imposition of appropriate conditions including the submission and approval of a wind farm felling management plan to be agreed with the planning authority in consultation with

¹⁷⁴ APP-A1, paragraphs 8.43 to 8.45

¹⁷⁵ APP-F36

¹⁷⁶ APP-F51

¹⁷⁷ APP-F1

¹⁷⁸ APP-F2

SEPA at least two months before any trees are felled. The plan should be based on the premise that trees with a minimum timber stem of 3 metres in height and top diameter of 5 centimetres would be harvested and demonstrate how the amount of waste wood that would be generated would be minimised

7.15 SNH did not object to the application on forestry grounds but noted that there may be opportunities to take the forest edge back from the adjacent Caithness and Sutherland Peatlands SAC which would benefit bog habitats. Options could be explored in the proposed Habitat Management Plan.

7.16 Concerns about the loss of woodland and its importance as a habitat for local wildlife were raised in a number of representations made in relation to the application and at the evening session.

Conclusions on forestry

7.17 We are satisfied that the wind farm has been designed to minimise the loss of woodland, through key holing and the height of the turbines selected, and that the benefits of the proposal, through its contribution to renewable energy targets, would outweigh the loss of a relatively small area of commercial plantation of non-native species with limited value as a habitat for birds and animals as discussed more fully in the chapter on Ecology.

7.18 However, as proposed by FCS and SEPA we consider that a number of conditions should be attached in the event of consent/ permission being granted. FCS seek a condition requiring the applicant to provide compensatory planting of 53.42 hectares. That figure does not appear to be disputed. We agree that this is required in terms of the Scottish Government policy on woodland removal. FCS also considers that a long term forest plan should be prepared, approved and implemented and the applicant has agreed that such a plan should be prepared and submitted for approval.

7.19 We agree that the condition proposed by SEPA regarding the submission and approval of a forest management plan to regulate how the disposal of trees that would be felled as a result of the construction of the wind farm should be imposed.

7.20 We discuss these conditions in chapter 11.

CHAPTER 8: HYDROLOGY AND HYDROGEOLOGY

Environmental assessment

8.1 The applicant's hydrological and hydrogeological assessment of the proposal is set out in Chapter 13 of Volume 1¹⁷⁹ of the November 2012 Environmental Statement. Further Environmental Information was submitted, in regard to this topic, in April 2014¹⁸⁰. That contained (amongst other things) a 'Response to Marine Scotland' at Chapter 7 of the Further Environmental Information.

Consultation responses

8.2 That Further Environmental Information sought to address outstanding matters raised in Marine Scotland's consultation response of 21 August 2013¹⁸¹. For completeness, Marine Scotland had raised those matters also in its earlier consultation response of 30 January 2013.¹⁸²

8.3 We set out in Chapter 1 of this report that SEPA had initially objected to the proposal due to lack of information¹⁸³. Following the submission of Further Environmental Information however, that objection was withdrawn¹⁸⁴ subject to the imposition of conditions relating to a range of matters.

8.4 In its response of 21 August, Marine Scotland had recommended that, "at least 12 months prior to construction, a baseline hydrochemical survey (including turbidity) to be carried out on a monthly frequency and over a range of flows, at sites potentially impacted by the proposal and at control sites, where an impact is unlikely, thereby enabling development causes to be differentiated from non-development causes e.g. climate. Hydrochemical, macroinvertebrate and fish monitoring is further recommended during and post construction thereby allowing any changes, should they occur, to be identified and rapidly remediated. The susceptibility of the area to acidification, the proposed felling, which can exacerbate acidification problems and lead to nutrients leaching, and the proposed disturbance to peat deposits should be considered in the design of the monitoring programmes."

Further written submissions: hydrology

8.5 As this matter seemed to us to have been left not entirely resolved, we invited the applicant to make further written submissions on this topic, and invited Marine Scotland to respond in turn.

¹⁷⁹ APP-B4

¹⁸⁰ APP-D1

¹⁸¹ APP-F6

¹⁸² APP-F5

¹⁸³ APP-F1

¹⁸⁴ APP-F2

8.6 In its submission¹⁸⁵, it was stated for the applicant that:

- the water assessment in the Environmental Statement highlights a number of potential effects on site hydrology and hydrogeology but mitigation measures incorporated into the scheme design would reduce the likelihood and magnitude of such effects. That would ensure that the proposal would not result in significant effects on hydrological and hydrogeological receptors;
- SEPA did not object to the proposal on water grounds and the applicant proposes conditions to safeguard those matters raised by SEPA; and
- Marine Scotland has not objected, and the applicant accepts its recommendations regarding baseline, construction and post-construction hydrochemical, macroinvertebrate and fish monitoring and watercourse buffer zones.

8.7 In its subsequent response¹⁸⁶, Marine Scotland acknowledged the applicant's acceptance of those matters.

Conclusions on hydrology and hydrogeology

8.8 We are content on that basis, that should consent/ permission be granted for this proposal, these matters are capable of being safeguarded by means of condition.

8.9 Based on the above, and taking account of all other evidence before us, we are satisfied that any outstanding issues on this topic have now been resolved. We conclude that the proposal would not have a significant impact on these interests, subject to the mitigation measures set out in the scheme design and in conditions.

¹⁸⁵ Applicant written statement on hydrology, May 2014

¹⁸⁶ Marine Scotland written statement (e-mail) dated 14 May 2014

CHAPTER 9: CLIMATE CHANGE, CARBON BALANCE AND PEAT MANAGEMENT

Environmental assessment

9.1 The applicant's assessment of the climate change, carbon balance and peat management implications of the proposal is set out in Chapter 5 of Volume 1¹⁸⁷ of the November 2012 Environmental Statement. Further Environmental Information was submitted in regard to this topic in July 2013¹⁸⁸. That contained (amongst other things) carbon payback calculations, a peat management plan and a peatslide risk assessment.

9.2 Further Environmental Information was submitted in response to subsequent consultation responses in April 2014¹⁸⁹. This contained a previously submitted technical note responding to the Halcrow review of the peatslide risk assessment, together with a fourth iteration of carbon payback calculations.

9.3 The proposal would have an installed capacity of up to 75 MW. The assessment of potential carbon losses and savings is a material consideration in determining whether an application to build and operate a wind farm should be consented. Applicants are required to use the Scottish Government's published method for assessing carbon costs and savings, and SEPA is asked to validate whether the calculation by developers has been carried out robustly.

9.4 The applicant's revised carbon balance calculation¹⁹⁰ indicates that the carbon payback for the development is 1.7 years for the expected case, 1.0 years for the minimum and 3.1 years for the maximum case. Those periods stand to be compared to an expected lifetime for the proposal of 25 years.

9.5 It is confirmed in the Environmental Statement¹⁹¹ that the proposal design entailed consideration of the distribution and depth of peat over the site. Peat was encountered across the entire survey area and is generally less than 1 metre deep, although it does reach a maximum of 4 metres deep in localised areas. A peat contour map was interpolated based on the results of peat probing and this influenced the turbine and infrastructure layout.

9.6 A number of mitigation measures are proposed in regard to peat, including the development of a peat management strategy (PMS). This is to be developed prior to construction, following the completion of detailed ground investigations. The PMS would ensure that peat excavated during construction is safely and suitably re-used within the site.

9.7 A preliminary peatslide risk assessment¹⁹² found that conditions conducive to peat slide risk may be present on site. In response, the layout has been designed to avoid areas of deep peat and detailed ground investigations would be undertaken over critical parts of the site to ensure that peat slide risk is minimised during construction.

¹⁸⁷ APP-B4

¹⁸⁸ APP-C1

¹⁸⁹ APP-D1

¹⁹⁰ APP-I3

¹⁹¹ APP-B4

¹⁹² APP-B7 Appendix 5.A

Consultation responses

9.8 We set out in Chapter 1 of this report that SEPA initially objected to the proposal due to lack of information¹⁹³. Following the submission of Further Environmental Information however, that objection was withdrawn¹⁹⁴ subject to the imposition of conditions relating to a range of issues.

9.9 It further confirmed¹⁹⁵ that the applicant's updated carbon balance calculation¹⁹⁶ set out above could be treated as a material consideration in Scottish Ministers' consideration of this case.

9.10 Halcrow undertook a Peatslide Hazard and Risk Assessment¹⁹⁷ of the proposal, on behalf of ECDU. That concluded that the environmental information to date did not provide a sufficiently robust assessment of the peat landslide risk.

Further written submissions: carbon balance

9.11 Although the matter of carbon balance appeared to be resolved, Mr Young submitted further comments on the matter¹⁹⁸. He contended that carbon payback periods could not be determined until site work had been carried out, sufficient to quantify the volumes of peat to be handled.

9.12 The applicant responded that their technical advisers assess that a 10% error on calculation of peat excavation volumes would be standard for a project such as this. It is their experience that a 10% error on peat volumes makes only a very minor difference to the final carbon payback time. Three iterations of the carbon calculator were requested for Limekiln by SEPA, and the range of payback times generated ranged from 1 to 3.1 years, using a range of scenarios. When the excavated peat volumes were increased by 10%, the difference to the final payback calculation was only 0.1 year.

Further written submissions: peat management

9.13 As this matter seemed to us to have been left unresolved, we invited the applicant to make further written submissions on peat management, and invited Halcrow to respond in turn. Mr Young indicated at the PEM that he also wished to participate in that exchange of submissions. There was a prolonged exchange of submissions between the parties, and we summarise the final position below.

9.14 Halcrow/ CH2M Hill ultimately offered detailed comments¹⁹⁹ on the applicant's peat stability assessment. It had previously been stated that very little consideration had been given to the impacts of potential peat landslides on the environment and that a fuller statement on site receptors (ecological, hydrological and other) should be provided. A full appreciation of consequences is a necessary part of the risk assessment process. The sensitivity of this catchment has still not been adequately addressed. It had also previously

¹⁹³ APP-F1

¹⁹⁴ APP-F2

¹⁹⁵ APP-F4

¹⁹⁶ APP-I3

¹⁹⁷ APP-F7

¹⁹⁸ Written submission dated 21 May 2014

¹⁹⁹ Written statement dated 22 May 2014

been recommended that the risk ratings assigned to the development should be reviewed and revised, and that whilst mitigation options outlined in the report generally provide a reasonable level of consideration, it is advised that mitigation requirements are re-assessed following completion of a revised risk assessment. Subject to a fuller consideration of site receptors as discussed above, this might or might not still apply.

9.15 It is concluded, due to the difficulty in characterising the site due to the extent of dense plantation forestry, that it would be prudent to attach planning conditions to ensure that the Peat Landslide Hazard and Risk Assessment remains a live document as further information becomes available. Those recommended conditions are as follows:

- Prior to the commencement of the development, the applicant shall extend the peat landslide risk assessment (previously submitted as part of ES) to cover all areas that have been deforested. The addendum should comply with the Best Practice Guidelines published by the Scottish Executive January 2007. Such areas, currently inaccessible due to existing tree crops, shall be identified on a plan of suitable scale to allow assessment, to be submitted to the planning authority.
- During the construction period and once the agreed tree clearance work has been completed at those locations agreed by the above condition, prior to commencing any further construction activity in such locations, the applicant shall undertake a peat investigation and stability assessment in line with Best Practice Guidance published by the Scottish Executive January 2007, with the conclusions being submitted to the planning authority. Where such conclusions classify the risk to peat stability as insignificant, construction activity may proceed with monitoring. Where such conclusions classify the risk as significant, or greater, then the subsequent activities can only proceed once further investigation and assessment has been carried out and mitigation proposals have been submitted and approved by the planning authority. Thereafter the approved mitigation proposals shall be incorporated in the geotechnical risk register and implemented.

9.16 For Mr Young²⁰⁰ it is argued that the peat contour map cannot be relied upon. Conclusions derived from the peat contour map are therefore flawed. Site investigation work in respect of peat depths has not been carried out to the extent required before permission is sought. In particular, peat probing has been insufficient compared to guidance. Only 1.1% of recommended probing has been undertaken. The environmental impact of the proposal cannot be determined until sufficient site investigation is able to quantify the volumes of peat to be handled. Consent cannot be granted when the environmental impact is not known.

9.17 For the applicant²⁰¹ it is stated that, based on its technical consultants' past experience on many sites with peat, their professional judgement is that the level of peat survey work at Limekiln (entailing two phases of peat depth survey, numerous observations from existing roadside exposures and borrow pits, and expert understanding of afforestation and blanket bog vegetation communities' peat eco-hydrological conditions) is sufficient to carry out an accurate EIA, propose appropriate mitigation measures and devise the indicative peat management plan.

²⁰⁰ Mr Young written statements dated 8 May, 21 May, 5 June and 22 June, all 2014 and Mr Young closing submission

²⁰¹ Applicant written statements dated 8 May, 22 May, 5 June and 20 June, all 2014

9.18 Peat depth probing was carried out at all turbine bases, at the proposed substation, and at 50 metre intervals along all proposed access tracks. Peat survey guidance is not intended as a fixed prescription for all cases. Detailed field knowledge and professional experience are brought to bear. It is widely acknowledged that the scope of peat survey work must respond to site characteristics and entail expert judgement. Should consent be forthcoming, however, more detailed intrusive surveys would be carried out and this matter could be controlled by condition.

9.19 Site receptors are assessed as part of the Environmental Statement which was submitted in December 2012. Relevant site receptors which were considered in the assessment included:

- ecological receptors: including protected species such as otter, water vole, freshwater pearl mussel, freshwater invertebrates and fish, including salmonids and lamprey, and priority habitats, including peat and heathland habitats as well as groundwater dependent terrestrial ecosystems. The location, valuation of receptors, and impact assessment are fully described in the ES, Chapter 11, including potential impacts of sedimentation and impaired water quality that may be the result of peat erosion or a peatslide event. Mitigation measures are described and are considered to be sufficient to prevent any significant adverse impacts on ecological receptors;
- statutory designated sites: the boundary of the Caithness and Sutherland Peatlands SAC adjoins the site boundary where it overlaps with East Halladale SSSI. The SAC is hydrologically linked to the site via Achvarasdal Burn and minor tributaries of Reay Burn. Potential impacts on the SAC and the East Halladale SSSI have been assessed in the ES Chapters 11 and 13. Mitigation measures are described and are considered to be sufficient to prevent any significant adverse impacts on these designated sites; and
- hydrological receptors including the surface water catchments of the Reay Burn to the west and the Achvarasdal Burn to the east: these receptors are evaluated and potential impacts on these catchments, stream water quantities and quality, are assessed in Chapter 13 of the ES. Mitigation measures are described in both Chapters 11 and 13 of the ES and are considered to be sufficient to prevent any significant adverse impacts on hydrological receptors.

9.20 The applicant is in general agreement with the additional planning conditions suggested by Halcrow/ CH2M Hill.

Conclusions on carbon balance and peat management

9.21 On the basis of SEPA's written statement²⁰², and the lack of any substantive evidence to refute it, we conclude that the applicant's updated carbon balance calculation²⁰³ may be treated as a material consideration in Scottish Ministers' consideration of this case. The validated carbon balance calculation appears to us to be very favourable. That calculation was based on an operational period of 25 years. We recommend in Chapter 11 that, in the event that consent/ permission is granted, it be for a 30 year operational life. That would further enhance the already very favourable carbon balance calculation. The proposal, with an installed capacity of up to 75 MW, would make a significant contribution towards meeting the Scottish Government's challenging renewable energy targets.

²⁰² APP-F4

²⁰³ APP-I3

9.22 In regard to peat management, taking account of the evidence before us, we are satisfied that relevant outstanding issues on this topic have now been resolved. Having said that, the extent of peat probing undertaken for the applicant does not appear to us to be as extensive as guidance suggests. We conclude on balance, however, that sufficient environmental information has been provided on this matter, bearing in mind the characteristics of the site and the extensive experience of the applicant's technical advisers. In reaching this conclusion we take support from the fact that neither SEPA nor SNH have any outstanding concerns, subject to conditions, in regard to the ecological or hydrological impacts of the proposal.

9.23 We conclude that the proposal would not have a significant impact on these interests, subject to the mitigation measures set out in the scheme design and, significantly for this topic, safeguarded by conditions.

CHAPTER 10: OTHER RELEVANT ISSUES

Socio-economic impacts

10.1 The socio-economic (including tourism) impacts of the proposal are dealt with in chapter 6 of Volume 1²⁰⁴ of the Environmental Statement. It is estimated that, if the turbine towers are manufactured in Scotland, the development could contribute about £39 million to the Scottish economy during the construction phase. Of that investment, £14.1 million is expected to accrue to the Highland economy, of which £5.8 million would be generated in Caithness and north Sutherland. That could potentially support 269.3 job years in Scotland, 13% of which would be in the local area.

10.2 The operational phase of the proposed development could contribute £3.6 million to the Scottish economy annually, of which 58% would be attributable to the Highlands and 33% attributable to Caithness and north Sutherland. That additional economic activity could support 20 full-time equivalent jobs in Scotland, of which 11 could be in the Highlands and 6 in Caithness and north Sutherland.

10.3 A Local Economic Benefit Scheme²⁰⁵ sets out how the landowner intends that revenue generated by the development would be re-invested in the Estate and the surrounding area. It is stated²⁰⁶ for the applicant that the proposal would deliver a community benefit fund of £5,000 per MW per annum, equating to £360,000 per annum over the lifetime of the wind farm.

10.4 The proposed development is expected to generate a slight beneficial effect on the economy in the local area, the Highlands and in the wider Scottish economy during the construction phase and the operational phase. This would arise from contracts that could be secured in these areas by businesses, the jobs supported by those contracts, and the spend of wages. There is expected to be a moderate beneficial effect on tourism businesses during the construction phase and a slight beneficial effect in the Highlands from tourism during the construction phase. This is due to those involved in the construction phase staying in local tourism businesses.

10.5 During the operational phase there is expected to be no measurable impact on tourism. Chapter 6 includes a review of existing tourism evidence and surveys of the potential and current effect of wind farms on tourism. That review has found no evidence of wind farms significantly affecting tourism.

10.6 The proposal is expected to have no measurable impact on other sectors. There is predicted to be a moderate beneficial effect on the local area due to community benefit funding.

10.7 It is argued for objectors that there would be only limited benefits for the local community. There would be no long term economic benefit in terms of job creation. There would also be adverse impacts on local tourism.

²⁰⁴ APP-B4

²⁰⁵ APP-R2

²⁰⁶ APP-M10 paragraph 6.2.1

Traffic and transport

10.8 The traffic and transport impacts of the proposal are assessed in Chapter 7 of Volume 1²⁰⁷ of the Environmental Statement. It is recognised that traffic associated with the operational phase of the wind farm would be negligible and would not have any impact upon the local transportation network. Accordingly, the assessment deals solely with the effects of construction traffic on the local transport network.

10.9 The impact of construction-related traffic on the proposed access routes for general construction traffic (using the A9 and A836) has been calculated, in percentage terms, relative to the forecast background traffic in 2012 and the anticipated opening year of construction 2018. In the event that road stone requires to be imported (a worst case scenario), it is predicted (with the exception of concrete foundation pour days) that the maximum daily traffic impact would occur in months 8, 9 and 10 of the construction programme, based on an average of 122 HGV movements per day (61 in and 61 out). This equates to an average of five deliveries/ return journeys per hour over a 12 hour period (Monday to Friday 07:00 – 19:00).

10.10 In percentage terms it is predicted that there would be an increase in total traffic flows during the assessment period of:

- A836 (Dounreay): increase in total traffic by 7.42% and an increase in HGVs of 46.78%;
- A836 (west of the A9): increase in total traffic of 2.9% and increase in HGVs of 29.05%; and
- A9 between Thurso and Scrabster Docks: increase in total traffic of 4.26% and increase in HGVs of 34.97%.

10.11 In the event that road stone can be sourced from on-site borrow pits, a maximum daily traffic impact is predicted to occur in month 1 of the construction programme, based on an average of 44 HGV movements per day. In that event the percentage in increased traffic flows for the 3 survey locations listed above respectively would be an increase in total traffic of 2.68% with an increase in HGVs of 16.87%; an increase in total traffic of 1.05% with an increase in HGVs of 10.47%; and an increase in total traffic of 1.53% with an increase in HGVs of 12.61%.

10.12 The absolute peak for construction vehicles would be on concrete foundation pour days, when there would be 134 HGV movements per day. This would occur on 24 non consecutive days within a 4 month period of the construction programme. In addition, 216 abnormal load deliveries would be required within the 12 month construction programme. Both of these activities would have a disproportionate but temporary effect on the road network.

10.13 The effects of construction traffic are considered to be not significant whether or not road stone requires to be imported. However, it is proposed that a traffic management plan (TMP) be put in place to reduce the potential for effects as far as reasonably possible; this would also ensure that any residual effects on road safety are minimised.

²⁰⁷ APP-B4

10.14 Transport Scotland²⁰⁸ noted that the proposed development would not have a significant impact on the trunk road network, in regard to traffic impact and associated environmental effects. The council's Roads Service had no objection to the proposal²⁰⁹. Both the trunk and local roads services recommended that conditions be attached to mitigate impacts on the road network.

10.15 It is argued for objectors that construction of the wind farm, which would require abnormal loads and a significant increase in HGV traffic, would result in additional hazards and inconvenience for local people. There would be resultant damage to the condition of local roads.

Noise impacts

The main points for the applicant

10.16 The applicant's assessment of noise from construction, operation and decommissioning of the proposed wind farm is set out in chapter 8 of the Environmental Statement²¹⁰.

10.17 The construction noise assessment was based upon predicted noise levels at the nearest properties of noise from plant or machinery involved in a number of different operations. The construction of the wind farm would take around 17 months during which period materials would be delivered to the site, earth works would be undertaken including the construction and upgrading of access tracks, and the turbines would be delivered and installed. Using the guidelines in British Standard (BS) 5228: 2009 *Noise and Vibration on Construction and Open Sites* the appropriate noise level would be 65dB LAeq, 12 hours.

10.18 Predictions, based on typical construction plant, were made of noise levels during three construction phases (turbine foundation construction, turbine erection, and construction of the access route) at 9 properties²¹¹. Due to the separation distance (approximately 1.5 kilometres) between the construction site and the nearest property, the BS guideline value of 65dB(A) would not be exceeded. Exceptionally, that figure might be marginally exceeded when upgrading works were taking place in the vicinity of Milton Cottage. Those works would last for only a short period of time.

10.19 Although construction noise levels are not expected to exceed the BS guidelines the applicant proposes various mitigation measures²¹² including restrictions on hours of working, compliance with best practice when operating plant and machinery, and registration with the Considerate Constructors Scheme.

10.20 In addition, predictions were made of the change in traffic noise levels for roads to be used by construction vehicles. The percentage change in HGV movements during the construction period was assessed in relation to the A836 at Dounreay, the A836 west of the A9 and the A9 between Thurso and Scrabster dock. The A836 at Dounreay was predicted to experience the greatest change in flow of HGV traffic of between 17-52% during

²⁰⁸ APP-F10

²⁰⁹ APP-A1

²¹⁰ APP-B4

²¹¹ Table 8.6

²¹² Paragraph 8.8.2 of the ES

construction²¹³. The predicted change in basic noise levels is set out in table 8.8 and shows that in most instances these would be less than 1dB(A). A change in road traffic noise of 1dB(A) is considered to be the smallest perceptible. The largest increase in basic noise level is 1.1dB(A) along the A836 between Dounreay and the site and would be associated with deliveries of concrete. Deliveries by HGV would generally be made within the specified construction working hours. In terms of the relevant guidance this would be classified as a minor effect.

10.21 So far as operational noise is concerned, the applicant's assessment followed the methodology and adopted the noise limits recommended in the *Assessment and Rating of Noise from Wind Farms* (ETSU-R-97)²¹⁴ in accordance with Scottish Government policy. Background noise monitoring was undertaken at four locations surrounding the proposed wind farm site agreed with THC. The ES compares the measured background noise levels with the predicted noise levels from the candidate turbines and the ETSU-R-97 derived noise limits for the 9 properties identified as being the most likely to be affected by noise. These are shown in tables 8.11 (daytime) and 8.12 (night-time). Figures 8.3 and 8.11²¹⁵ present the results in graphic form: the black line shows the background noise levels, the red line shows the ETSU-R-97 noise limit and the green line shows the predicted turbine noise. These show that the predicted noise levels are below the ETSU limits for both daytime and night time at all locations.

10.22 The noise limits are inclusive of any tonal penalties. The manufacturer of the type of turbine selected for installation would have to demonstrate that the turbine noise contains no tonal components which would require a penalty when assessed in accordance with ETSU-R-97 or, where tonal components warrant a penalty, the noise limits specified would still be met.

10.23 The ES confirms that the predicted noise levels from the turbines were adjusted to take account of wind shear, adopting a worst case scenario.

10.24 The applicant did not undertake a separate assessment of either amplitude modification or low frequency noise as this is not currently required by UK or Scottish Government policy.

10.25 Due to the distance of the proposed wind farm from any existing, consented or proposed wind farms, the ES concluded that there was no potential for cumulative effects.

10.26 The overall evaluation of effects in relation to noise from construction and decommissioning, construction traffic noise, and operational noise is set out in table 8.13 where it is concluded that there would be no significant adverse effects.

Position of THC

10.27 THC did not raise noise as an issue in its representations on the application, nor did it make any representations to the inquiry on this topic. At the hearing session on conditions the council suggested a night-time limit of 38 dB(A) but did not present any evidence in support of this.

²¹³ Table 8.7

²¹⁴ CD-40

²¹⁵ APP-B6

Representations made by objectors and residents of Reay

10.28 As noted in chapter 1, concerns about the potential impact of noise, particularly noise from wind turbines, were raised by a significant number of those who made representations about the application and was raised as a topic at the evening session. It was feared that the operational noise levels would be greater than those predicted and that if the noise limits were exceeded the procedure for taking remedial action would be lengthy and ineffective.

Cultural heritage

10.29 The cultural heritage impacts of the proposal are assessed in Chapter 10 of Volume 1²¹⁶ of the Environmental Statement. The construction phase is predicted to have the potential to directly affect two previously recorded archaeological assets and may affect previously unrecorded cultural heritage assets within the area. Without mitigation these effects would result in no more than a slight to moderate level of adverse effect. Appropriate mitigation would reduce that effect to negligible adverse.

10.30 Indirect effects on three cultural heritage assets (Milton Township, Cnoc Freiceadain long cairns, and the Hill of Shebster chambered cairn) are predicted for the operational phase. There would be no greater than a slight level of adverse effect on the setting of these assets.

10.31 Neither Historic Scotland²¹⁷ nor the council's Historic Environment Team²¹⁸ had any objections to the proposal, subject to archaeological mitigation conditions. Historic Scotland was satisfied that there would be no direct impacts on national cultural heritage assets, and that indirect impacts would not be significant.

Shadow flicker

10.32 Shadow flicker is addressed in Chapter 14 of Volume 1 of the Environmental Statement²¹⁹. Since there are no residential properties within 820 metres and 130° either side of north of the proposed turbines, there are no predicted shadow flicker effects associated with the proposed development. The council²²⁰ agrees with this assessment. No mitigation measures are, therefore, required.

10.33 It is argued by objectors that the Environmental Statement does not take account of the winter months when the sun is low on the horizon and the wind farm would be located to the south of Reay. This would result in a flicker effect.

Infrastructure and aviation safety

10.34 The impacts of the proposal on telecommunications and utility infrastructure is considered in Chapter 15 of the Environmental Statement²²¹. It is reported that consultation was carried out with organisations who own or operate infrastructure close to the proposal

²¹⁶ APP-B4

²¹⁷ APP-F30

²¹⁸ APP-A1

²¹⁹ APP-B4

²²⁰ APP-A1

²²¹ APP-B4

site. Responses indicate that there is no utility infrastructure within the site boundary (gas, electricity, water) and therefore no mitigation is necessary.

10.35 The Joint Radio Company Limited (JRC) initially objected based on the proximity of a Scottish and Southern Energy microwave link. JRC was subsequently provided with turbine co-ordinates and the site layout. Following analysis of the proposed site layout, JRC confirmed that it had no objection to the development.

10.36 The position set out in the preceding 2 paragraphs is confirmed in relevant consultation responses.

10.37 The matter of aviation safety is not considered in the Environmental Statement. It is reported in the council's committee report²²² that the development is approximately 35 kilometres west of Wick Airport and is therefore outside the safeguarded area around the airport. HIAL has advised²²³, however, that it is possible that the development may have potential impact on local aviation activity. Appropriate warning lights should be fitted to the turbines to mitigate this.

10.38 The Defence Infrastructure Organisation (MOD)²²⁴; National Air Traffic Services Limited – En-Route (NERL)²²⁵; and the Civil Aviation Authority (CAA)²²⁶ raise no objections in regard to aviation interests, subject to conditions relating to appropriate warning lights and notification of development start dates and confirmation of final build details for plotting on aviation maps.

Conclusions on other relevant issues

10.39 We conclude that the socio-economic impacts of the proposal overall would be positive, and of slight beneficial magnitude overall.

10.40 It is not Scottish Government policy²²⁷ that potential community benefit payments be treated as a material consideration in the planning process.

10.41 We are mindful of VisitScotland's recommendation²²⁸ that any potential detrimental impacts of the proposal on tourism be identified and considered. We have been provided with no convincing evidence generally that appropriately sited wind farms result in detrimental impacts on tourism. In this regard, we rely on our conclusions, set out in Chapter 3 of this report, on the likely visual impacts of the proposal on the A836 tourist route.

10.42 There would be relatively short term, minor adverse impacts on both the trunk and local roads network. We agree that in neither case would these impacts be significant. We recognise, however, that the residential amenity of those local residents whose dwellings are situated close to the access route would be adversely affected during the construction

²²² APP-A1

²²³ APP-F32/ 33

²²⁴ APP-F37/ 38

²²⁵ APP-F23/ 24

²²⁶ APP-F42/ 43

²²⁷ Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments (11/2013)

²²⁸ APP-F40

period. That would be mitigated by the restriction of HGV movements to and from the site to specified construction hours.

10.43 We acknowledge that the potential impacts of noise from wind farms is a genuine source of concern by local communities and we have given careful consideration to the points raised.

10.44 We note that the survey locations for the baseline assessments of background noise were agreed with THC and that the council's representations on the application did not include an objection regarding noise. Its Environmental Officer was satisfied that the assessment had been undertaken in accordance with ETSU-R97 and that the predicted noise levels during the operation of the wind farm would be below ETSU recommended limits²²⁹.

10.45 We note the concerns that noise levels from the turbines may be greater than those predicted and for this reason we recommend conditions, based on ETSU and the *Good Practice Guidance* issued by the Institute of Acoustics²³⁰, imposing restrictions on the levels of daytime and night-time noise. These conditions provide that in the event of a complaint being made about noise the council may require the operator of the wind farm to appoint an independent consultant to carry out measurements to determine whether the noise limits are being complied with. The procedure to be followed by the consultant and the matters to be assessed are set out in the detailed guidance notes accompanying the proposed conditions. The consultant must provide a report to the council within a specified period. In the event of the noise limits being exceeded it would be open to the council to take enforcement action.

10.46 Although representations have been made about the difficulties experienced by close neighbours of other wind farms in the area, we think it unlikely that noise would be an issue for this project given the distance between the turbines and the nearest properties. The distance from the proposed wind farm to any existing, consented or proposed wind farms is such that cumulative impact would not be an issue.

10.47 We also note that the predicted noise levels are well below the recommended ETSU limits, again, mainly due to the distance between the wind farm and the nearest properties.

10.48 With one minor exception, which is expected to be of short duration, the predicted noise levels during construction of the wind farm would not exceed BS guidance. We note the mitigation offered by the applicant and agree that this should be incorporated into the construction and environment management plan and that the restrictions relating to working hours should apply to HGV traffic as well as construction on site.

10.49 Similarly, the predicted increase in basic noise levels attributable to the volume of HGV traffic during construction would, for most of the route, be barely perceptible and for the section of the route most affected, would be classed as 'minor' for the purposes of the relevant guidance. The latter impact would be limited to deliveries of concrete and would not last for the whole of the construction phase.

²²⁹ APP-A1

²³⁰ CD-51

10.50 Accordingly, we conclude that the potential impacts, so far as noise due to the construction and operation of the proposed wind farm is concerned, have been assessed in accordance with the relevant guidance; that the predicted noise levels are below the thresholds set out in that guidance; and that the conditions that we recommend should be imposed in the event of consent/ permission being granted would provide an appropriate level of protection for those who may be affected by noise during the construction or operation of the wind farm. We discuss conditions in greater detail in chapter 11.

10.51 Subject to appropriate mitigation, there would be negligible adverse direct impacts on local cultural heritage features. In addition, there would be slight adverse indirect effects on three cultural heritage assets during the operational phase of the proposal. Our conclusions on the indirect impacts of the proposal on the Cnoc Freiceadain long cairns are set out in Chapter 3 of this report.

10.52 We are satisfied that, as no residential properties are located within 2 kilometres of the proposed turbines, shadow flicker effects are not predicted to result from the proposal. We have otherwise taken account of the effect of blade movement in the context of a low winter sun in our consideration of the likely visual impacts of the proposal.

10.53 We are satisfied that the agreed mitigation measures would avoid any adverse impact on aviation safety and telecommunications and other infrastructure assets.

10.54 Overall, we conclude that the impacts of the proposal considered in this chapter are acceptable, subject where appropriate to proposed mitigation, including the conditions discussed in Chapter 11 of this report and set out in Appendix 11.

CHAPTER 11: PROPOSED CONDITIONS

Conditions discussed at the hearing session

11.1 A hearing on conditions that should be attached in the event of consent being granted was held on 28 August 2014. Prior to that hearing discussions had taken place between the applicant and THC and a measure of agreement had been reached. A copy of the conditions, so far as agreed, was submitted on 1 September 2014 and is included in Appendix 8. It is to that draft that we refer in this chapter.

11.2 The conditions to be attached to any consent granted under section 36 are concerned with the time within which development must commence, the duration of the consent, and a prohibition against assignment of the consent without the permission of Scottish Ministers. Condition 1 provides that the development must commence within 5 years of consent being granted. This is longer than the standard period of 3 years but was agreed between the applicant and THC on the basis of the scale and complexity of the project and the anticipated date of connection to the grid. Condition 2 provides that the consent shall last for 30 years rather than the standard period of 25 years. Again, this was agreed with THC on the basis that, due to improvements in technology, turbines are now designed and warranted for a period of 30 years. We see no reason to disagree with the proposed conditions 1 to 3 to be attached to any consent granted under section 36.

11.3 The second section of the draft is concerned with the conditions to be attached to any grant of deemed planning permission made under section 57 of the Town and Country Planning (Scotland) Act 1997.

11.4 Condition 1 concerning supply of electricity to the National Grid is not agreed. The condition proposed by THC is in two parts: one relating to the failure of a single turbine to supply electricity on a commercial basis to the grid for a continuous period of 6 months; and the second concerning the failure of the wind farm to supply electricity to the grid from 50% or more of the turbines for a continuous period of 12 months. In each case this triggers an obligation to decommission the turbine or wind farm, as the case may be, and to restore the site. The applicant's alternative condition relates only to redundant turbines and the relevant period of non-supply is 12 months.

11.5 We consider that the condition relating to continuity of supply to the grid should apply to both redundant turbines and the wind farm and, for that reason, prefer the condition proposed by THC. However, we consider that there is merit in the applicant's argument that it should be given the opportunity to explain why a turbine is not operating. We have accordingly amended the THC condition by deleting the second sentence of sub-paragraph (i) and adjusting the second paragraph to include a reference to single turbines.

11.6 Condition 2 of an earlier draft of the proposed conditions (dated 27 August 2014) required Ministers to be notified of any serious health and safety incident occurring on the site. Neither party considers this to be necessary or appropriate. We are aware, however, that it is not uncommon for such a condition to be attached to a section 36 consent and it may be that Ministers would wish such a condition to be attached to any consent granted by them.

11.7 Proposed conditions 3 and 4 relate to the decommissioning and restoration arrangements. There is no dispute in principle about the requirement to submit for approval a detailed decommissioning and restoration scheme not later than 12 months before the expiry of the consent. However, we note that SEPA suggests that the scheme should be submitted for approval two years before the expiry of the consent and that SNH highlights the need for consultation well in advance of the expiry of the consent as ecological surveys may be required in the year or more preceding the commencement of decommissioning works. We agree and have amended the draft condition accordingly. The applicant and THC disagree whether there should be an explicit requirement for the council to consult SNH and SEPA about the scheme. As the council would, in practice, do so we see no reason why this should not be specified in the condition.

11.8 So far as the condition relating to the decommissioning and restoration bond is concerned, there is no dispute between the parties that there should be an appropriate financial security to cover the costs of decommissioning and site restoration; that there should be an independent valuation of the costs of decommissioning/ restoration; that evidence of the security should be provided to THC; and that the scheme should allow for periodic review and adjustment of the amount of the security. The applicant contends that the condition proposed by THC is unnecessarily complicated and potentially restrictive in terms of the financial arrangements that might be made to ensure that the development is decommissioned and the site restored. We note that the proposed condition proposes a bond “or other financial provision” which we consider would give the applicant the flexibility that it seeks. The advantage of THC’s proposed condition is that it provides a degree of transparency regarding important matters such as independent valuation of the costs of decommissioning and restoration and periodic review of the adequacy of the financial provision. We have made minor adjustments to the wording of the condition.

11.9 Condition 5 requires full details of the turbines (including make, model and design) to be submitted to THC for approval. The issue between the parties is whether a design which involves external transformers would be acceptable. We note that the proposed development involves the turbines being key-holed into areas of forestry and that, in these circumstances, the visual impact of external transformers would be limited. The visual impact assessment that has been undertaken in support of the project is based on the impact that the turbines would have if key-holed as proposed. However, as THC observes, the forestry could be clear felled at some time within the lifetime of the project. We conclude that, in view of the basis upon which the visual impact assessment was undertaken, the proposed condition allowing THC to approve the detailed design is not unreasonable.

11.10 As regards proposed condition 6 we suggest that the appropriate wording should be that all turbines should be finished in the same pale grey colour and with a semi-matt finish.

11.11 As regards micro-siting (proposed condition 9), there is a dispute between the applicant and THC whether there should be an express reference to the need for the council to consult SEPA and SNH. Again, we see no reason why this wording should not be included as it would simply reflect the council’s practice. The same point arises in relation to the proposed conditions regarding borrow pits (condition 10) and details of the construction compound (condition 11).

11.12 The area of disagreement between the parties regarding proposed condition 13 concerns the powers of the environmental clerk of works (ECOW). We note that the ES

proposed the appointment of an ECOW to ensure compliance with the construction environmental management plan (CEMP), to provide advice in the event of any unforeseen protected species issues arising during construction and to oversee the implementation of the mitigation measures. The ES also envisages the development of a habitat management plan, a species protection plan, and a bird protection plan which would contain operational protocols to prevent or minimise disturbance of birds, including the suspension of works in certain defined circumstances. These plans are to be components of the CEMP.

11.13 The applicant and THC agree that the ECOW's role should include monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under the consent/ permission. The first area of disagreement relates to the proposed power to direct the placement of the development (including micro-siting) (THC paragraph iii). This proposed power appears to us to go beyond what would normally be expected. The ECOW would have a proactive role in policing the mitigation measures set out in the ES and in overseeing the species protection and habitat management plans to be developed and approved by the planning authority. We are satisfied with the proposal by the applicant that the ECOW's role should include advice on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site.

11.14 The second area of disagreement concerns the circumstances in which the ECOW may call a halt to construction works. The applicant proposes that these should be set out in the details of the appointment which are to be approved by the planning authority. THC proposes that this power should apply "where environmental considerations warrant such action". The applicant considers that this is unnecessarily broad and too vague. We agree that the circumstances in which this power can be exercised should be specified in the roles and responsibilities and that the wording proposed by THC would leave an undesirable degree of uncertainty about the circumstances when the power could be deployed.

11.15 The wording of proposed condition 15 (traffic management plan) is not agreed. The applicant does not disagree that the issues to be included in the TMP will have to be addressed but considers that the wording of the condition is too detailed at this stage. We have some sympathy with that view but consider that the alternative wording proposed by the applicant does not include all the elements that should be addressed in the TMP. We have accordingly re-worded this condition.

11.16 The condition relating to the establishment of a community liaison group (condition 16) is agreed. The action group wished to emphasise that the condition provides for "dialogue" and that the reference to mitigation measures includes the construction and environmental management plan and the traffic management plan. For the avoidance of doubt we have added references to these plans to the condition.

11.17 The proposed conditions regarding noise are generally agreed. The main issue between the applicant and THC regarding the maximum noise limits specified in proposed condition 22 relates to the limits applicable at night. The applicant argues that the ETSU guidelines on the *Assessment and Rating of Noise from Wind Farms*²³¹ would point to a night time noise limit of 43 dB(A) whereas THC proposes 38 dB(A). We note that the recommended limit for night time noise in ETSU-R-97 is 43 dB(A) and that THC has not

²³¹ CD-40

offered an explanation of why a lower limit would be appropriate in this case. In the circumstances, we see no reason to depart from the limit recommended in ETSU-R-97.

11.18 THC wishes a number of informatives to be attached to any permission granted under section 57, including definitions of the terms used in the noise conditions. On balance, we do not consider these to be necessary as the Guidance Notes, which are to be read with these conditions, comply with the Institute of Acoustics *Good Practice Guidelines* and cross refer to ETSU-R-97 where a detailed explanation of the noise limits and the methodology for measuring operational noise is found.

Other conditions

Conditions proposed by SNH

11.19 SNH's concerns about the condition of the existing deer fence and the risk of deer encroaching onto the adjacent Caithness and Sutherland Peatlands SPA/ SAC during the construction, operation or decommissioning of the wind farm are addressed in proposed condition 11. A deer fence management plan is a component of the CEMP.

Conditions proposed by SEPA

11.20 We note that the proposed schedule of conditions does not include the condition required by SEPA²³² for the submission and approval of a tree felling management plan discussed in chapter 7 of this report. We have accordingly amended proposed condition 11 to include this.

11.21 SEPA also requested a condition requiring the submission and approval of a habitat management plan identifying the specific areas for proposed peatland restoration, or restoration of other habitats using any disturbed materials, and outlining the proposed methods for achieving those aims. This is in addition to the peat management plan referred to in proposed condition 11. We have amended the wording of the agreed condition to include the submission and approval of a habitat management plan as described in the ES.

11.22 The proposed condition on micro-siting does not comply with SEPA's request that this should not reduce the level of protection afforded to water courses, proposed in table 3.8 of the ES. SEPA suggests²³³ the imposition of a 50 metre buffer zone (except where tracks require to cross water courses) and we have added this wording to condition 8.

11.23 SEPA also sought²³⁴ a condition requiring all watercourse crossings to be designed to convey the 1 in 200 year return flood event as per section 3.4.51 of the ES. We have amended the proposed condition regarding the CEMP accordingly.

Conditions proposed by Forestry Commission Scotland

11.24 We have included conditions on compensatory planting and on the preparation and implementation of a long term forest plan.

Other issues

²³² APP-F1

²³³ APP-F1

²³⁴ APP-F1

11.25 Although the wording of proposed condition 11 was agreed between the applicant and THC we have some concerns as to whether this is sufficiently precise and whether it provides a clear enough link between the commitments made in the ES and FEI regarding mitigation measures and the matters to be addressed in the CEMP. In particular, the wording regarding the updated schedule of mitigation is rather vague and the list of the component plans does not include all the proposals in the ES or fully reflect the comments of consultees such as SEPA.

11.26 We have accordingly made some changes to specify more clearly what mitigation measures were proposed in the ES or FEI, which additional plans are required and what they should contain.

11.27 As discussed in chapter 9, Halcrow advises that an updated peat landslide hazard and risk assessment should be provided in advance of construction commencing and once trees have been felled. There should be an ongoing assessment of peat stability as works advance. Although there is a reference in the condition agreed between the applicant and THC to the inclusion in the CEMP of a provision regarding the management of geo-technical risks we do not think this is sufficiently precise to address the concerns raised by Halcrow. We have accordingly included a specific condition regarding peat landslide risk.

Local Economic Benefit Scheme

11.28 Shortly before the inquiry commenced the applicant submitted, in place of a draft section 75 agreement, a document described as a Local Economic Benefits Scheme²³⁵ to which is annexed a letter dated 3 June 2014 from the owner of the Limekiln and Shurrery Estates (which includes the application site) which sets out the Estates' proposals regarding the investment of revenue generated by the proposed wind farm. These would include the employment of additional staff on the Estates and the carrying out of various improvements to the Estates to attract tourism and improve access for walkers and fishermen.

11.29 A number of parties objected to the late submission of the scheme. We decided that we should allow the document to be received so that Ministers are aware of the proposed scheme. Observations on the scheme were received from Mr Stuart Young and are included in Appendix 8. In their closing submissions the Action Group adopt the observations made by Mr Young and make the point that neither the letter nor the scheme have been the subject of community consultation nor have they been formally considered by THC. In these circumstances, they say that the scheme should be given no weight.

11.30 What weight to give to the scheme is a matter for Ministers but we think there is some force in the criticism that the scheme has not been the subject of consultation with the local community or with the planning authority. To that extent it would not appear to comply with the Scottish Government's *Good Practice Principles of Onshore Renewable Energy*. Nor would the benefits offered, which are primarily concerned with investment in the Estates, with some consequential benefit to the local economy and community, appear to reflect the examples of good practice cited in the guidance.

²³⁵ APP-R2

CHAPTER 12: OVERALL CONCLUSIONS AND RECOMMENDATIONS

National policy

12.1 There is no dispute between the applicant and the council as to the seriousness of climate change and its potential effects; the seriousness of the need to cut carbon dioxide emissions; and the seriousness of the UK and Scottish Government's intentions regarding deployment of renewable energy generation.

12.2 There is no doubt that the proposal is supported, in principle, by UK and Scottish Government policies which seek to meet ambitious targets for renewable energy generation in the drive to reduce carbon emissions, and which expect onshore wind to make a significant contribution to that objective.

UK energy policy

12.3 The UK Renewable Energy Strategy sets out how 15% of UK energy is to be provided by renewable sources by 2020. That will include more than 30% of electricity generated coming from renewables; much of this from onshore and offshore wind. The UK Renewable Energy Road Map (2011) and Road Map Update (2013) state that onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a balanced UK energy policy.

12.4 However, the UK Government is committed to ensuring that projects are built in the right places, with the support of local communities, and that they deliver real local economic benefits.

Scottish policy context

12.5 The 2020 Routemap for Renewable Energy in Scotland (2011) and Update (2013) reflect the Scottish Government target of the equivalent of 100% of Scotland's electricity demand to be supplied from renewable sources by 2020, with an interim target of 50% by 2015. The update advises that 40.3% of gross electricity consumption was delivered by renewable sources in 2012.

12.6 The Renewable Energy Report by Audit Scotland (2013) notes that achievement of the 2020 target will require the continued expansion of wind technology and that average annual increases in installed capacity need to double.

12.7 The Scottish Government remains fully committed to the development of renewable energy, including onshore wind, to meet the "challenging but achievable" target of 14-16 GW by 2020.

National Planning Framework

12.8 National Planning Framework (NPF) 3 states that the Scottish Government vision for Scotland is, amongst other things, as a low carbon place "arising from our ambition to be a world leader in low carbon generation, both onshore and offshore". It recognises strong public support for wind energy as part of a renewables mix, but that opinions can vary depending on location, scale, proximity and impacts. It goes on to state that "We want to

continue to capitalise on our wind resource...In time we expect the pace of onshore wind energy development to be overtaken by a growing focus on our significant marine energy opportunities...”

12.9 Overall, it supports the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. In regard to wild land specifically, it is stated that “We also want to continue our strong protection for our wildest landscapes – wild land is a nationally important asset”.

Scottish Planning Policy

12.10 SPP introduces a policy presumption in favour of development that contributes to sustainable development. This is to entail, amongst other things, supporting the delivery of energy infrastructure; supporting climate change mitigation; and protecting the natural heritage, including landscape. The planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

12.11 Paragraph 215 of SPP states that, in areas of wild land, development may be appropriate in some circumstances. It is further stated that wild land areas are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. We have concluded that, for proposals located outside a wild land area, any significant adverse effects on the qualities of the wild land area would have to be weighed in the planning balance, giving due weight to the status of wild land areas as a nationally important asset.

12.12 Spatial frameworks for onshore wind, identifying those areas likely to be most appropriate for onshore wind farms, should be included in development plans. Wind farm proposals should, however, continue to be determined whilst those frameworks and associated policies are being prepared. Table 1 on page 39 of SPP sets out the approach to be followed in such frameworks. The current application site does not overlap with any of the designations or assets, and the proposed turbines would be outwith the 2 kilometres buffer around settlements set out in Groups 1 and 2 of Table 1. We acknowledge the proposed spatial frameworks to be a development planning tool, but note that the application site would fall under Group 3: Areas with potential for wind farm development, where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

12.13 The general location of the application site is therefore consistent with the approach to spatial frameworks set out in SPP 2014. However, the merits of each proposal require to be carefully assessed against the range of environmental, community and cumulative impacts which are set out in paragraph 169 of SPP.

12.14 In the preceding chapters we have discussed the likely environmental effects of the proposal. In relation to the relevant considerations listed in paragraph 169 of SPP we find, subject to mitigation controlled by condition where relevant, that:

- there would be slight beneficial socio-economic benefits, arising largely from the construction of the scheme, but also from its ongoing operation;

- there would be a modest, but worthwhile, reduction in greenhouse gas emissions and a significant contribution to renewable energy targets;
- excepting our conclusions on wild land impacts, in regard to which we lack adequate evidence, there would be no unacceptable cumulative impacts in combination with other wind farms;
- the impacts (including visual impact, residential amenity, noise and shadow flicker) on nearby communities would not be severe;
- the significant landscape and visual impacts would be experienced in a relatively limited area, and the wind farm would not have an overbearing or dominant effect on any residential properties;
- we accept that the impact on that part of the wild land area to the east of the ridgeline of Beinn Ratha would be significant but do not consider that this impact alone would make the proposed development unacceptable. We do not, however, have sufficient information to enable us to be satisfied that the proposal would not have an adverse impact on the qualities of the East Halladale Flows wild land area as a whole;
- the proposal would not have a significant adverse impact on ornithology, ecology, habitats and species²³⁶;
- there would appear to be a very favourable carbon balance, which would be further improved with a 30 year operational life;
- there would be adverse impacts on the visual amenity of local core paths and NCR1;
- the proposal would not have a significant adverse impact on the historic environment;
- there is no convincing evidence before us that appropriately sited wind farms result in detrimental impacts on tourism. In this regard, we conclude that there would be significant cumulative visual effects along limited stretches of the A836 tourist route, but where the perceptions of travellers is already strongly influenced by a range of other uses in the landscape and where the proposed wind farm would not appear significantly out of place;
- the agreed mitigation measures would avoid any adverse impact on aviation safety and on telecommunications and other infrastructure assets;
- the adverse impact on road traffic, including on the trunk road network, would be minor and short term;
- the proposal would not have an adverse impact on hydrological or hydrogeological interests; and
- decommissioning and restoration could be safeguarded by appropriate planning conditions.

Web-based guidance on onshore wind turbines

12.15 Based on those considerations, we conclude that the proposal meets the terms of the Scottish Government's web-based guidance in regard to impacts on wildlife and habitat, ecosystems and biodiversity, impact on communities, aviation matters, historic environment, road traffic, cumulative impact and decommissioning. Due to our findings on wild land, however, we have insufficient information to safely conclude that the proposal is consistent with advice on landscape impact.

²³⁶ In Chapter 6 we conclude that, subject to the imposition of conditions discussed in that chapter, there would be no adverse effect on the integrity of the Caithness and Sutherland Peatlands SPA/ SAC or the Caithness Lochs SPA, but draw attention to the need for Ministers to carry out an appropriate assessment in terms of the Habitats Regulations.

The development plan

12.16 We are content that the Caithness Local Plan, although remaining partly in force, contains no continuing elements of relevance to assessment of this proposal.

Highland-wide Local Development Plan

12.17 In regard to the development plan, therefore, the proposal stands to be assessed against the policies of the HWLDP.

12.18 There is no dispute that Policy 67: Renewable Energy Developments is the principal policy of the HWLDP relating to the assessment of such proposals. It is the sole policy referred to by the council in its objection to the proposal. The policy states that renewable energy developments should be well related to the source of the primary renewable resource that is needed for their operation. The council will consider the proposal's contribution towards meeting renewable energy targets, together with positive or negative effects on the local and national economy. Subject to balancing with these considerations the council is to support proposals where it is satisfied that they would not be significantly detrimental overall, either individually or cumulatively, having regard to a range of considerations. Proposals are also to be assessed against the other policies of the plan and the Highland Renewable Energy Strategy and Planning Guidelines (although it was conceded for the council that this document has largely been superseded and should be afforded minimal weight).

12.19 We conclude that the proposed development is well-related to the necessary wind resource. It would make a significant contribution towards meeting renewable energy targets. There would be slight beneficial impacts on the local and Scottish economies.

12.20 In regard to the relevant considerations listed in Policy 67, and drawing on our findings set out throughout this report, and summarised at paragraph 12.14 above we find, other than for one consideration, that the proposal would not give rise to any detrimental impacts, either singly or cumulatively, sufficient to outweigh the benefits of the proposal. Wild land is not specifically listed as a consideration in Policy 67, but we are satisfied that references to natural heritage features and to landscape and visual impacts are sufficiently wide-ranging to encompass impacts on wild land.

12.21 We conclude that there is insufficient information to enable us to be satisfied that the proposal would not have an adverse impact on the qualities of the East Halladale Flows wild land area as a whole. We are consequently unable, in the planning balance required by Policy 67, to safely attribute the degree of impact on that nationally important resource. In these circumstances, we are unable to find the proposal to be consistent with Policy 67.

12.22 There is no specific policy relating to wild land in the HWLDP, the adoption of which predated NPF3 and SPP. However, wild land is referred to in Appendix 2 in the definition of natural, built and cultural heritage features under the heading "Features of local/ regional importance." Policy 57 applies to the natural, built and cultural heritage and provides that for features of local/ regional importance, development will be allowed if it can be satisfactorily demonstrated that it would not have an unacceptable impact on the natural environment, amenity and heritage resource. As that has not been demonstrated, we find the proposal to be inconsistent with Policy 57.

12.23 Otherwise we find no significant tension with the other relevant policies of the HWLDP set out in Chapter 2 of this report. We conclude, however, that the proposal has not been demonstrated to be fully consistent with the development plan overall.

Supplementary planning guidance

12.24 There is not as yet any relevant supplementary guidance forming part of the development plan. The Highland Renewable Energy Strategy and Planning Guidelines (HRES) was approved by the council as supplementary planning guidance. Although largely overtaken by the council's Interim Supplementary Guidance – Onshore Wind Energy, parts of the HRES remain in place, particularly, policy V2 on Wild Land. That provides that the indirect effects of renewables development, especially wind farms, located outwith areas with qualities of wildness but visible from them, are to be taken into account, especially if viewing distances are relatively close. The proposal is inconsistent with this guidance.

12.25 The council's Interim Supplementary Guidance: Onshore Wind Energy was approved in March 2012. The council and the applicant agree that the application site is mostly located within a 'Stage 3: Area of search', but that the northern part of the site falls within a 'Stage 2: Areas with potential constraints'. The council states this to be due to the proximity of the northern part of the site, where no turbines would be located, to the settlement area of Reay and Achvarasdal. We find however, that the weight to be afforded to this guidance must be reduced as it has been overtaken by SPP and is to be replaced by updated supplementary guidance.

Electricity Act 1989

12.26 Schedule 9 of the Act requires Ministers to have regard to the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. With the exception of the preservation of natural beauty we are satisfied that, with the imposition of the conditions discussed in chapter 11, the granting of consent would not result in significant adverse impacts as regards those matters. For the reasons that we explain in chapter 4 we do not have sufficient information to be satisfied that the proposed development would not have a significant adverse impact on the East Halladale Flows Wild Land Area.

Overall conclusions

12.27 In paragraph 12.14 we draw together our conclusions on the benefits that the wind farm would offer and our assessment of the environmental impacts of the proposal. Leaving aside the potential impact on wild land, we conclude in paragraph 12.20 that the proposal would not give rise to any detrimental impacts, either singly or cumulatively, sufficient to outweigh the benefits of the proposal. However, due to the fact that it has not been demonstrated that the proposal would not have a significant adverse impact on the East Halladale Flows Wild Land Area we conclude that the proposed development is not fully supported by national policies which promote the development of onshore wind farms in appropriate locations and which recognise wild land as a nationally important asset. For the same reason it is inconsistent with the those policies in the development plan and with supplementary planning guidance which afford protection to wild land.

12.28 We have given careful consideration as to whether the uncertainties regarding the potential impacts on wild land are sufficient to outweigh the positive benefits of the proposal and our conclusions that, in other respects, the environmental impacts of the proposal are acceptable. On balance, we conclude that they are and that significant weight should be attached to the policies protecting wild land.

12.29 We draw Ministers' attention to an exchange of legal submissions between the applicant and THC regarding the competency of the council's objection on grounds of impact on wild land and the weight to be attached to that objection²³⁷.

Recommendations

12.30 We therefore recommend that consent under Section 36 of the Electricity Act 1989 should be refused. Consequently, we recommend that there be no direction that planning permission is deemed to be granted under Section 57 of the Town and Country Planning (Scotland) Act 1997.

12.31 If Scottish Ministers disagree with our recommendations and are minded to grant Section 36 consent and direct that planning permission is deemed to be granted, we recommend that this should be subject to the conditions set out in Appendix 11 to this report.

Lindsey Nicoll
Chief Reporter

Scott M Ferrie
Principal Reporter

²³⁷ Appendix 6