

APPEAL DECISION (DPEA)
Appeal Reference
DPEA PPA-300-2066
Planning Reference
ENQ/2021/0466
Planning Proposal
Installation and operation of a wind farm comprising seven turbines with a generating capacity of up to 46.2MW at Garbet wind farm site, 5.5km southeast of Dufftown, Moray.
Summary of Decision
<p>In 2021 Aberdeenshire Council was consulted on the above noted planning application within the Moray Council boundary. Aberdeenshire Council was consulted due to the proposed development's proximity to the Aberdeenshire administrative boundary, specifically being immediately adjacent the Marr Area. As the application site is located within the Moray Council boundary, Aberdeenshire Council had a limited role in this case as a consultee and was not the decision maker.</p> <p>The proposed development was presented to both Marr Area Committee (25 May 2021) seeking Member's views and Infrastructure Services Committee (17 June 2021) seeking agreement of a formal consultation response to Moray Council. In its response to the consultation, Aberdeenshire Council did not object to the application, however raised significant concerns that the proposal would not fit within the wider Aberdeenshire and Moray landscape, in particular to the west of Huntly, by virtue of landscape and cumulative impacts. Concern was also raised in respect of archaeology whereby Aberdeenshire Council considered that the scale of the development could have an adverse visual/setting impact on the cultural heritage feature Craig Dorney hillfort which was located nearby, and also a visual impact on the Tap O'Noth hillfort.</p> <p>The application was subsequently refused by Moray Council against officer recommendation in November 2021 on grounds that it did not comply with the Moray Local Development Plan 2020. Moray Council considered that the proposed development would fail to integrate into the landscape and would have adverse impacts on the landscape and visual amenity. It was also considered that the proposal would have significant combined cumulative impact along with the operational Dorenell and Clashindarroch wind farms.</p> <p>The appeal was dealt with by written submissions and Aberdeenshire Council did not take part in the appeal. In September 2022, the Reporter</p>

issued a Decision Notice (**Appendix 1**) allowing the appeal and granting planning permission for the proposed development.

The appointed Reporter considered that the proposed development was in accordance with the Moray Council Local Development Plan 2020. It was noted within the decision that while the proposal would have some significant landscape and visual impacts, these would be localised and limited in extent. The Reporter subsequently concluded that the significant adverse impact on the landscape character and visual impacts would not be unacceptable.

Consideration was also given to the overall benefits of the scheme which were considered to outweigh the landscape and visual impacts of the proposal. The Reporter noted that the development would make a positive contribution to the generation of renewable energy and would contribute to the reduction of greenhouse gas emissions, making a positive contribution towards meeting net zero targets, while also contributing to the local economy.

In respect of archaeology, the Reporter noted that the EIA Report concluded that there would be no residual effects on Craig Dorney hillfort and Tap O'Noth hillfort. The concern raised by Aberdeenshire Council in respect of impact on these historical designations was noted, however the Reporter considered there to be no evidence which would lead to a contrary view than that provided within the EIA Report.

The application was granted subject to twenty-nine conditions. The only matter of interest for Aberdeenshire Council from the conditions imposed is that following completion of road works but prior to the commencement of deliveries to the application site, an invite must be provided to the Council to attend a trial run of abnormal load deliveries.

Policy Issues

The planning decision has no policy implications for Aberdeenshire Council as the application was assessed against the Moray Local Development Plan 2020.

Additional Points

None.

Actions

To note the appeal decision PPA-300-2066.

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Appeal Decision Notice – EIA Development

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

- Planning appeal reference: PPA-300-2066
- Site address: Garbet wind farm site, 5.5 kilometres southeast of Dufftown and 13 kilometres west of Huntly, Moray, AB55 4DQ
- Appeal by Energiekontor UK Ltd against the decision by The Moray Council
- Application for planning permission 21/00020/EIA dated 08 January 2021 refused by notice dated 26 November 2021
- The development proposed: installation and operation of a wind farm comprising seven turbines with a generating capacity of up to 46.2 megawatts, an electricity storage facility with a maximum capacity of 3 megawatts and associated infrastructure
- Application drawings: see schedule 3 to this decision notice
- Date of site visits by Reporter: 16 February, 4 April, and 16 and 17 May 2022 (unaccompanied)

Date of appeal decision: 26 September 2022

Decision

I allow the appeal and grant planning permission subject to the 29 conditions listed at schedule 1 to this decision notice. Attention is drawn to the five advisory notes at the end of the notice.

Environmental impact assessment

The proposed development is described as above, and in more detail at chapter 3 of volume I of the environmental impact assessment report ('EIA report'). In summary the proposal comprises:-

- seven wind turbines each with a maximum overall height to blade tip of up to 190 metres;
- associated turbine transformers;
- a crane hardstanding area at each turbine location;
- new and upgraded on-site tracks of approximately 6.6 kilometres in total (of which 4.982 kilometres would be new tracks including some floating tracks);
- battery storage compound and equipment;
- underground cables linking the turbines to the substation;
- three new watercourse crossings;
- two borrow pit search areas for the extraction of stone on-site;
- an on-site substation;
- improved site access; and
- off-site access works.

There would also be a temporary construction compound. The proposed wind farm would have an operational life of 35 years from the date of final commissioning after which it would be decommissioned. The construction phase would last approximately 12-18 months and decommissioning would last approximately six to eight months. The development would have a total capacity of approximately 46.2 megawatts and 3 megawatts of storage capacity.

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

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

- the EIA report, comprising volume I written text; volume II figures; volume III technical appendices; volume IV landscape and visual figures, visualisations and appendices; and volume V non-technical summary, submitted on 11 January 2021;
- the cultural heritage addendum dated May 2021 and the access appraisal dated June 2021, both addenda to the EIA report;
- consultation responses from:-
 - Moray Access Manager,
 - Scottish Water,
 - River Deveron Salmon Fishery Board,
 - Scottish Forestry,
 - Moray Council Environmental Health – private water supplies,
 - Moray Council Contaminated Land,
 - Moray Flood Risk Management,
 - Historic Environment Scotland,
 - Aberdeenshire Council Archaeology Service,
 - NatureScot,
 - Aberdeenshire Council,
 - RSPB Scotland,
 - Moray Council Transportation Manager,
 - Scottish Environment Protection Agency,
 - Defence Infrastructure Organisation on behalf of the Ministry of Defence,
 - Moray Council Environmental Health,
 - Aberdeen International Airport,
 - Atkins on behalf of Telecommunications Association of the UK Water Industry, and
 - NATS Safeguarding;
- the council’s committee report of handling; the appellant’s appeal statement and associated documents; the council’s response to the appeal and associated documents; the further written evidence submitted by various parties at my request on a number of issues including landscape impact; the impact of aviation lighting; noise; and the proposed planning conditions; and
- representations from members of the public to both the original application and the appeal.

I am required by the 2017 EIA regulations to include information in this decision notice in regard to opportunities for the public to participate in the decision-making procedure. I set that information out in schedule 4 below. My conclusions on the environmental effects of the proposal are set out at paragraphs 50-78 below.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the Moray Local Development Plan 2020. Having regard to its provisions, the main issues in this appeal are: the effects of the proposal on the landscape character; the visual effects; the impact of aviation lighting; and the benefits of the proposal.

The effects on landscape character

2. The landscape effects of the proposal are set out in chapter 6 of volume I of the EIA report supported by figures, visualisations and appendices in volume IV. There is no suggestion from either the council or the statutory consultees that the methodologies employed in the assessment of landscape effects do not generally follow good practice guidance at the time of publication. However concerns have been raised by third party objectors that the assessment has systematically under-assessed the likely level of adverse landscape impacts.

3. Having considered the methodology in light of the concerns raised, I do not consider that reversibility has been a factor when assessing the likely magnitude of change element. Paragraph 15.15 of the methodology states that the duration and reversibility are stated separately and this is apparent from the analysis of each viewpoint. I also note that the definitions of the levels of magnitude of landscape change do not mention reversibility or duration.

4. There is no evidence to support the contention that the assessor has reached its conclusions based on smaller turbines. The fact that they would be larger than the existing turbines in the vicinity is in my view apparent from the visualisations. Further I visited many of the viewpoints on my site inspections, and from what I saw I am not persuaded that the effects have been under-assessed. I also draw support for my findings from the consultation responses from the statutory consultees which do not raise any concerns in relation to either of these matters.

5. The council relied on the assessment and broadly agreed with its conclusions. However it considers that the predicted impacts would be unacceptable. There is no objection from NatureScot and none of the other consultees objected on the basis of landscape impacts although Aberdeenshire Council raised some significant concerns on the grounds that the proposal would not fit within the wider Aberdeenshire and Moray landscape, in particular to the west of Huntly, by virtue of the landscape and cumulative impacts.

6. The site is 5.5 kilometres south east of Dufftown and 13 kilometres west of Huntly with the wind farm being contained entirely within the Moray Council area. The boundary with Aberdeenshire is immediately to the east of the site boundary. The site lies within landscape character type 12b, Open Uplands with Settled Glens. It is within a narrow glen which as I saw on my site inspections is largely enclosed other than at its north east side. It is predominantly an area of moorland and upland rough pasture and appeared to be used for grazing. The Markie water flows through the site.

7. On map 1 of the local development plan, wind farm spatial framework, the site appears to be largely, if not all, within an area identified as having potential for wind farm development where proposals are likely to be acceptable subject to detailed consideration. Further details of the spatial framework are set out in the Moray Onshore Wind Energy non-statutory guidance 2020. As it is non-statutory, it does not form part of the development plan. Nevertheless it is a material consideration and provides further assistance.

8. The guidance defines large turbines as being between 130 metres and 150 metres in height. Map 4 illustrates the landscape capacity for potential opportunities for very large turbines, extensions and repowering. It is difficult due to the scale of the map to be precise but at least part of the site and the majority of the turbines would appear to be located within an area identified as having potential scope for large or very large turbines. The legend to map 4 states that this area has limited scope; for context I note that some of the other areas identified are described as having very limited scope.

9. A landscape capacity study was undertaken in 2017 which informed the 2020 non-statutory guidance. The landscape capacity study states that it was based on computer generated zones of theoretical visibility and that the combined sensitivity scores represent an average across the landscape character types. That seems to suggest that the study took a broad brush approach recognising that there would be variances across a landscape character type.

10. Nevertheless it concluded that there is no capacity and that turbines cannot be accommodated within landscape character type 12b without unacceptable significant adverse landscape effects. This seems to be at odds with the conclusions in the 2020 non-statutory guidance. However notwithstanding that conclusion, the study acknowledges that detailed assessments would still be required, recognising that considerable variation can occur across landscapes. This is reflected in the justification to policy DP9 Renewable Energy of the local development plan which states that the landscape capacity study is strategic level guidance and does not replace the need to assess the landscape or visual impacts of individual wind farms.

11. The recent draft guidance from NatureScot on landscape sensitivity assessment advocates a similar approach. It recognises that while landscape capacity studies have a place, they are not a substitute for site and proposal specific impact assessments. Further the 2020 non-statutory guidance states that, if turbines are proposed which exceed the turbine heights identified in the landscape capacity study (which is the case here), the onus is on the applicant to demonstrate how the impacts of the proposal on the key constraints and how any significant adverse effects can be mitigated in an effort to show a proposal can be supported.

12. Bringing all this together, given its limitations and broad brush approach, I attach less importance to the landscape capacity study and find that the proposal can draw support from the spatial frameworks in both the local development plan and the 2020 non-statutory guidance. Nevertheless in my view it is clear from these documents that the key consideration is the impact of the specific proposal and whether any significant adverse effects can be mitigated.

13. The EIA report concludes that significant landscape effects would be restricted to an undesignated area of landscape character type 12b within 2-3 kilometres of the proposed turbines. Having viewed the site from The Scalp and also from within the site, I accept this would be the case. This would include Glen Markie, the character of which I accept

would be significantly adversely altered. However the effects would be limited by the topography, which was apparent from my site inspections, as shown by the extent of the zone of theoretical visibility coverage.

14. The EIA report also concludes that there would be a significant effect on small parts of the Aberdeenshire Moorland Plateaux and Straths and Valleys landscape character types. There would be a localised effect on a small part of the Deveron Valley Special Landscape Area in Aberdeenshire, which coincides with the visual effects experienced from the A920, however its overall integrity would not be significantly affected and the strength of the special landscape qualities would remain strongly defined and worthy of designation. From what I saw on my site inspections, and given the evidence before me, there is nothing which would lead me to a different conclusion.

15. Focusing on the seven key constraints identified in the landscape capacity study, to which both the appellant and the council had regard, from my site inspections and from the visualisations, I accept that the proposal would not affect the settled basin of the Cabrach given the topography. Neither would it impact on the hills on the outer edge of the landscape character type. Similarly it would not have a significant impact on the prominence and setting of The Buck or, as set out below, the setting of Auchindoun Castle.

16. The council considers that it would have an impact on the sense of arrival when crossing into Moray on the A941 and A920. I agree there would be some impact but from what I experienced on my site inspections I am not convinced that this would be significant, from a landscape perspective. What is striking when traveling along these routes is the vastness of the landscape as well as the variation. Against that context and given the relatively lengthy and regular breaks in the theoretical visibility along these routes, I do not consider that the proposed development would become a focal point in, or detract from, the wider landscape nor would it define that landscape.

17. It is predicted that there would be cumulative effects with both Dorenell and Clashindarroch wind farms. Given its close proximity to both I accept that would be the case. However there would be no impact on the Cairngorms National Park and the setting of the Ladder Hills and Glen Buchat to the south. That is not disputed by the council.

18. Taking all this together, I find that the proposed development would avoid or have no impact on the all but one of the constraints listed in the landscape capacity study. In my view that is largely due to the containment provided to the site by its presence in the valley. This is recognised by the council officer in his report of handling. As a result the significant effects would be limited.

Visual effects

19. The visual impacts are addressed at chapter 6 of volume I of the EIA report supported by figures, visualisations and appendices in volume IV. Visual impacts have been assessed by reference to 16 viewpoints which were agreed with the council, Aberdeenshire Council and NatureScot through scoping and further consultation. A number of other viewpoints have been illustrated as wirelines in Appendix 6.5. Again it is not disputed by the council or the statutory consultees that the methodologies employed in the assessment of visual effects generally follow good practice guidance at the time of publication. Similar concerns to those raised in relation to the landscape assessment were raised by third party objectors in relation to the visual impact assessment. My conclusions in that regard, as set out above, apply equally here.

20. In order to assess the cumulative impact, all existing and consented wind energy developments and planning applications at the time of the EIA report were included. A new section 36 application for a wind farm at Craig Watch has been drawn to my attention which was submitted while I have been considering this appeal. However accepting that wind farm proposals are to be considered sequentially, I am satisfied that the cumulative assessment in the EIA report is adequate and accords with NatureScot's guidance. No concerns have been raised from any of the statutory consultees in this regard.

21. The EIA report concludes that although the site is in an elevated location within an open upland setting, the turbines would be located on the slopes of the Markie Water glen and would be surrounded by hills in most directions. Within 1-2 kilometres of the turbines, the zone of theoretical visibility would extend across open moorland to the north, west and south where views of the proposed development would be significant.

22. In addition, there would be significant adverse visual impacts at four viewpoints: viewpoint 1 (The Scalp, a walking route with a trig point at the summit), around 1.2 kilometres from the nearest turbine; viewpoint 3 (minor road off the A941 south of Inverharroch), approximately 7.7 kilometres from the nearest turbine; viewpoint 4 (the A920 near Wester Bodylair) just over 4 kilometres from the nearest turbine; and viewpoint 6 (the A920 at Cairnborrow) around 7.8 kilometres away. The effects on all these viewpoints would also be cumulative. The council agrees with this assessment. I visited these viewpoints on my site inspections. From what I saw, I agree that there would be significant visual effects at these viewpoints.

23. Views to the east beyond 1 kilometre would be limited due to the screening effects of the landform and forestry, albeit I accept that forestry could be felled during the lifetime of the development as highlighted by Scottish Forestry. Nevertheless I consider that the landform would still provide some screening. The wind farm would be visible from elevated areas and hill tops beyond 5 kilometres. However within 10 kilometres of the wind farm the zone of theoretical visibility would be fragmented.

24. The council considers that there would also be significant visual effects at viewpoint 9 (Ben Rinnes) around 12.3 kilometres from the nearest turbine. It considers that the magnitude of change would be medium rather than low as assessed by the appellant and therefore the effect would be significant and adverse. There is no dispute that the sensitivity is high.

25. I climbed Ben Rinnes on my site inspection. Ben Rinnes is a popular walking route as was apparent on the day I climbed it although it is likely to be less frequently visited when weather conditions are poor. The landscape is wide and expansive with 360 degree views. The development would only take up a small section of that view. I accept that the hubs of all of the turbines would be visible, however I agree from what I saw that there would be some screening of the turbine towers from the intervening land form.

26. From the visualisations I note that none of the turbines would break the skyline unlike the nearby Dorenell wind farm turbines. Several other wind farms are visible from this viewpoint at varying distances. In my view the vastness and extensiveness of the landscape diminishes the effect of the existing wind farms. On my site inspection, I did not see wind farms in all directions when taking in the 360 degree view, as suggested by some objectors. Further taking the view as a whole I did not have the impression that wind farms dominate or characterise it or that overall the landscape would be perceived as being a wind farm landscape.

27. Given the intervening distance between the viewpoint and the site; that the turbines would sit lower in the landscape and would be partially screened; the narrow field of view and the presence of other wind farms, I do not consider that the development would be prominent or be perceived to have a defining influence as suggested by the council. I therefore agree with the appellant that the magnitude of change would be low and therefore the effect would not be significant.

28. I note that the council also considered that there may be potentially significant adverse effects on both the hills of Little Conval and Meikle Conval. I note that these are identified as landmark hills in the local development plan. From the zone of theoretical visibility I accept that the turbines would be visible. However although they are closer to the site than Ben Rinnes, given the vastness of the landscape and the extent of the views and the fact that the turbines would not be visible in views towards Ben Rinnes, I am not persuaded that the impact on these hills would be significant.

29. There are predicted to be significant effects on the views from one residential property, Wester Braetown, which is located within 2 kilometres of the wind farm. The effects of the proposal on this property have been assessed. The residential visual amenity assessment finds that significant effects would occur on views from the property, its immediate surrounds, and access during the day. However it concludes that the development would not have an overbearing effect on the property.

30. I visited this property. It is oriented towards the south east rather than directly facing the proposed development giving oblique rather than direct views of the development. There would be some screening from vegetation and outbuildings resulting in the lower parts of the turbine towers being partially screened. From what I saw, I accept the conclusions of the assessment. I note that this was also accepted by the council officer.

31. The EIA report also concluded that there would be significant impacts on parts of the A920 which is designated as a scenic approach to Moray in the 2020 non-statutory guidance. From the sequential route assessment I note that most, if not all, of the turbines would be theoretically visible along parts of the route.

32. I drove along this route on each of my site inspections, stopping at the sequential assessment viewpoints as well as considering the likely experience and perception of a traveller along the whole route. I accept that from viewpoints C (at Cairnbarrow, viewpoint 6 in the landscape and visual impact assessment), D, E and F (near Wester Bodylair, viewpoint 4 in the landscape and visual impact assessment) the turbines would be clearly visible. At viewpoint F I note that the turbines would be visible in the foreground with Dorenell wind farm behind. I accept that at these viewpoints the effect would be significant.

33. From my site inspections and the evidence before me, I also accept that there would be no significant visual effects from any settlement or recreational or tourist destinations. However there would also be a significant visual impact on part of core path SP30 as illustrated by the visualisation for viewpoint 3. Having visited this viewpoint I agree that the impact would be significant.

Impact of aviation lighting

34. Five of the turbines would require aviation lighting fixed to the turbine hub only. The lighting strategy proposes reduced intensity lighting with lights of 200 candela during clear conditions with 2000 candela lighting used in poor visibility. It is anticipated that this would be less than 10% of the time. In addition directional lighting would be used with a focused

horizontal beam of light to reduce the intensity of lighting seen from lower elevation locations. No assessment has been undertaken of the impact of all of the turbines being lit with 2000 candela lights with no inbuilt shielding. The appellant has confirmed that it would be necessary to ensure that shielded lights are used to avoid likely significant effects.

35. The council considers that the effect of introducing lighting in a context where dark skies are present is a concern. It considers that there may be significant adverse effects arising on the qualities of wildness appreciated from the less developed uplands centred on Ben Rinnes where the illuminated turbines would be visible and the lights more intense. I note that no visualisations have been produced from popular hill routes and summits, a concern raised by the council.

36. A night-time lighting assessment has been carried out and night-time visualisations have been produced from two viewpoints, viewpoint 3 (minor road off the A941 south of Inverharroch) and viewpoint 4 (the A920 near Wester Bodylair). I understand that there is no established guidance on how to conduct night-time lighting assessments for aviation warning lights. The appellant advised that it followed NatureScot's advice and its approach has been used for a number of other wind farm applications and follows the guidance set out in the Guidelines of Landscape and Visual Impact Assessment (3rd Edition). NatureScot has not objected to the proposal nor raised any concerns in relation to aviation lighting. The council has not raised any concerns about the methodology either. I therefore accept that the assessment is adequate.

37. Although the council considers that the area possesses many of the qualities of a dark sky it confirmed that it is not designated as such. I noted that The Cabrach Trust and Cabrach Community Association have an ambition to achieve a dark sky designation but that does not change the position that no designation currently exists. Nevertheless I accept that the skies in this area are notably dark due to the rural nature of the area.

38. The assessment concluded that there would be a localised significant effect on part of the Open Uplands with Settled Glens landscape character type in the immediate proximity to the turbines. However this would quickly become more fragmented. Visibility would be more prevalent to the south west and north east but again would be fragmented. There would be no significant effects on views, including views from recreational routes and hill summits. There would be no significant effect on the Cairngorms National Park due to the distance from the turbines and there would be no visibility of the proposed development from all three dark sky discovery sites.

39. Having sought further clarification from the appellant in relation to the night-time lighting assessment, I accept that the visual impact would not be significant. The lights would be visible but only in a small part of the night sky. A direct beam would not be visible and accordingly the intensity would be reduced even if the 2000 candela lighting was in use.

40. The lights would be visible from the A920 but again I do not consider that the effect would be significant given the distance from the wind farm. The intensity would again be reduced. I recognise that the lights would be visible from higher land and hill tops at greater distances but the number of receptors during the time the lights would be on is likely to be low. In relation to the residential property at Wester Braetown, although up to five lights would be visible, the intensity would be reduced. Therefore I accept that there would be no significant impact on this property.

41. I understand that none of the other wind farms currently operating or consented have or require aviation lighting. However there are three other wind farm applications which would require lighting: Clashindarroch II, Rothes III and Clash Gour. From the cumulative night-time zone of theoretical visibility, I note that only this development would be visible from the two viewpoints assessed. However taking all of these developments together there would be a significant landscape effect on the Open Uplands with Settled Glens.

42. Taking all this together, I accept that the lights would be visible to varying degrees and becoming increasingly more fragmented for up to 45 kilometres from the site. The intensity of the lighting would be reduced to the north west, north and north east. Greater intensity lighting would be experienced from the south and south west but that would be limited to hill tops and higher land where there are likely to be fewer receptors at night. Overall I accept the conclusions of the EIA report.

Benefits of the proposal

43. The proposed wind farm would have an installed capacity of 46.2 megawatts and 3 megawatts of storage capacity. It could generate approximately 142 gigawatt hours of renewable energy per year based on the candidate turbine. The EIA report states that this represents a site capacity factor of approximately 35.5% which compares favourably to the UK average onshore capacity factor of 27.1% over 2013-2017.

44. The wind farm would make a contribution to the alleviation of the adverse consequences of global warming. The renewable energy generated could be sufficient to power around 38,972 homes on average each year and save 63,175 tonnes of carbon dioxide each year resulting in a total carbon saving of approximately 2.2 million tonnes over the operational life of the wind farm. The carbon loss in developing the wind farm is estimated to be paid back in approximately 1.2 years based upon the fossil fuel mix.

45. There would be a range of opportunities for civil engineering and associated works for local contractors during the construction phase with investment in the local economy and supply chain. The capital cost could equate to investment estimated to be up to between £54.04 million and £83.16 million. Typically 12% of the costs would be spent locally and 36% within Scotland. The EIA report assesses the impact at ward level to be a major beneficial effect that would be significant. At a local authority level, the beneficial economic effects would be moderate and still significant. There would be further local spend during the decommissioning phase however that is difficult to predict and unlikely to be significant.

46. Throughout the construction phase of 12-18 months the proposed development could result in between 34.79 to 72.35 full time equivalent local jobs within Moray and between 103.66 and 216.76 full time equivalent jobs within Scotland. Further employment would be sustained or created through induced and indirect economic effects. This would be likely to occur through the supply chain and the impact of wages and salaries on the local economy including increased hotel occupancy rates.

47. During the operational phase, the proposed development has the potential to generate operations and maintenance expenditure of between £1.06 million and £6.0 million each year, amounting to between £37.1 million and £210 million over the lifetime of the wind farm. Evidence indicates that 42% of expenditure would occur locally. At a ward level this is predicted to be a significant long term beneficial effect.

48. There would be two permanent on site staff during the operation phase. However the local annual operations and maintenance expenditure could create between 16.5 and

33.6 full time jobs per annum in the local area and between 49.2 and 102.5 nationally. In addition, the proposed development would attract business rates, which based on current figures and calculations would be in the region of £12.7 million over the lifetime of the wind farm. There would also be benefits to the local area and residents from the proposed upgrades to the access tracks and the new water crossings.

49. Finally I understand that there would be a community benefit fund although the amount to be distributed is not known at this stage and would be agreed with the Strathbogie and Dufftown and Districts community councils. However this is not a material consideration in planning terms.

Other impacts

50. The EIA report assessed a wide range of other impacts: cultural heritage and archaeology; geology, hydrology and geohydrology; ornithology; ecology; traffic and transportation; socio-economics, tourism, recreation, health and land use; telecommunications, aviation, shadow flicker, health and safety and major accidents and disasters.

51. The council has not founded its refusal on any of these impacts and I note in this regard that there are no outstanding concerns on the part of key agencies, subject to the imposition of appropriate conditions. The EIA report and additional information submitted by the appellant acknowledged the following residual environmental effects, in addition to those relating to landscape and visual impacts and the impact of aviation lighting which are considered above.

52. Cultural heritage and archaeological impacts are addressed at chapter 7 of volume I of the EIA. An addendum dated April 2021 was prepared in response to the consultation response from Aberdeenshire Council Archaeology Service dated 5 March 2021. The addendum included an assessment of the likely impact on Craig Dorney hill fort. However this did not alter the council's concerns.

53. I have also taken in to account the consultation response from Historic Environment Scotland. It carried out its own assessment, based on the EIA report, of the impact on various monuments and listed buildings. It concluded that the proposed development would not raise issues of national significance. I also had regard to those objections relating to cultural heritage impacts, in particular impacts on Auchindoun Castle. Finally the appellant has confirmed that there would be no impacts on the historic environment during the transportation process.

54. While the EIA report accepts that there is potential for the presence of previously unknown archaeological remains within the site, it concludes that these are most likely to be of local importance. A scheme of archaeological works to ensure recording of any remains lost has been included as a mitigation measure in chapter 15 of volume I of the EIA report and this could be secured by condition. No residual significant effects are predicted at Balvenie Castle, Tap O'North fort or Craig Dorney fort. Notwithstanding Aberdeenshire Council's concerns there is no evidence before me which would lead me to a contrary view to the conclusions in the EIA report and the addendum.

55. No residual significant effects are predicted at Auchindoun Castle. Nevertheless, given the concerns raised and its proximity to the site, I visited the castle on one of my site inspections. Although I was not able to get into the castle due to fencing preventing access for safety reasons, I was able to form a view on the likely impact. Due to the landform and

the siting of the turbines in the glen, I accept that there would be limited visibility of the turbines when approaching the castle or looking towards the castle with the site behind and beyond The Scalp. I therefore agree that there would be no significant adverse impacts on the setting of the castle.

56. Chapter 8 of volume I of the EIA assesses the impact on geology, hydrology (including flood risk) and geohydrology. I have also taken into account the consultation responses from the Scottish Environment Protection Agency, NatureScot, Scottish Water, River Deveron Salmon Fishery Board, Moray Council Environmental Health - private water supplies, Moray Flood Risk Management and RSPB Scotland. None of these consultees objected to the proposal subject in some cases to the imposition of conditions.

57. It is estimated that 14,570m³ of peat/peaty soils would need to be excavated for the turbine foundations, the crane hardstanding areas, the construction compound, access tracks and borrow pit 1. No peat was encountered in the areas proposed for the substation compound, the battery storage area or borrow pit 2. Further access tracks (around 2 kilometres) would be floated in all areas where peat is over 0.5 metres thick. No peat should require to be excavated to create these floating roads.

58. A peat management plan has been submitted and this indicates that beneficial uses could be found for all excavated peat. The peat management plan would form part of the habitat management plan which could be secured by condition. Monitoring and inspections of peat would be carried out by an environmental clerk of works whose appointment could be dealt with by condition. There would also be oversight from the habitat management plan steering group. With embedded and additional mitigation in place, I accept that there would be no significant effects from the development either on its own or cumulatively.

59. The impact on ornithology is assessed in chapter 9 of volume I of the EIA report. I have also taken account of the consultation responses from NatureScot and RSPB Scotland. With the implementation of mitigation through the habitat management plan (which is set out in the outline habitat management plan) and monitoring, there would be no residual significant effects.

60. The Tips of Corsemaul and Tom Mor Special Protection Area lie close to the proposed development. This Special Protection Area is designated due to it being an internationally important breeding common gull colony. For that reason it is also designated as a Site of Special Scientific Interest. The boundary of the Special Protection Area and the Site of Special Scientific Interest are concurrent with each other.

61. A habitats regulation appraisal has been carried out and this is incorporated into chapter 9. I note that the common gull population in the Special Protection Area is declining. The assessment states that it is difficult to predict the future population however it is possible that it may be lost without a change in management. I note that there would be no direct habitat loss but there is potential for disturbance and displacement during the construction and decommissioning phases, and increased mortality due to collision as a result of the installation, operation and decommissioning of the development. NatureScot advised the proposal is likely to have a significant effect on the breeding common gull.

62. As the competent authority for the purposes of this appeal, I am required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interest. I note that notwithstanding that the council officer recommended that the application be approved, the council did not carry out an appropriate assessment at that

time. I have therefore relied upon the assessment in the EIA report and the advice from NatureScot.

63. The key factors requiring consideration are the potential for turbines and increased disturbance during all phases of the development to displace breeding and/or foraging common gull and the potential collision risk with turbines. I need to consider the extent to which these risks could impact the viability of the species at the Special Protection Area.

64. From the EIA report, I note that disturbance effects would be temporary and reversible and the loss of foraging habitat is approximately 0.15% of the common gulls' foraging area. The assessment also concluded that it is unlikely that collision risk would elevate to a level where it could significantly affect the Special Protection Area population. It is also extremely unlikely that aircraft warning lighting installed on turbines would exacerbate this risk. The EIA report also assessed the in combination effects. There would either be no effects or they would be negligible.

65. NatureScot concluded that the risk of significant disturbance would be avoided by the embedded mitigation and that potential breeding and foraging habitats would remain available on the site and within the wider area not affected by the proposed development. In addition it noted that the turbine collision modelling indicates a low level of risk which is not likely to impact the viability of the species within the Special Protection Area. Finally it was satisfied that the actions proposed in the outline habitat management plan are complementary and would not add to the existing pressures on the Special Protection Area population. NatureScot advised that these conclusions also applied to the Site of Special Scientific Interest.

66. Given the passage of time between its consultation response and my consideration of this appeal, I sought confirmation from NatureScot that its advice was still correct and that nothing had occurred which would lead it to a different conclusion. NatureScot confirmed that its advice was unchanged. Taking all of this together I conclude that the proposed development, alone or in combination with current plans or projects would not result in an adverse effect on the integrity of the Tipes of Corsemal and Tom Mor Special Protection Area. This also applies to the Site of Special Scientific Interest.

67. Chapter 10 of volume I of the EIA report assesses the effects on ecology. I have also taken into account the responses from NatureScot and Scottish Environment Protection Agency. No effects are anticipated on the Craigs of Succoth Special Protection Area and Site of Special Scientific Interest and the River Spey Special Area of Conservation due to their separation from the site and the fact that that the site drains to the Deveron catchment rather than the Spey. However the Markie Water is an important tributary of the River Deveron which supports populations of salmon, trout and eel. Mitigation measures are proposed within the outline habitat management plan to mitigate any impact. These would form part of the habitat management plan.

68. There may be a significant indirect effect on the blanket sphagnum bog and wet modified bog habitat at a local level. However due to its location and with careful management, this is not considered to be significant in environmental impact assessment terms. No significant impacts, direct or indirect, are predicted for ground water dependent terrestrial ecosystems. This was accepted by the Scottish Environment Protection Agency who has no concerns in this regard provided good practice is followed to avoid impacts. I consider that this could be achieved through a construction environmental management plan and monitored by the environmental clerk of works, both of which could be satisfactorily dealt with by condition.

69. There would be some disruption to badgers, bats and otters during the construction period however specific mitigation is proposed which would be incorporated in to the construction environmental management plan. With such mitigation there would be no residual significant impacts. Due to the anticipated habitat lost to the footprint of the scheme, there would be a significant effect on badger foraging habitat. This would be significant only at a local level. This would be mitigated by the compensatory habitat proposed in the outline habitat management plan.

70. There would also be an adverse significant effect on bats, again only at a local level due to the low risk of direct mortality. I note this cannot be mitigated. However its overall conservation status would not be affected. With the implementation of mitigation there would be no significant effects on otters. No cumulative effects are predicted.

71. The noise assessment contained in chapter 11 of volume I of the EIA report predicts that there would be no significant impacts due to noise from construction activities considered both individually and cumulatively, primarily due to the distance between the receptors and the site. Nevertheless mitigation is proposed to ensure that the construction noise limits would be met particularly in relation to the borrow pits. Again this could be dealt with by condition.

72. In addition the assessment predicts that the operational noise for the wind farm would meet the agreed limits. Cumulatively if the other wind farms were operating up to their consented limits, which I understand is unlikely, the noise limits would be exceeded at two receptors by up to 4 decibels in the daytime and 4.3 decibels at night. The assessment notes that this is entirely due to the exaggerated contribution from Clashindarroch which, to meet its consented noise limits, has been assumed to operate at levels significantly above the manufacturer's specified values.

73. At these levels the contribution from the development would be negligible. Even if the contribution from Clashindarroch were reduced to 5 decibels above the manufacturer's levels (which I understand is still unlikely), the noise limit would be met. Accordingly taking all this together, and also noting that the council's environmental health department has no objection to the development, I accept that no significant effects are likely.

74. An assessment of the likely traffic impacts is set out in chapter 12 of volume I of the EIA report. I have also considered the addendum produced by the appellant and the consultation response from the transportation manager, who had no objections subject to the imposition of conditions requiring further information prior to construction.

75. No significant traffic impacts are predicted on either the proposed access routes for construction and or the local road network, even assuming a worse-case scenario that all aggregate would require to be sourced from off-site rather than won from the two proposed on-site borrow pits. Details of the extent of engineering works required to create passing places on the single track road, the U94bH Burnside of Markie Road, were included in the addendum. This demonstrates that in principle access to the site could be taken along this road subject to widening in places. Further information would be required prior to construction and this could be dealt with by condition.

76. Chapter 13 of volume I of the EIA report assesses the socio-economic impacts as well as the impacts on tourism, recreation, health and land use. The socio-economic benefits are set out above. There would be no significant impact on tourism and recreation (including tourist accommodation, visitor centres, hills and core paths) health or land use.

Albeit there would be a significant visual impact on part of core path SP30, the recreational value of this path would not be affected or reduced. Some objectors have raised concerns about the impact the development would have on tourism and I deal with this below.

77. Chapter 14 of volume I of the EIA report considers a range of issues including impacts on telecommunications, aviation, shadow flicker, health and safety (including air quality) and major accidents and disasters. I have also taken the relevant consultation responses into account. With the imposition of conditions, I am satisfied that there would be no significant impacts.

78. Bringing all of the above together, following my consideration of the environmental information, I have identified only one additional significant adverse effect; the effect on bats. In relation to all other effects, I conclude that, subject to mitigation controlled by means of the conditions attached to this decision notice, there would be no unacceptable residual impacts in regard to those matters.

Compliance with the local development plan

79. Having considered the local development plan, in my view the key policy is policy DP9 Renewable Energy. Part a) applies to all renewable energy projects and states that proposals will be considered favourably where i) they are compliant with policies to safeguard and enhance the built and natural environment; ii) they do not result in the permanent loss or damage of prime agricultural land; and iii) they avoid or address any unacceptable significant adverse impacts. There is a non-exhaustive list in the policy.

80. Part a) makes it clear that in addition to those three criteria, there should also be a detailed assessment of the benefits of the proposal in particular the contribution to renewable energy generation targets, its effects on greenhouse gas emissions and net economic impact including socio-economic benefits such as employment. Part b) sets out further considerations that apply only to onshore wind turbines. There are other parts to the policy but as these apply to other forms of renewable energy I am satisfied that they have no relevance in this case.

81. Turning to part a) i) there are various policies in the local development plan which are intended to safeguard and enhance the built and natural environment. Of those of relevance, I find that the proposal would not significantly affect any European sites or nationally or locally designated sites as set out in policy EP1 Natural Heritage Designations. I have carried out an appropriate assessment and for the reasons set out above, I have concluded that the proposed development, alone or in combination with current plans or projects would not result in an adverse effect on the integrity of the Tips of Corsemaul and Tom Mor Special Protection Area or the Site of Special Scientific Interest.

82. Further as set out above I am satisfied that subject to the imposition of conditions requiring a construction environmental management plan, a habitat management plan (based on the outline habitat management plan), and the appointment of an environmental clerk of works, there would be no significant adverse effect on badgers. I accept that there would be a significant effect on bats which could not be mitigated. However this would be a localised impact and there would be no impact on its conservation status. I therefore find that the proposal would not be contrary to this policy.

83. Through the construction environmental management plan; the appointment of an environmental clerk of works during both the construction phase and decommissioning; and

the habitat management plan which would include compensatory habitat creation and restoration, I find that the proposal would also accord with policy EP2 Biodiversity.

84. There would be no significant impact on any forests or woodland. Scottish Forestry has not objected to the proposal. Where trees require to be felled to enable access to the site, compensatory planting would be undertaken, details of which require to be approved by the council, and this would be secured by condition. The proposal would therefore in my view comply with policy EP7 Forestry, Woodlands and Trees.

85. There would be no significant adverse impacts, direct or indirect, on any scheduled monument, unscheduled sites of potential national importance, any sites of any local archaeological importance, any designated battlefields, gardens or designed landscapes. There would be no impact on any conservation areas or listed buildings. Taking all of this together, and by imposing a condition requiring the development to be developed in accordance with the schedule of mitigation contained in chapter 15 of volume I of the EIA report which includes an archaeological scheme of works, I conclude that the proposal would not be contrary to policies EP8 Historic Environment; EP9 Conservation Areas; EP10 Listed Buildings; or EP11 Battlefields, Gardens and Designed Landscapes.

86. There would be no significant risk of flooding as a consequence of the development. As summarised above there would be no adverse impacts upon the water environment including ground water dependent terrestrial ecosystems. Subject to the imposition of conditions, in my view the development would comply with policy EP12 Management and Enhancement of the Water Environment.

87. As assessed in the EIA report, the development is unlikely to cause significant air, water, soil, light or noise pollution. There is no evidence before me that the site is potentially contaminated. The development would not impact upon hazardous sites. The construction environmental management plan would mitigate the risk of pollution or other impacts during construction. I find that the development would therefore accord with policy EP14 Pollution, Contamination and Hazards.

88. The Ministry of Defence has not objected to the proposal subject to the imposition of conditions. The development would therefore not be contrary to policy EP15 MOD Safeguarding. Through the design evolution, areas of deep peat have been largely avoided to ensure that there would be no unnecessary disturbance. Where that would not be possible, the use of floating track and micro-siting would further mitigate the disturbance to peat/peaty soils.

89. Information has been submitted on the storage, management and reinstatement of soils and subject to the imposition of conditions there are no objections from any of the statutory consultees. Very little of the anticipated carbon dioxide losses would come from losses from soil. In any event I consider that those losses would be outweighed by the benefits of the proposed development as set out above. Taking all this together, I find that the development would not be contrary to policy EP16 Geodiversity and Soil Resources.

90. The parties also refer to policies PP1 Placemaking, PP3 Infrastructure & Services, DP1 Development Principles, and DP10 Minerals. Having considered these policies, none of these appear to be directly relevant. In my view policy PP1 is intended to relate primarily to house building and has less relevance to renewable developments. The same applies to policy PP3 Infrastructure & Services. In relation to part b) of that policy which has some relevance, the development would not have an adverse impact on those matters listed.

91. In so far as policy DP1 is relevant, given the conclusions of the EIA report and my findings in relation to the other policies set out above, I consider that the development would not be contrary to this policy. Policy DP10 deals with borrow pits. The borrow pits would be required to allow the extraction of aggregate for use within the development. The effects of the borrow pits have been assessed in the EIA report and no significant impacts are predicted. Restoration proposals have been provided and this could be secured by condition. Taking all this together and given the anticipated benefits of the scheme I find that the development would not be contrary to this policy.

92. Bringing all this together I conclude that the proposal would be compliant with the relevant policies to safeguard and enhance the built and natural environment. Accordingly, it would meet criterion i) of policy DP9 a). In addition given the location and nature of the site, there would be no permanent loss or permanent damage of prime agricultural land. The proposal would therefore also comply with criterion ii) of policy DP9 a).

93. Turning to criterion iii) of DP9 a), other than the landscape and visual impacts described above and the significant localised impact on bats, there would either be no other significant adverse effects predicted or any effects could be sufficiently mitigated through the imposition of conditions to ensure that the residual effects would not be significant. As for the significant impact on bats, the impact would be localised and would not affect its conservation status. I therefore conclude that although significant, the impact would not be unacceptable. As for the landscape and visual impacts, I deal with that below and conclude for the reasons set out there that they would not be unacceptable. The benefits are summarised above. Bringing all this together, I conclude that overall the development would not be contrary to part a) of policy DP9.

94. Turning to part b) of policy DP9, in terms of the spatial framework, the site is located within an area with potential where proposals are likely to be acceptable subject to detailed consideration. I have commented on this further above. Detailed consideration requires site specific consideration of the landscape and visual impact, cumulative impact, impact on local communities, and other matters which in the main are already dealt with in part a) iii) of the policy.

95. I have already assessed the landscape and visual impact. It is inevitable that there would be some significant landscape and visual effects given the nature of the development. However the proposal has been modified and designed to avoid or reduce these as set out chapter 4 of volume I of the EIA report and the design and access statement. Given the limited nature of the impacts and their localised extent I find that the significant adverse impact on the landscape character and the visual impacts would not be unacceptable. That finding would also suggest that overall the landscape is capable of accommodating the development and that the development is of an appropriate scale.

96. Considering the A920 as a whole, visibility of the wind farm would not be continuous. There would be considerable sections where the wind farm would not be visible at all. From the figures, those sections appear to be of a similar overall length to those from which the wind farm would be visible. Further from my experience, I find that the view of the wind farm would not always be in the main view. It would often be in oblique views and perhaps more noticeable to passengers rather than to the driver of a vehicle.

97. Although the wind farm would be visible I do not consider that overall it would dominate the views when travelling along this route or detract from its scenic qualities, given the vastness and openness of the views and the landscape. Although I accept that

the impact would be significant in environmental impact assessment terms, for these reasons I do not consider that it would be unacceptable.

98. Similarly although the impact on part of core path SP30 would be significant, given the extent of the views and that the main views are across the Cabrach towards The Buck and that the Clashindarroch wind farm is visible, I again find that the effect would not be unacceptable.

99. The cumulative impacts have been assessed within the EIA report. Although there would be some significant cumulative impacts due to the development, which reflect the significant impacts of the development on its own, these again would be relatively limited in nature due to the location and scale of the development.

100. As detailed above there would be no unacceptable significant impact on communities or local amenities. There would be no impact on aviation or defence. All other likely impacts have been assessed and I comment on those above. Through the imposition of conditions there would be appropriate provision for decommissioning and restoration. Bringing all of this together I conclude that the proposal would overall accord with policy DP9 part b).

Overall conclusion on the development plan

101. The site is within an area identified in the local development plan as having potential for wind farm development where proposals are likely to be acceptable subject to detailed consideration. Having carried out that detailed consideration against the policies of the local development plan and considered the environmental effects of the proposal, subject to the proposed mitigation which would be secured by condition, the only significant impacts would be in relation to landscape and visual impacts and bats.

102. However these would be localised and limited in extent and for the reasons set out above I do not consider that they would be unacceptable. Further balancing those impacts against the overall benefits of the scheme, I consider that the overall benefits, albeit relatively small, would outweigh them. Accordingly I conclude that overall the development would accord with the development plan.

Material considerations

Energy policy

103. The appellant's planning statement summarises the international and national energy policy. Energy policy is also referred to by the council and in some of the representations. I accept that there is broad support for renewable energy proposals.

National Planning Policy

104. The National Planning Framework 3 is supportive of renewable energy development but is also concerned with supporting development in the right locations. In November 2021, the Scottish Government published a consultative draft of Scotland 2045 - Our Fourth National Planning Framework. The consultation period has ended but the final document has not yet been published. As it has not yet been adopted, it is not part of the development plan but it is a material consideration.

105. The aim of achieving net zero emissions by 2045 is a key driver and sets the context for the framework. Onshore wind farms of or exceeding 50 megawatts are identified as national developments. It is not suggested that the proposal is a national development, however the appellant drew my attention to the accompanying text which makes it clear that a large increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions. From this and the other sections for the draft referred to by the appellant, I accept that there is inherent support for the development.

106. I note the terms of policy 19 which sets out detailed proposals for green energy. Importantly it states that development proposals should be supported unless the impacts (including cumulative impacts) are unacceptable. Given that I have concluded, for the reasons set out above, that the impacts would not be unacceptable, this would lead me to conclude that the proposal would draw support from this policy.

107. I am mindful however that this draft document has been the subject of public consultation and will be subject to parliamentary scrutiny. It is likely that it will change as a result of the consultation process. The parliamentary scrutiny may result in further amendments. Although I consider that the overall direction is unlikely to change between the draft and finalised version given the declared climate emergency, as the document is still a draft I consider that I can only give it limited weight.

Scottish Planning Policy

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

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

- as set out above, the development would create economic benefits in terms of construction investment and employment both in the local area and nationally. There would also be economic benefits during the operation of the wind farm and during decommissioning albeit these would be on a lesser scale.
- The EIA report refers to the Moray Economic Strategy 2018-2028 by the Moray Economic Partnership. While useful context, it is not suggested that the proposed development would respond directly to the economic issues, challenges and opportunities outlined in that strategy.
- although the principle of supporting the six qualities of successful places is largely irrelevant given the type of development, from my conclusions above, I consider that although the proposed development would have some significant landscape and visual impacts, these would be relatively limited due to the siting of the wind turbines and the immediate surrounding landform which would mitigate the impacts. However those significant impacts could not be mitigated. That said for the reasons given above, I do not consider that these impacts would be unacceptable.
- an existing minor road would be used and upgraded to access the site. Other than that no existing capacities of land, buildings and infrastructure would be used.

- the proposal would not support the delivery of accessible housing, business, retailing and leisure development.
- the development would not support the delivery of any infrastructure.
- clearly the generation and delivery of renewable energy would support climate change mitigation. There would be no significant flood risk as a result of the development.
- there is no evidence to demonstrate that it would improve health and well-being by offering opportunities for social interaction and physical activity including sport and recreation.
- the site is not prime agricultural land and is not designated. Following the works, parts of the site, including the proposed borrow pits and peat which had been removed, would be reinstated. This would be secured by condition.
- although there would be no significant impact on cultural heritage assets, in my view the development would not protect, enhance or promote access to cultural heritage.
- there would be a requirement to prepare an access management plan, however I do not consider that overall the development would protect, enhance or promote access to natural heritage.
- it would not help to reduce waste.
- given its limited landscape and visual impacts, I consider that the development would not be over-development and overall I find that it would have no significant adverse impact on the amenity of new and existing development. From the EIA report, I accept that there would be no significant impacts on water, air or soil quality.

110. Given the nature of the development, I acknowledge that not all of the principles are directly relevant. Nevertheless having taken that into account, I find that other than generating renewable energy, the contribution that the proposed development would make to sustainable development would be, at best, neutral.

111. Scottish Planning Policy also sets out guidance on onshore wind developments. Overall the policy is generally supportive of renewable energy developments subject to detailed consideration against identified policy criteria. Paragraph 169 identifies the likely factors to be considered when assessing renewable energy proposals. There is some overlap with the sustainability principles at paragraph 29 however the ones in paragraph 169 are specific to renewable energy proposals and in my view have more direct relevance. Having regard to these I find as follows:-

- as set out above, there would be economic benefits. The proposed development would create jobs both at a national and local level during construction and to a lesser degree operation and decommissioning. There would be benefits for local business and supply chains.
- as summarised above, the proposal would have an installed generating capacity of up to 46.2 megawatts with a generation of around 142 gigawatt hours of renewable electricity per year.

- there would be an annual saving in the region of 63,175 tonnes of carbon dioxide per year.
- there would be some significant cumulative impacts due to the development, which reflect the significant impact of the development on its own. However in my view these again would be relatively limited in nature due to the location of the development.
- there would be no significant impacts on any community or individual dwelling such as to render any of the properties as unattractive or an unsatisfactory place to live. There were several objections from local residents. I comment on these further below. Given the conclusions of the EIA report, I accept that there would be no significant noise impact nor shadow flicker. The issue of amplitude modulation has been raised and I deal with that below at paragraphs 118-120.
- as set out above, I have found that there would be significant landscape and visual impacts although they would be localised and limited in extent.
- There would be a significant effect on bats, at a local level, as set out above. However there would be no other significant effects on natural heritage, including birds. NatureScot has not objected to the proposal. A habitats regulation assessment was carried out. I have carried out an appropriate assessment and for the reasons set out above I have concluded that the proposed development, alone or in combination with current plans or projects would not result in an adverse effect on the integrity of the Tiers of Corsemaul and Tom Mor Special Protection Area. The same conclusion applied to the Site of Special Scientific Interest.
- it is estimated that as a result of the construction, around 77,556 tonnes of carbon dioxide is likely to be lost however only 3,762 tonnes of this is expected to be losses from soil. There would also be a small carbon gain (but not enough to offset the losses) due to the restoration of peat from the borrow pits.
- there would be a significant sequential visual impact on travellers along the A920 which is designated as a scenic route in the landscape capacity study but not in the National Planning Framework. There would be a localised visual impact on those walking up The Scalp however I am not convinced it would deter walkers from using that route given the panoramic views at the summit. I have found that there would not be a significant impact on those walking up Ben Rinnes. There would be a significant visual impact on part of core path SP30 but I accept that this would not significantly affect its recreational value. There would be no other significant effects on any long distance walking or cycling routes. Further public access to walking and cycling routes would not be prevented or restricted.
- As set out above, there would be no significant impact on the historic environment. Historic Environment Scotland has not objected to the proposal.
- I do not consider that the effects of the development would deter tourists from visiting the area or from using the A920 into Moray from Aberdeenshire. As set out above, I accept the assessment in the EIA report that there would not be a significant impact on tourism and recreation. I comment on this further below in response to the objections.

- there would be no impact on aviation and defence interests and seismological recording. There is no objection from Aberdeen International Airport. Further there is no objection from the Ministry of Defence, subject to the imposition of conditions. There would be no impact on telecommunications and broadcasting installations
- there would be no significant impact on road traffic or on any adjacent trunk roads. Any issues could be dealt with by condition.
- no significant effects on hydrology, the water environment or flood risk are predicted.
- conditions have been agreed between the parties to address decommissioning and site restoration. No planning obligation would be required.
- the development would include 3 megawatts of energy storage.

112. Taking all this together, I find that the proposal would make a positive contribution to the generation of renewable energy and would contribute to the reduction of greenhouse gas emissions. It would make a positive contribution towards meeting net zero targets and contribute to the local economy. Although these would be a relatively small contributions, the significant adverse impacts would be limited and in my view would be offset by these benefits. Having assessed it against the considerations at paragraph 169, in my view the proposed development would draw support from Scottish Planning Policy.

Representations

113. Aberdeenshire Council did not object to the application however it did raise significant concerns particularly in relation to landscape and visual impacts and impact on archaeology. I consider that I have dealt with these above.

114. There were representations to the application from members of the public both in support and opposing it. Further representations were made to me as part of the appeal. One party withdrew its original objection. In so far as the objections raise relevant considerations I comment as follows.

115. Many are concerned about the effect on the natural environment in particular Glen Markie. I have dealt with this above. I accept that there would be a significant impact on Glen Markie. I have also dealt with the impact on the A920 scenic approach to Moray above.

116. There are concerns about the height of the proposed development. I have imposed two conditions, one to specify the height of the turbines and one requiring all of the dimensions of the turbines to be approved by the council prior to construction to ensure that the environmental impacts would be no worse than as assessed in the EIA report. I comment on this further below.

117. Objectors are concerned about the effect on residential amenity including loss of privacy, views being affected, noise, and shadow flicker. Given the distance between the development and properties, I do not consider that there would be any loss of privacy. I accept that from some viewpoints the view would clearly change. However while I understand that some local residents may not welcome this development, in planning, views are not protected. In any event, there would be no significant impact on the residential amenity of any property. I comment on noise and shadow flicker above. I have imposed conditions to deal with both these matters.

118. A couple of objectors have raised concerns about the likelihood and impact of amplitude modulation given their current experience of existing wind farms. To understand the issues, I sought further information from these objectors and also from the council and the appellant. I also visited the property which I understand is currently affected by amplitude modulation.

119. My understanding having considered the submissions from the parties and The Wind Turbine AM review phase 2 report (August 2016) is that the likely occurrence of amplitude modulation cannot be predicted at the planning stage. This is not disputed. That being the case, there is simply no evidence to demonstrate whether amplitude modulation would or would not be an issue.

120. There is evidence that one objector is currently experiencing amplitude modulation from the operation of Dorenell wind farm. That is a separate matter to my consideration of this appeal and I therefore comment no further on it. It is not clear whether the same conditions could arise in respect of the proposed development that would lead to amplitude modulation. Taking all this together, I do not consider that it is possible based on the evidence before me for me to conclude definitively either way. Although I do not doubt that the effects of amplitude modulation may have an adverse effect on those affected by it, I consider that it could be satisfactorily dealt with by a condition.

121. Concerns were also raised about road access, road safety and traffic. Given the findings of the EIA report and subject to the imposition of conditions I am satisfied that there would be no significant adverse impact. I have dealt with the impact of aviation lighting above as well as the effect on telecommunications.

122. There is a concern about the proposed borrow pit at Newton of Glenmarkie. Its location was assessed in the EIA report. I note that the proposed search area locations would have a low landscape sensitivity and very limited visibility of the surrounding area. I appreciate that an objector has a personal connection to the area however the borrow pit would be restored. A reinstatement plan would be required to be submitted for approval. The EIA report notes that this could include opportunities for environmental enhancement.

123. Given the relatively limited impacts of the scheme I find that there would not be over-development of the site. There have been several iterations of the design all as set out in the EIA report and the design and access statement. Again given the limited impacts, I do not consider that it would be reasonable to conclude that the design is poor. I have dealt with the cumulative impacts above. Although it is not for me to comment on whether there are too many turbines in the area, I deal with the cumulative impacts above.

124. The construction environmental management plan and construction method statement together with the conditions below should help to minimise activity at unsocial hours. Antisocial behaviour is not something I can control or manage as part of the planning process; that is for individuals. Some are of the view that the plans are inadequate. None of the statutory objectors have raised this as a concern nor did the council. Having considered the EIA report and accompanying figures I am satisfied with the plans.

125. I have considered the impact of the development on Auchindoun castle above. Concerns were raised about the impact on elevated images of the castle. While I accept that in some elevated images it is possible that the wind farm would be visible, that does not necessarily mean that the integrity of the setting of the castle or the ability to appreciate or understand it would be adversely affected which is what I am required to consider.

126. Concerns have been raised about honesty and integrity in the processes; inadequate information about the grid connection; and future expansion. While I recognise that local residents may be concerned about these issues, these are largely irrelevant to my consideration of the appeal before me. Any consents required for the grid connection and any additional turbines would be considered at the appropriate juncture. That consideration may also require consideration of the likely impacts.

127. Concerns are also raised about tourism generally and specifically to the Cabrach. A range of tourism impacts and interests have been assessed in the EIA report. There is nothing to suggest that the proposed development would deter tourists to the area with a consequential impact on holiday letting and other local businesses.

128. I recognise that the Cabrach Trust has regeneration ambitions for the area. I visited the site which I understand would be the location of the proposed distillery and heritage centre. It is situated lower than the minor road of the A941 where viewpoint 3 is located. From what I saw on my site inspection and having regard to the zone of theoretical visibility, I consider that it is unlikely that the wind turbines would be visible. It seems to me that the centre would be a tourist destination in itself and therefore I am not persuaded that the development is incompatible with the Cabrach Trust's aspirations. In any event, there is no detailed evidence before me which would cause me to reach a different conclusion to that in the EIA report in relation to tourism.

Conditions

129. The council set out a list of proposed conditions in its report of handing. The appellant commented on these in its appeal submission. The council responded and the appellant made further comments. I also requested further clarification and views on a number of the proposed conditions from various parties including the council, the appellant, the Scottish Environment Protection Agency, NatureScot and some third party objectors.

130. Having considered all of this I have imposed 29 conditions. These are based on the conditions proposed by the council however I have made some substantive amendments to these and imposed two additional conditions. I have also made various other changes to the proposed conditions to ensure consistency in terminology, to avoid repetition, and to reflect the fact that this is a planning permission rather than a consent under section 36 of the Electricity Act 1989.

131. There is no change to condition 1 which is as proposed by the council. I have deleted condition 2. I agree with the appellant that as planning permission runs with the land, unlike section 36 consents, such a condition is not necessary and therefore would fail to meet all of the tests of circular 4/1998 The Use of Conditions in Planning Permissions.

132. I have added a new condition 2 to deal with the expiry of planning permission. This was requested by the appellant. The council did not object. Given the number of conditions that would require to be discharged prior to the commencement of development, I consider that it is necessary and reasonable that the period for commencing development is five years rather than the prescribed period of three years.

133. I have also imposed a new condition 3 which specifies the height of the turbines as this is not included in the description of the development. The Cabrach Trust and the Cabrach Community Association had requested a further condition specifying the hub height, blade length and blade tip height. They suggested that this is necessary as

changing the ratio of the hub height and blade length within an overall height limit of 190 metres raises the potential for different visual and landscape effects. The council advised that if the hub height and blade lengths varied significantly from those used in the landscape and visual impact assessment process, that could have differing impacts. It also noted that different dimensions could impact on abnormal load assessments if components were longer than modelled.

134. While tip height is an important factor in landscape and visual assessment terms, I accept that significantly different proportions may lead to different impacts. That said I recognise that stipulating the turbine proportions could restrict the appellant's ability to procure the required turbine. The key in my view is that the environmental impacts would be no worse than as assessed as part of the application based on the candidate turbine.

135. I consider that the council's proposed condition 3 goes some way to doing that. Accordingly rather than imposing a separate condition as sought, I have amended the council's proposed condition 3 to make it more explicit and imposed it as condition 4. I acknowledge that this does not go as far as the condition proposed by The Cabrach Trust and the Cabrach Community Association but I consider that it achieves the same effect. I am content for the reasons set out above that the condition is both reasonable and necessary.

136. I have imposed conditions 5 and 6 which reflect the council's proposed condition 4. The appellant requested that the original condition 4 be split as it may be that the substation and the battery storage facility would be constructed at different times. The council is content with this amendment. I agree that it is appropriate to impose two separate conditions.

137. Condition 7 is based on the council's proposed condition 5. The appellant suggested that the information required at (a) and (e) (now (f)) of the condition would only require to be submitted prior to the delivery of any abnormal indivisible load components. This is acceptable to the council. However I consider that all of the information would be required prior to the commencement of the development to ensure that there would be no issues in respect of these matters before any works are undertaken. Accordingly I have imposed the condition with the original trigger as proposed by the council.

138. I have also added further details to reflect what were previously informatives as I consider this is necessary to ensure that the condition is sufficiently precise. I had asked the parties for their views as to whether this condition requires to state that there should be consultation with Transport Scotland and Aberdeenshire Council. However on reflection I consider that that would be a matter for the council when it comes to the discharge of this condition.

139. Condition 8 reflects the council's proposed condition 6. I have incorporated into that condition the council's proposed condition 7. I have imposed an additional condition, condition 9, to ensure that reinstatement of temporary overrun areas is undertaken. This was originally dealt with as an informative however I consider that a condition is necessary to ensure that the environmental impact of these overrun areas would be properly mitigated and can be properly enforced by the council. The council agrees that such a condition is necessary.

140. Condition 10 in the main reflects the council's proposed condition 8 which is acceptable to the appellant. For precision and to ensure that the monitoring requirements are sufficient I have amended (a) (i) to include references to the construction environmental

management plan and the habitat management plan as these would also set out additional mitigation measures. I have also amended (a) (ii) following clarification from the council. Finally I have imposed a requirement on the environmental clerk of works to attend frequent meetings as envisaged in the outline habitat management plan and to be detailed in the habitat management plan. Condition 11 reflects the council's proposed condition 9.

141. I have incorporated the council's proposed conditions 10 and 11 into one condition and these are now reflected in condition 12. Having considered the views of those parties who responded to my request for further written evidence, I have concluded that both the constitution and the remit of the habitat management plan steering group would be a matter for the habitat management plan however the condition sets out as a minimum the parties that should be on the steering group. Finally the plan should expressly set out how changes to the plan would be made and approved.

142. I have made other changes to make the condition more precise and enforceable as in my view what was proposed, while it reflected the consultation response from the Scottish Environment Protection Agency, was a series of statements rather than enforceable requirements. Finally the reason for condition 12 has been amended as requested by the appellant and agreed with the council. I consider that this better reflects the purpose of the condition.

143. Condition 13 reflects the council's proposed condition 12 with the addition of f) which was originally included in the council's proposed condition 11 but fits better within this condition. Condition 14 reflects the council's proposed condition 13. I have not incorporated the informative provided by the council into the condition nor have I added it as an informative as I do not consider that either is necessary. I consider that the content of the access management plan would be a matter for consultation as envisaged in the condition.

144. Condition 15 reflects council's proposed condition 14 other than the last sentence which has been incorporated into condition 7 (see part e)). This would cover the Scottish Environment Protection Agency's requirement for a condition in respect of floating track as this is a specific mitigation measure in chapter 15 of volume I of the EIA report.

145. Condition 16 is based on the council's proposed condition 15. Paragraph a) has been amended in accordance with the appellant's suggested wording (and agreed by the council) other than in respect of the proposed construction hours, which the council did not agree to. The EIA report assumed for the purposes of assessing the environmental impacts that construction activities on site would only take place between 07:00 and 18:00 Monday to Friday. I do not consider that it would be appropriate to change the proposed working hours by condition.

146. Given my conclusions above at paragraphs 118-120 above in respect of amplitude modulation, I consider that a condition is necessary to deal with this to ensure that there is a proper process in place to deal with any impacts that may arise should amplitude modulation occur. The council had proposed a condition, condition 18. However I do not consider that this is sufficient given the concerns of the local residents. I asked parties to provide a suitably worded condition. Both parties suggested similar but slightly different conditions.

147. I have considered both. The council's version was based on another wind farm permission and therefore it is not clear how applicable all parts of the condition would be to this case. I have therefore imposed the condition suggested by the appellant as condition

17. This deals with both noise immissions and amplitude modulation. I have also incorporated the guidance notes which were in the informatives. Condition 18 reflects condition 17 proposed by the council. However I noted that while the condition referred to the first year of operation, the reason referred to commissioning. I consider that the appropriate time to measure noise immissions would be during the first year of operation when all of the turbines would be operating as expected. I have therefore amended the reason for the condition.

148. Condition 19 reflects the council's proposed condition 19 which was required by Environmental Health. Condition 20 in the main reflects the council's proposed condition 20. I have amended it to ensure that that the buffer zones would be adequately surveyed prior to micro-siting. This is a requirement set out in the consultation response from the Scottish Environment Protection Agency. Condition 21 reflects the council's proposed condition 21 however the informative which reflected the advice from the Scottish Environment Protection Agency has been incorporated into the condition.

149. The appellant and the council both indicated that the council's proposed condition 22 regarding shadow flicker should be deleted as it was unnecessary. However paragraph 14.54 of the EIA report states, that whilst no significant impacts are predicted, there may be some impact on one property albeit that property is currently unoccupied. Given that conclusion, I have retained this condition, condition 22, as I consider that it is necessary should the property be inhabited at some point during the operation of the wind farm, even if that is unlikely.

150. Condition 23 is the council's proposed condition 23 although I have added a requirement for the restoration plan to be implemented. Condition 24 is the council's proposed condition 24. Conditions 25 and 26 are those required by the Ministry of Defence as set out in its consultation response. Condition 27 reflects condition 27 proposed by the council. This did not reflect the Scottish Environment Protection Agency's requirements as set out in its consultation response. I therefore asked the parties for clarification. The Scottish Environment Protection Agency confirmed that it agreed with the condition as proposed by the council. The appellant raised no concerns.

151. Condition 28 is the council's proposed condition 28. Finally given my conclusions above on the visual impact of aviation lighting I consider that condition 29, based on the council's proposed condition 29, is necessary. I have amended it to ensure that it is the lighting scheme as a whole that is approved by the council and that it is based on the lighting strategy in the EIA report which includes the use of directional lighting with a focused narrow horizontal beam of light which, given the conclusions of the night time assessment and the further written evidence from the appellant, I consider is necessary to avoid significant impacts.

152. The conditions provide for monitoring measures where appropriate. In condition 7 I require a construction traffic management plan which requires a programme of monitoring for all routes. At condition 10 I require the appointment of an ecological clerk of works, who would have responsibility for monitoring ecological mitigation measures relating to the proposed development. In addition at condition 12 I require an ecological clerk of works during decommissioning who would monitor ecological mitigation measures during decommissioning and restoration.

153. A habitat management plan steering group would be established in accordance with condition 12 which would require those parties to monitor compliance with the habitat management plan during the life of the development. A construction environmental

management plan is also required and this would incorporate those monitoring measures envisaged in chapter 15 of volume I of the EIA report. Noise monitoring may also be required in terms of conditions 17 and 18. There is no evidence to suggest that any other monitoring measures are required.

Overall conclusions

154. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions. I am satisfied that my reasoned conclusions on the significant effects of the proposed development are up to date.

Trudi Craggs

Reporter

Schedule 1: Conditions

1. Length of planning permission

Unless otherwise agreed in writing with the planning authority, the permission hereby granted shall endure for a period no longer than 35 years from the date of final commissioning, after which the development shall cease to export electricity to the national grid, and shall be decommissioned in accordance with the details otherwise approved elsewhere within this planning permission. The date of final commissioning shall be as informed to the planning authority in writing or 18 months from the date of this planning permission, whichever is the sooner.

Reason: to avoid uncertainty and ensure that the permission is implemented within a reasonable period, and to allow the planning authority to monitor compliance with the other conditions imposed.

2. Expiry of planning permission

This planning permission will lapse on the expiration of a period of five years from the date of this planning permission, unless the development has been started within that period.

Reason: to apply a reasonable time limit for the implementation of the planning permission

3. Height of Turbines

For the avoidance of doubt, the maximum height of the turbines hereby approved is 190 metres to blade tip.

Reason: to ensure that the development is carried out in accordance with the approved details.

4. Turbine details

No turbines shall be erected on the site until the definitive type/model of all turbines including details of the hub height, blade length and blade tip height, external finishes and colour, together with any further assessments as may be required in order to demonstrate

to the reasonable satisfaction of the planning authority that the turbines conform to the impacts of the candidate turbine assessed in the EIA report, have been submitted to and approved in writing by the planning authority. The approved details shall be implemented.

Furthermore:-

- a) all wind turbine blades shall rotate in the same direction;
- b) no part of the development shall display any name, logo, sign or other advertisement other than as specified in the application, unless approved in advance in writing by the planning authority or if required by law; and
- c) the wind turbines shall be constructed and operated in accordance with the approved details and shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the development is decommissioned.

Reason: to ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the EIA report and in the interests of the visual amenity of the area.

5. Substation

No construction of the substation or compound shall commence until final details of the external appearance, dimensions, surface materials and boundary treatment of each, including the means of foul water disposal and water supply have been submitted to and approved in writing by the planning authority. The sub-station and compound (including associated infrastructure) shall thereafter be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the sub-station and the compound forming part of the development conform to the impacts assessed in the EIA report and in the interests of visual amenity.

6. Battery Storage facility

No construction of the battery storage facility shall commence until final details of its external appearance, dimensions, surface materials and boundary treatment, including the means of foul water disposal and water supply have been submitted to and approved in writing by the planning authority. The battery storage facility (including associated infrastructure) shall be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the battery storage facility forming part of the development conform to the impacts assessed in the EIA report and in the interests of visual amenity.

7. Transportation

Prior to the commencement of any part of the development, the following must be submitted to and approved in writing by the planning authority in consultation with the roads authority:

- a) detailed proposals for undertaking trial runs and also delivery of abnormal indivisible loads. Details must include, measures proposed to protect the public road and structures, traffic management (including temporary waiting restrictions), vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e. outwith school arrival and departure times.

b) evidence that a construction traffic management plan (CTMP) has been completed and signed by both the developer and the roads authority. The CTMP must cover the duration of the development and include methods of dealing with large and abnormal delivery vehicles. The plan shall also include the methods of marshalling and manoeuvring at junctions on the public road network, any temporary traffic waiting restriction requirements, all modifications to the road network and traffic management arrangements, routes for deliveries to and from the site, and routes which must not be used by development traffic (construction or staff) to access the site. A programme of monitoring for all routes identified in the CTMP during construction will be required.

c) evidence that a wear and tear agreement between the developer and the roads authority has been completed and signed by both parties. The wear and tear agreement must include a condition survey of the network undertaken jointly by the developer and a representative from the roads authority. The survey must include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition, the wear and tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the roads authority.

d) evidence shall be provided to confirm that a bond or other financial security has been agreed by the developer and the roads authority and put in place to cover the construction period of the development and to be called upon in the event that the developer fails to meet its obligations under the wear and tear agreement to maintain the road in a safe condition during the construction phase of the development and to restore the road to its original predevelopment condition within 1 year of the completion of construction or the development becoming operational, whichever is the earlier. The bond/security shall relate to the full extent of the U94bH Burnside of Markie Road within the Moray Council area and is required to mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

e) detailed plans (1:200 minimum) of all temporary and permanent works proposed to the public roads including details of any works required to listed structures and any other heritage assets affected by deliveries to the development. Details for any areas of road widening and new passing places must also include drainage details to accommodate the additional road surface area. Specific trees to be removed to accommodate the road widening and passing places on the public road network leading to the site should also be identified. Details of where an equivalent number will be planted should also be included.

f) detailed plans (1:200 minimum) of all works to accommodate the proposed abnormal indivisible deliveries. Details for any areas of road widening and new passing places must also include drainage details to accommodate the additional road surface area. Specific trees to be removed to accommodate the road widening and passing places on the public road network leading to the site should also be identified. Details of where an equivalent number will be planted should also be included.

Thereafter, the development shall be completed in accordance with the approved details and plans.

Reason: to ensure that the development is acceptable in road safety terms and to mitigate the environmental impact.

8. Road works

Prior to the commencement of construction and deliveries, including any abnormal indivisible loads, all suspensive works approved through condition 7 must be completed in accordance with the approved details and plans. Any works undertaken are to be permanent for the duration of the operation of the development unless otherwise agreed in writing with the planning authority in consultation with the roads authority.

On completion of the works but prior to the commencement of deliveries, including any abnormal indivisible loads, abnormal load trial run(s) must be undertaken to confirm the works are acceptable and to identify any other restrictions not previously addressed and the frequency and location of abnormal load passing places/oncoming vehicle holding areas required. Representatives from Moray Council Transportation (Traffic), Aberdeenshire Council and Police Scotland must be invited to the trial run. Thereafter, the development shall be completed in accordance with the approved details and plans.

Reason: to ensure that acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

9. Temporary over-run areas

Prior to completion of the development, all areas of temporary over-run must be reinstated to an appropriate standard.

Reason: to ensure restoration at the end of the construction period to mitigate the environmental impact.

10. Environmental Clerk of Works

a) No development shall commence until the planning authority has, in consultation with NatureScot, approved in writing the terms of the appointment of an independent environmental clerk of works (ECoW). The terms of appointment shall:

i. impose a duty to monitor compliance with the mitigation identified in chapter 15 Schedule of Mitigation of volume I of the EIA Report; the construction environmental management plan; and the habitat management plan;

ii. require the ECoW to report to the developer's nominated construction project manager and the planning authority any incidences of noncompliance with the mitigation measures referred to at i) above at the earliest practical opportunity;

iii. require the ECoW to direct the micro-siting and placement of the turbines, buildings, tracks, hardstanding, and other ancillary infrastructure in accordance with the micro-siting condition;

iv. require the ECoW to submit a monthly report to the planning authority summarising works undertaken on site and incidents of micro siting;

v. require the ECoW to advise on adequate protection of nature conservation interests on the site and be responsible for checks for protected species before and during construction; and

vi require the ECoW to attend frequent meetings as set out in the habitat management plan.

b) The ECoW shall be appointed on the approved terms prior to the commencement of development, throughout any period of construction activity and during any period of post construction restoration works.

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

11. Environmental Clerk of Works (Decommissioning)

No later than six months prior to decommissioning of the development or the expiration of this permission (whichever is the earlier), details of the terms of appointment of an independent environmental clerk of works throughout the decommissioning, restoration and aftercare phases of the development shall be submitted in writing to the planning authority for approval in writing. The environmental clerk of works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

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

12. Habitat Management Plan

Prior to the commencement of development and further to the mitigation and enhancement contained within the outline habitat management plan hereby approved, a consolidated and detailed habitat management plan must be submitted to the planning authority for approval in writing, incorporating:-

- a) the constitution of the habitat management plan steering group, including as a minimum the developer, the landowner, NatureScot, and the Deveron, Bogie and Isla Rivers Trust;
- b) the remit of the habitat management plan steering group including how changes to the plan will be made and approved;
- c) a fishery management plan including additional baseline electrofishing and kick sampling to be conducted before, during and two years post construction;
- d) frequent site meetings with the ECoW appointed in accordance with condition 10 pre-construction, during and on completion of construction;
- e) consolidation of the proposed ornithological mitigation with existing agrienvironmental management schemes already in place particularly in relation to wading birds and peatland restoration;
- f) further investigation and implementation of measures to reduce the required excavation in construction of crane hardstandings. This may be by adoption of alternative construction methods or other means;
- g) the construction programme duration which is likely to be 12 to 18 months;

h) a peat management plan including details of alternatives to stripping the shallow peaty layer in the temporary construction compound; active intervention measures to promote swift revegetation including details of the slope and how the hydrology of the reinstated peat will be addressed and monitored; water table depth and resulting soil pore space saturation which will require monitoring and active intervention if the water table is lower than required; and

i) blanket bog restoration: further details of location, methods, materials, monitoring and aftercare in relation to blanket bog restoration required.

Thereafter, the development shall be completed in accordance with the approved details. No development shall commence unless and until the habitat management plan steering group has been established.

Reason: to minimise potential impacts on fish fauna, birds and peat and to ensure the appropriate management of peat habitats and reuse of peat.

13. Drainage

Unless otherwise agreed with the planning authority in writing, a finalised drainage impact assessment, showing the following must be submitted to and approved in writing by the planning authority (in consultation with Moray Flood Risk Management Team) prior to completion of all water crossing and turbine foundation pads. The drainage impact assessment should be based upon the designed drainage mitigation contained in Chapters 8 and 15 of volume I of the EIA report and detail the following:

a) plans submitted with the definitive track and turbine pad layout of the drainage system for both the construction phase and the final site layout once micro-siting allowances have been made;

b) the drainage system should be designed to a 1:30 year return period (including 35% climate change), without surcharging, if attenuation is used the system must drain completely within 24 hours;

c) demonstrate that the post development run-off rate does not exceed the predevelopment run-off rate, or increase the risk of flooding to the surrounding land;

d) confirm that drainage is not redirected to allow surface water draining from one catchment to drain into a different catchment either at construction phase or completion;

e) instead of the culverts shown in Figure 3.5 'Typical Watercourse Crossing' of the EIA report, watercourse crossings to be oversized, bottomless arched culverts or traditional style bridges are to be used; and

f) the Deveron District Salmon Fishery Board are to be consulted on any instream works before work progresses and specifically on the design of all waterway crossings.

Reason: to ensure all the necessary flood prevention measures are in place and to ensure that protection of the water environment is maintained throughout the construction, operation and decommissioning of the development.

14. **Access Management Plan**

Prior to commencement of development an access management plan must be submitted to and approved in writing by the planning authority in consultation with the Moray Access Manager and the Moray Local Outdoor Access Forum. Thereafter the approved access management plan shall be adhered to and implemented within the timescales set out.

Reason: to ensure that public access is secured throughout the life of the development.

15. **Construction Environmental Management Plan**

No development shall commence until a construction environmental management plan, incorporating a construction method statement and the proposed precautions and mitigation detailed in chapter 15 Schedule of Mitigation Table 15.1 of volume I of the EIA report, has been submitted to and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency.

Reason: to ensure all the necessary mitigation measures as set out in the EIA Report are implemented properly.

16. **Construction Hours**

a) Construction work shall only take place on the site between the hours of 0700 to 1800 on Monday to Friday inclusive and 0700 to 1300 on Saturdays, with no construction work taking place on a Sunday or on national public holidays or bank holidays. Outwith these specified hours, development on the site shall be limited to concrete pouring if started within those hours, turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority. The developer shall notify the planning authority of such works if carried out outside the permitted hours within two working days of their occurrence.

b) Heavy Goods Vehicles (HGV) movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 0700 to 1900 Monday to Friday, and 0700 to 1600 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays or bank holidays unless otherwise agreed in writing by the planning authority.

c) Turbine delivery may be made out with these construction hours, where necessary, and as agreed in writing in advance with the planning authority.

For the avoidance of doubt the public holidays or bank holidays are detailed as follows:

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January;
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January;
- Good Friday;
- The first Monday in May;
- The first Monday in August;
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day;
- Christmas Day, if it is not a Sunday or if it is a Sunday, 27th December; and
- Boxing Day, if it is not a Sunday or, if it is a Sunday, the 27th December.

Reason: to ensure that construction activity minimises the impact on surrounding neighbours.

Table 2: Coordinate locations of the dwelling listed in Table 1

LOCATION	Easting	Northing
Easter Braetown	339688	839028
Wester Braetown	339423	838865
Dumeath	342236	837129
Backside Farm	341085	836165
Ballochford	336007	833656
Bellcherrie	340060	834097

Note to Table 2: The geographical coordinate references are provided for the purpose of identifying the general location of the dwelling to which the noise limits apply.

Guidance notes for noise condition

These notes are to be read with and form part of the planning condition on noise. The measured data is to be split into bins as described below. The rating level in each bin is the arithmetic sum of the wind farm noise level, any tonal penalty applied in accordance with Note 3 and any AM penalty applied in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI). IOAGPG is "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" or any update of that report current at the time of measurement. The IOA Metric is "A Method for Rating Amplitude Modulation in Wind Turbine Noise" dated 9th August 2016 or any update of that current at the time of measurement.

Note 1 – Data collection

A) Values of the LA90,10-minute noise index should be measured in accordance with the IOAGPG. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and to allow an AM penalty to be calculated for selected periods where a tonal or AM assessment is required.

B) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the planning authority. The wind speed at turbine hub height shall be "standardised" to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which are correlated with the noise measurements determined as valid. The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, mean nacelle orientation, mean wind direction as measured at the nacelle, arithmetic mean rotor RPM and whether each wind turbine is running normally during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Universal Time (UT).

Note 2 – Data analysis

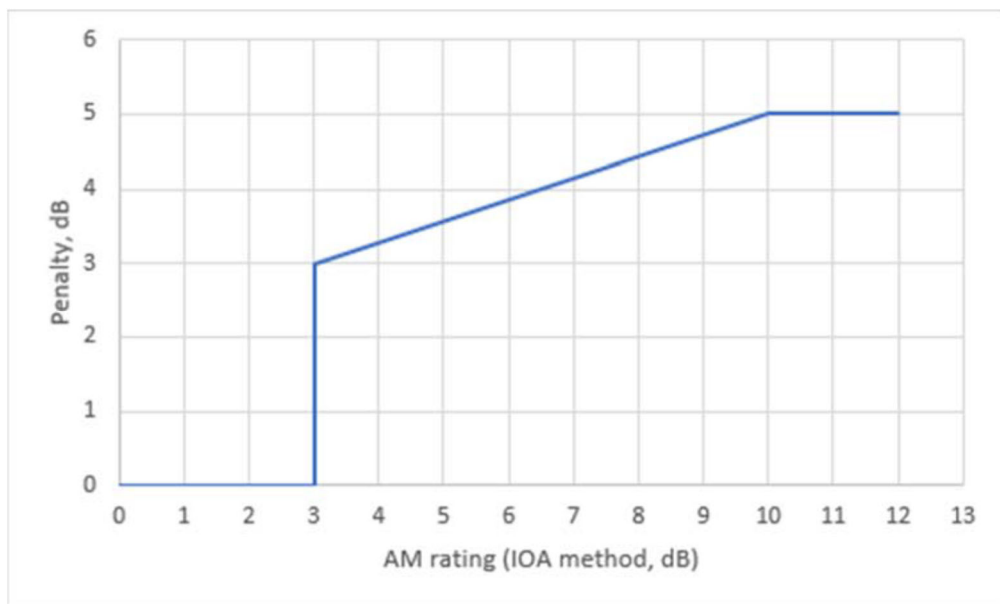
- A) The independent consultant shall identify a sub set of data having had regard to:-
- the conditions (including time of day and corresponding wind directions and speeds) at times in which complaints were recorded;
 - the nature/description recorded in the complaints if available;
 - information contained in the written request from the local planning authority;
 - likely propagation effects (downwind conditions or otherwise);
 - the results of the tonality/AM analysis where relevant. In cases where it is possible to identify patterns of clearly different conditions in which complaints have arisen additional sub sets may be considered provided this does not introduce unreasonable complexity in the analysis and can be justified by the independent consultant.
- B) Within each of the sub set(s) of data identified, data shall be placed into separate 1 m/s wide wind speed bins.

Note 3 – Tonal penalty

- A) Where, in accordance with the protocol, the noise contains or is likely to contain a tonal component, a tonal audibility shall be calculated for each ten-minute period using the following procedure.
- B) For each 10-minute period for which a tonal assessment is required this shall be performed on noise immissions during two minutes of each 10-minute period. The two minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure").
- C) For each of the two-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted. Where data for a ten-minute period are corrupted, that period shall be removed from the tonal analysis.
- D) The tone level above audibility for each 10-minute period shall be placed in the appropriate data sub set and wind speed bin.

Note 4 – AM penalty

- A) Where, in accordance with the protocol, the noise contains or is likely to contain AM, an AM penalty shall be calculated for each ten-minute period using the following procedure.
- B) For each 10-minute interval for which an AM assessment is required this shall be performed in accordance with the IOA Metric. The value of AM for each ten-minute period shall be converted to a penalty in decibels in accordance with the graph below and the penalty shall be placed in the appropriate data sub set and wind speed bin. Where a penalty is zero it should be placed in the bin in the same way.



Note 5 – Calculation of rating level

A) The LA90 sound pressure level for each data sub set and wind speed bin is the arithmetic mean of all the 10 minute sound pressure levels within that data sub set and wind speed bin except where data has been excluded for reasons which should be clearly identified by the independent consultant. The tonal penalty for each bin is the arithmetic mean of the separate 10 minute tonal audibility levels in the bin converted to a penalty in accordance with Fig 17 on page 104 of ETSU-R-97. The AM penalty for each bin is the arithmetic mean of the AM penalties in the bin. - The assessment level in each bin is normally the arithmetic sum of the bin LA90, the bin tonal penalty and the bin AM penalty except where the AM penalty and the tonal penalty relate to the same characteristic (e.g. amplitude modulated tones) when the sum of both penalties may overly penalise the characteristics of the noise. Such cases should be identified and only the larger of the AM or tonal penalty should be applied.

B) If the assessment level in every bin lies at or below the values set out in the table(s) attached to the conditions then no further action is necessary. In the event that the assessment level is above the limit(s) set out in the tables attached to the noise conditions in any bin, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only. Correction for background noise need only be undertaken for those wind speed bins where the assessment level is above the limit.

C) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such periods as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

i. Repeating the steps in Note 1, with the wind farm switched off, and determining the background noise (L_3) in each bin as required in the protocol. At the discretion of the consultant and provided there is no reason to believe background noise would vary with wind direction, background noise in bins where there is insufficient data can be assumed to be the same as that in other bins at the same wind speed.

ii. The wind farm noise (L_1) in each bin shall then be calculated as follows where L_2

is the measured level with turbines running but without the addition of any tonal nor AM penalty:

$$L_1 = 10 \log[10^{L_2/10} - 10^{L_3/10}]$$

iii. The rating level shall be calculated by adding the tonal and AM penalties to the derived wind farm noise L_1 in that bin.

iv. If the rating level after adjustment for background noise contribution and adjustment for tonal and AM penalties in every bin lies at or below the values set out in the Tables attached to the condition at all wind speeds then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table(s) attached to the condition then the development fails to comply with the planning condition in the circumstances represented by that bin.

Reason: to ensure noise emanating from the windfarm, including amplitude modulation should it occur, can be controlled and kept to an acceptable level.

18. Noise measurements

Prior to the commencement of development full details of the proposed wind turbines (including the power rating, sound power levels, and tonality assessment carried out on the selected turbine) shall be submitted to and approved by the planning authority. Thereafter only the approved turbines can be erected on the site unless with the written consent of the planning authority.

An independent consultant, approved by the planning authority, shall be employed to measure and where necessary calculate, at the developer's expense, the level of noise emissions from the wind turbines within the first year of operation. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the planning authority prior to commencement of operation. The measurements shall be carried out in accordance with the approved procedures. The results of any measurement exercise shall be forwarded to the planning authority as soon as practicable after the completion of the monitoring exercise.

Reason: to ensure adequate noise data is collected to aid future safeguard to neighbouring properties for noise amenity.

19. Borrow Pit Conditions

i. Prior to the commencing of any blasting operations for the formation of borrow pits associated with the development, a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the planning authority for written approval. All blasting operations shall take place only in accordance with the scheme as approved or with subsequent amendments as may be approved in writing by the planning authority.

ii. In the event of the formation of borrow pits, blasting times shall be restricted as follows:

a) No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) on Mondays to Fridays and (1000 and 1200 hours) on Saturdays.

- b) There shall be no blasting or drilling operations on Sundays, national public holidays or bank holidays (as defined in condition 16).
- c) The above requirement shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The planning authority shall be notified in writing immediately of the nature and circumstances of any such event.

iii. Ground vibration as a result of blasting operations to form borrow pits at the site shall not exceed a peak particle velocity of 6mms⁻¹ in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 12mms⁻¹ as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

iv. At the reasonable request of the planning authority, following a complaint relating to vibration from blasting operations to form borrow pits, the developer shall measure at its own expense ground vibration to ensure compliance with the above condition. The results of such monitoring shall thereafter be forwarded to the planning authority.

Reason: to ensure that any blasting is carried out safely and so as to minimise the impact on neighbouring amenity.

20. Micro-siting

a) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown in Figure 3.1 Infrastructure Layout of EIA report. The location of the wind turbines, compounds, areas of hardstanding and tracks may be varied (micro-sited) within the site subject to the following, unless otherwise approved in advance in writing by the planning authority:

- i. no wind turbine, building, mast, tracks, hardstanding or other ancillary infrastructure shall be moved more than 100 metres from the position shown within the EIA report and on Figure 3.1 Infrastructure Layout provided such areas are covered by the relevant surveys;
- ii. the exceptions to this will relate to tracks between T2, T4, T5, T6 and T7 where micro-siting allowance can extend beyond 100m to ensure tracks can be moved onto shallower peat.
- iii. all micro-siting permissible under this condition must be approved in advance in writing by the ECoW appointed in accordance with condition 10.
- iv. For any micro-siting of turbines which results in an increase in altitude of more than 5m from the approved position, a prior request for approval in writing must be made to the planning authority. Such a request must be accompanied by an updated and comparative ZTV plan and wireline montages as required by the planning authority. No such micro-siting can take place without the written approval of the planning authority

b) No later than two months after the date of final commissioning, an updated site plan shall be submitted to the planning authority showing the final position of all wind turbines, anemometry masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan must also specify areas where micro-siting has taken place and, for each instance, be accompanied by the ECoW or the planning authority's written approval, as applicable.

Reason: to ensure that micro-siting decisions take account of environmental impacts and local ground conditions, including existing infrastructure.

21. **Buffer zones**

The buffer zones around groundwater abstractions and watercourses identified on Figure 8.6 Constraints of the EIA report shall be implemented in full throughout the construction, operation and decommissioning of the development.

The groundwater abstractions buffer zone shall be 100 metres for all development with excavations or intrusions less than 1 metre depth. The buffer zone shall be 250 metres for all development with excavations or intrusions greater than 1 metre depth.

There shall be no development, machinery movement or operations within the buffer zones without the agreement of the planning authority in consultation with the Scottish Environment Protection Agency. The buffer zone around the groundwater abstraction areas shall be demarcated on the ground during construction.

Reason: to prevent potential unacceptable impacts on groundwater abstractions.

22. **Shadow flicker**

At the reasonable request of the planning authority following a complaint, the developer shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

Reason: to ensure mitigation can be pursued and instigated in the event of such a complaint being received.

23. **Restoration of borrow pits**

Prior to the construction of the final turbine, a finalised restoration plan for any borrow pits used on site, including the programme and timescales for the restoration, must be submitted to, and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency. Thereafter the restoration shall be carried out in accordance with the plan.

Reason: to ensure the restoration of borrow pit(s) at the end of the construction period to mitigate the environmental impact.

24. **Mitigation**

The development shall be developed in accordance with the schedule of mitigation as specified in chapter 15 Schedule of Mitigation Table 15.1 of volume I of the EIA report. The measures contained within, must be carried out in accordance with the submitted information contained within the EIA Report or as required by other conditions of this permission.

Reason: to ensure the various mitigation measures proposed and collated within the EIA Report in Table 15.1 are met.

25. **Aviation Lighting**

Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) an aviation lighting scheme must be submitted to the planning authority for approval

in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as deemed necessary for aviation safety by the Ministry of Defence.

This should set out:

- a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used. [specify shielded lights as per the lighting strategy]

Thereafter, the developer must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason: to maintain aviation safety.

26. Aviation Charting and Safety Management

The developer must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: to maintain aviation safety.

27. Decommissioning, Restoration and Aftercare

- a) The development will cease to generate electricity by no later than the date falling 35 years from the date of final commissioning. The total period for decommissioning and restoration of the site in accordance with this condition shall not exceed 37 years from the date of final commissioning without prior written approval of the planning authority.
- b) Prior to the commencement of development an outline decommissioning, restoration and aftercare method statement shall be submitted to and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency. The method statement shall include measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the

above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

c) No later than one year prior to decommissioning of the development or the expiration of the 35 year period of operation (whichever is the earlier) a detailed decommissioning, restoration and aftercare method statement, based upon the principles of the approved outline decommissioning, restoration and aftercare method statement, shall be submitted to the planning authority for written approval in consultation with the Scottish Environment Protection Agency. The detailed decommissioning, restoration and aftercare method statement will provide updated and detailed proposals for the removal of above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions.

d) The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the detailed decommissioning, restoration and aftercare method statement as approved, unless otherwise agreed in writing in advance with the planning authority in consultation with Scottish Environment Protection Agency.

Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

28. Financial Guarantee

a) No development shall commence unless and until a bond or other form of financial guarantee in terms acceptable to the planning authority, acting reasonably, which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition immediately above is submitted to the planning authority.

b) The value of the financial guarantee shall be agreed between the developer and the planning authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 27 above.

c) The financial guarantee shall be maintained in favour of the planning authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 27 above.

d) The value of the financial guarantee shall be reviewed by agreement between the developer and the planning authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

e) The landowner of the development site shall be entitled to be a joint beneficiary with the planning authority under the foregoing financial guarantee. The terms of the landowner's involvement will be subject to the approval of the planning authority acting reasonably and thereafter will be set out in the financial guarantee documentation.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the developer.

29. **Reduced lighting scheme**

Unless otherwise agreed in writing with the planning authority, prior to development commencing a proposed lighting scheme based on the lighting strategy detailed in appendix 6.4 of the EIA report, together with a report detailing the investigations into a reduced lighting scheme and the measures that can be taken (or evidence of why they cannot be achieved), must be submitted to and approved in writing by the planning authority in consultation with the Ministry of Defence Windfarm Safeguarding and the Civil Aviation Authority. Thereafter the lighting scheme must be implemented in accordance with the approved scheme.

Reason: to ensure that only the minimum necessary lighting requirements are developed and to allow for further consideration of the lighting proposals.

Schedule 2: Advisory notes

- 1. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).
- 4. Right to challenge this decision:** This decision is final, subject to the right of any person aggrieved by this decision to question its validity by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.
- 6. Notification of this decision by the planning authority:** The planning authority is required (a) to inform the public and bodies consulted in respect of the EIA report of this decision by publishing a notice on the application website or newspaper circulating in the locality of the proposed development or by other reasonable means and (b) to make a copy of the decision available for public inspection in an office of the planning authority where its planning register may be inspected and on the application website.

Schedule 3: Application drawings

Figure 1.1 Planning application boundary dated 20 November 2020

Figure 3.1 Infrastructure Layout- dated 5 November 2020

Schedule 4: Opportunities for public participation in decision-making

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

- the appellant has provided a report on pre-application consultation. This indicates that two online public exhibitions were held to conform with covid 19 safety guidelines. The first showed the proposed development comprising 14 turbines and took place over the period 25 May 2020 to 8 June 2020. The second took place over the period 10 November to 23 November 2020 and related to the proposed development. Both online events were advertised in the Northern Scot, the Huntly Express and the online version of a local newspaper called Grampianonline. The public had an opportunity to comment to the appellant on the proposed development by responding to a questionnaire;
- advertisements of the application in the Northern Scot and the Edinburgh Gazette both dated 19 February 2021 have been provided. They advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report; and
- the planning authority received 40 public representations in respect of the application. The main points raised in those representations are addressed in the decision notice.

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal. In addition I requested further written evidence from some of the interested parties on specified matters.