

Appeal under Section 47 of the Town and Country Planning (Scotland) Act 1997 (as amended)

by

Force 9 Energy Partners LLP and EDF Energy Renewables

in respect of

the decision of The Highland Council to refuse an application for planning permission for the erection of 13 wind turbines of maximum tip height of 136.5m and associated infrastructure on land located northwest of Steading Bar at Glenurquhart, known as Cnoc an Eas Wind Farm

Planning Application Reference: 15/02758/FUL

Statement of Appeal

July 2016

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1. Introduction

- 1.1 This is an appeal by Force 9 Energy Partners LLP and EDF Energy Renewables (“the Appellants”) under Section 47 of the Town and Country Planning (Scotland) Act 1997 (as amended) (“the 1997 Act”) against the decision of The Highland Council (“the Council”) to refuse an application for planning permission for the erection of 13 wind turbines of maximum tip height of 136.5m and associated infrastructure on land located northwest of Steading Bar at Glenurquhart (“the Site”), known as Cnoc an Eas Wind Farm.
- 1.2 This document (“the Statement of Appeal”) constitutes the Appellants’ statement in terms of Regulation 3(4)(d) of the Town and Country Planning (Appeals) (Scotland) Regulations 2013. Accordingly it sets out the full particulars of the Appellants’ case, the matters which it is considered are required to be taken into account in determining the appeal and the procedures by which the Appellants wish the appeal to be determined.
- 1.3 The Statement of Appeal should be read in conjunction with:
- 1.3.1 the accompanying Appeal Form;
 - 1.3.2 the supporting documentation (**APP1.1 to APP6.7**) (a list of which documents appears at **Appendix A**); and
 - 1.3.3 the Environmental Statement, Supplementary Environmental Information (February 2016) and information submitted to Glen Urquhart Community Council (October 2015) (**APP1.3 to APP1.9, APP1.17, APP1.21 to APP1.25**).
 - 1.3.4 the additional environmental information submitted in June 2016 (**APP1.29 to APP1.32**)

Description of the Proposed Development

- 1.4 The planning application was submitted for planning permission for the erection of 13 wind turbines of maximum tip height of 136.5m and associated infrastructure including permanent foundations; electrical transformers; associated hardstanding; upgrading c3.8km of existing track (including formation of permanent relief road); construction of c5.9km of new access track; one anemometer mast; a temporary construction compound; an electrical control building; two borrow pits for the onsite winning of minerals; and felling c152.19ha of non-native conifer forest (“the proposed development”). The proposed development comprises thirteen wind turbines, providing a maximum total installed generating capacity of 44.2MW.
- 1.5 Access to the Site will be obtained from the A831, which runs in parallel with the River Enrick from Drumnadrochit in the east to Cannich in the west, adjacent to the west of the existing access point.
- 1.6 A detailed description of the proposed development layout and its various components together with an indicative programme for its construction are set out in Chapter 4 of Volume I of the Environmental Statement (**APP1.3**).

The Site

- 1.7 The Site lies approximately 10km west of the Great Glen and Loch Ness, within an extensive area of uplands and hills that typifies the eastern extent of the Central Highlands. The topography of the surrounding area is generally one of upland craggy hills and plateau dissected by steep sided glens. The Site is located predominantly within the

Rocky Moorland Plateau Landscape Character Type ("LCT"), however the southern extent of the Site, including the proposed wind farm access, are located within the Wooded Glen LCT.

- 1.8 The Site, including the land occupied by the access track and construction compound, occupies a total area of approximately 657ha, however the actual development will only occupy a small percentage of this area. The Site comprises an area of predominantly coniferous plantation woodland above the settled glen of Glenurquhart, approximately 9km west of Drumnadrochit in the Scottish Highlands. It lies wholly within the Highland Council area.
- 1.9 The Site has an elevated position within the landscape, occupying an undulated plateau and rising to 430m AOD at its highest point, known as Creag Mùigeil. The rocky summits of Carn Mòr (456m AOD), Carn an t-Slamain (444m AOD), Carn na Feuchrain (453m AOD) and Creag nan Calman (437m AOD) flank the Site to the north and the moorland of Eskdale Moor extends north and east from the Site. There are several small watercourses within the site which drain into the River Enrick and Lock Meiklie south of the Site.
- 1.10 A discussion of the process leading to the selection of the Site and its design evolution is contained in Chapter 3 of Volume I of the Environmental Statement (**APP1.3**).

History of the Application

- 1.11 The proposed development is EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 ("the EIA Regulations"). Accordingly, the planning application was accompanied by an Environmental Statement ("ES").
- 1.12 The planning application together with the ES (**APP1.1 to APP1.13**) was submitted to the Council on 15 July 2015¹. The Council notified the Appellants that the planning application had been registered on 15 July 2015 by way of letter dated 22 July 2015 and allocated it reference 15/02758/FUL.
- 1.13 The Appellants submitted a letter and a related enclosure (an improved version of the ZTV at Figure 6.35a of the ES) to the Council on 14 August 2015 (**APP1.14**) responding to the letter of objection submitted by the Mountaineering Council of Scotland ("MCoS").
- 1.14 The Appellants submitted a letter to the Council on 10 September 2015 (**APP1.15**) responding to the letter of objection submitted by Historic Scotland.
- 1.15 The Appellants submitted a letter and a related enclosure (most recent Scottish Natural Heritage ("SNH") derived N3 plan available at that time overlaid with the ZTV for the proposed development) to the Council on 22 September 2015 (**APP1.16**) responding to the letter of objection submitted by the John Muir Trust ("JMT").
- 1.16 The Appellants submitted a letter and related enclosures to the Council on 19 October 2015 (**APP1.17**) responding to the letter of objection submitted by Glen Urquhart Community Council ("GUCC"). The enclosures included ZTVs calculated with forestry showing properties within 2 to 3km of the proposed turbines together with a comparison of visibility of the proposed turbines along the Affic Kintail Way based on a ZTV assuming bare earth conditions and a ZTV with forestry.

¹ The application covering letter to the Highland Council (APP1.1) is dated 16 July 2015. This is a typographical error and the planning application was submitted and registered by the Council on 15 July 2015.

- 1.17 The Appellants submitted a letter and a related enclosure (copy letter) to the Council on 20 October 2015 (**APP1.18**) setting out its position on engagement with the Drumnadrochit Chamber of Commerce.
- 1.18 The Appellants submitted a letter and a related enclosure (Comparative Viewpoint Assessment Table and Comments) to the Council on 13 November 2015 (**APP1.19**) responding to the consultation response letter of Scottish Natural Heritage.
- 1.19 On 25 February 2016 the Appellants formally submitted Supplementary Environmental Information ("SEI") (**APP1.21 to APP1.24**) together with an amended version of the 'Site Layout: Site General Arrangement' planning application drawing, to allow for an alternative control building location and an amended track alignment between turbines T7 and T3 to be considered as options in the planning application (**APP1.25**) and a 3D model available on a disc (**APP1.23**). The SEI was produced to respond to consultation responses received following submission of the planning application, in particular those received from the Scottish Environmental Protection Agency and the Forestry Commission Scotland. The covering letter submitted with the plan and SEI can be found at **APP1.20**.
- 1.20 The Appellants submitted a letter and related enclosures (public exhibition board extracts and letters submitted to Glen Urquhart Community Council and Strathglass Community Council) to the Council on 23 March 2016 (**APP1.26**) responding to the letter of objection submitted by GUCC in relation to the Appellants' SEI.
- 1.21 The Head of Planning and Building Standards exercised his delegated powers pursuant to the provisions of Part IV of the Council's Scheme of Delegation of September 2015 (as updated 10 March 2016) to determine the proposed development. This delegated power allows for determination of all applications with the exception of "applications for 'major developments'.....which are recommended for approval or irrespective of the recommendation are significantly contrary to the development plan". The proposed development is major development for the purposes of s26A of the Town and Country Planning (Scotland) Act 1997 (as amended). The Scheme of Delegation specifies that the decision as to whether an application is significantly contrary to the development plan, or otherwise, shall be delegated to the Appointed Officer, which in this case would apply to the Acting Principal Planner and the Head of Planning and Building Standards. On this basis, it must mean that the proposed development was considered to not be significantly contrary to the development plan. Indeed it was never advertised as such.
- 1.22 The Acting Principal Planner issued the Report of Handling (**APP1.27**) and a formal decision notice (**APP1.28**) was issued by the Head of Planning and Building Standards on 9 May 2016.
- 1.23 The Reasons for Refusal within the decision notice are cited as follows:

"1. The application is contrary to Policy 67 (Renewable Energy) and Policy 28 (Sustainable Design) of the Highland wide Local Development Plan as the development would have a significantly detrimental visual impact particularly as viewed from properties, by travellers, including tourists, and recreational users of the outdoors in the wider vicinity of the site but particularly to the north, south and east of the proposed development due to the design and location of the proposed development.

2. The application is contrary to Policy 67 (Renewable Energy) and Policy 28 (Sustainable Design) of the Highland wide Local Development Plan as the development would have a significantly detrimental cumulative visual impact as viewed by recreational users of the outdoors in the wider vicinity of the site but particularly from the summit of Meall Fuar 'mhonaidh due to the location of the

proposed development.

3. The development is contrary to Policy 67 (Renewable Energy) and Policy 57 (Natural, Built and Cultural Heritage) of the Highland wide Local Development Plan when taking account the detrimental impact on the special qualities of the Loch Ness and Duntelchaig Special Landscape Area.

4. The application is contrary to Policy 67 (Renewable Energy) and Policy 57 (Natural, Built and Cultural Heritage) of the Highland-wide Local Development Plan and Scottish Historic Environment Policy as the impacts of the development would be detrimental to the setting of Corrimony Chambered Cairn scheduled monument."

- 1.24 Other than the matters set out in the Council's Reasons for Refusal, it is considered that the proposed development is acceptable to the Council in all other respects.

Appropriate Procedures and Conjoining of Appeals

- 1.25 The Appellants consider that Further Procedures, in the form of Inquiry and Hearing Sessions, are required in relation to landscape and visual impacts (including cumulative impact), cultural heritage and planning policy associated with the proposed development.
- 1.26 The Appellants believe that an Inquiry Session is essential for landscape and visual evidence in this appeal. Complex issues of both solus and cumulative effects arise as much as they would for a scheme promoted pursuant to Section 36 of the Electricity Act 1989 where the benefits to a Reporter of having oral evidence tested by examination have been made abundantly clear.
- 1.27 In this area of the Highlands there are a number of other operational developments and schemes under construction and in planning which will need to be considered in a cumulative context. Evidence on cumulative impacts will fundamentally inform judgements on policy and the planning balance. The Appellants do not believe that this issue can fairly or safely be left to a written process. This is of particular relevance in light of the proposed Druim Ba Wind Farm, which is discussed below. In addition, there are doubts about the scope of the Council's Reasons for Refusal which need clarification and examination.
- 1.28 The Appellants also consider that an Inquiry Session is required for the proper consideration of evidence on cultural heritage, noting the objection by Historic Environment Scotland. There is a clear conflict to be resolved in relation to the correct approach to assessment and this can only be fully informed by examination at inquiry. In particular, there are doubts in the Appellants' mind about the approach of Historic Environment Scotland to the importance of the key asset in contention which requires oral process.
- 1.29 Policy matters and conditions would also benefit from short hearing sessions. In this case in particular, there is draft Supplementary Guidance which requires a discussion at an oral session in terms of its approach and content.
- 1.30 An appeal has been lodged with the Scottish Ministers in relation to the proposed Druim Ba Wind Farm (DPEA Reference PPA-270-2147). This proposal is a newer addition to the cumulative baseline and is located approximately 10km from the Site.
- 1.31 It is beyond doubt that cumulative issues are of importance and must be properly considered to ensure that sound, robust decisions are made. This is made clear in the

discussion of issues by the Appellants' experts, the Report of Handling and representations on the Druim Ba appeal.

- 1.32 It is the Appellants firm view that conjoined processes must be held on common issues. An inquiry session on landscape and visual issues would be appropriate, for the reasons previously set out. An inquiry or hearing session would be appropriate for common issues relating to policy. The Reporter can only be properly and fairly informed through hearing oral evidence from all parties, noting the interest of third party opposition groups. A decision on this appeal or the Druim Ba appeal taken in isolation of the other would be inappropriate and contrary to the delivery and operation of a planning system ensuring that appropriate development is directed to the right places.
- 1.33 For the reasons set out above, the Appellants' request that this appeal be conjoined with that for Druim Ba.
- 1.34 For the avoidance of doubt, the Appellants do not object to Druim Ba. Indeed it may well be that there is capacity in landscape and visual (and policy) terms for both projects.
- 1.35 There is recent precedent here, and reference is made to the inquiry held in January 2016 into the proposed Creggan (s36) and Blary Hill (1997 Act) developments. The same circumstances arise here and it can only be right in the interests of consistency for the same process to be followed. All evidence was heard on a conjoined basis.
- 1.36 Reference is also made to the Fauch Hill, Harburnhead (s36) and Pearie Law (1997 Act) cases which were partially conjoined in process and where the same Reporters issued a combined report on all the schemes.
- 1.37 To place the evidence and information on visual matters into context the Appellants consider that an accompanied site visit should be undertaken to assist the Reporter in drawing conclusions on the particular and unique circumstances of this case.
- 1.38 As regards other topic areas addressed in Chapter 4 of this Statement of Appeal, the Appellants are currently of the view that they can adequately be considered with reference to the content of this Statement of Appeal and the response of the Council without the need for any Further Procedure. This is particularly the case where the Council's Officers and statutory consultees agree that the impacts are acceptable.
- 1.39 In making this request, the Appellants have had regard to the guidance notes issued by the Directorate for Planning and Environmental Appeals, particularly Guidance Note 7 ("GN7") and Guidance Note 8 ("GN8"), together with Circular 4/2013 and the Town and Country Planning (Appeals) (Scotland) Regulations 2013.
- 1.40 Thus, the Appellants have adopted a reasonable and proportionate approach in requesting Inquiry and Hearing Sessions only in relation to visual impacts, cultural heritage and planning policy.

Evidence

- 1.41 This Statement of Appeal contains the following information:
- 1.41.1 The Appellants consider the landscape and visual impacts of the proposed development in Chapter 2.
- 1.41.2 The Appellants consider the impacts to cultural heritage assets in Chapter 3.

- 1.41.3 The Appellants' position relating to transport, ecology, ornithology, water environment and soils, noise, socio-economics including shared ownership, telecommunications, aviation and shadow flicker is set out within this Statement of Appeal at Chapter 4.
- 1.41.4 The Appellants address the policy position for the proposed development in Chapter 5.
- 1.42 CVs for the experts commissioned by the Appellants, who have inputted into this Statement of Appeal, are contained within **Appendix B**.

Conditions

- 1.43 The Appellants have prepared a suite of proposed planning conditions for consideration, which are contained within **Appendix C**.

2. **Landscape and Visual**

Introduction

- 2.1 This and the following sections of this chapter of the statement of appeal which respond to landscape and visual matters have been prepared by Chartered Landscape Architects at LUC (Land Use Consultants), including those involved in the preparation of the Landscape and Visual Impact Assessment (LVIA) contained in the Environmental Statement (ES – **APP1.3 to APP1.8**), which supported the application for the proposed Cnoc an Eas Wind Farm.
- 2.2 ES Chapter 6: Landscape and Visual Amenity forms the LVIA, accompanied by Appendices 6.1-6.4 contained in Volume II (**APP1.4**), was prepared by LUC and Marc van Grieken Landscape Architecture (MVGLA), who continued his involvement in the project following his departure from LUC at the end of 2014. The LVIA was prepared in accordance with industry best practice guidelines (GLVIA3: **APP4.1**), and the methodology was recognised as being acceptable in the Report of Handling (paragraph 8.43 of **APP1.27**).
- 2.3 Sam Oxley, Chartered Landscape Architect and Director of Landscape Planning and Management for LUC, was appointed to work on the Appeal in 2016, supported by the LUC team who had undertaken the earlier assessment work. A CV detailing Ms Oxley's experience is set out in **Appendix B**.
- 2.4 During the preparation of the statement of appeal, further desk studies and field work were undertaken to update the assessment where required. The resulting Updated Landscape and Visual Information – June 2016 (**APP1.29 to APP1.30**) is referred to throughout.

Reason for Refusal 1: Visual impacts for properties, travellers, tourists and recreational users to the north, south and east, due to design and location

Key Design Issues Raised

- 2.5 The Report of Handling (**APP1.27**) recognises in paragraph 8.46 that: *"From the vast majority of viewpoints the turbines appear well spaced and stacking is avoided. This is to be commended"*. The report also states in paragraph 8.47 that: *"In terms of design of the other infrastructure on the site, these appear to have been well sited and designed with those elements of greatest visual impact (borrow pits) set into the forested area."*
- 2.6 The report goes on to discuss the composition and scale of the proposed turbines: *"The scale of turbine has been raised as a concern ...To address this matter the applicant proposes to use two different turbine heights. In this case, differing turbine heights has led to the scheme appearing more coherent, with the difference in turbine height not being perceptible beyond distances of approximately 10km."*

Appellants' Response: Design

- 2.7 ES Chapter 3: Site Selection and Design (**APP1.3**), sets out the approach to site selection and design strategy for the proposed wind farm.
- 2.8 The site is located largely within an area defined in Table 1 of Scottish Planning Policy (SPP) as 'Group 3: Areas with potential for wind farm development'. Wind farms located in these areas *"are likely to be acceptable, subject to detailed consideration against identified policy criteria."* (SPP, Table 1, Page 39) (**APP3.8**).

- 2.9 The proposed Site is in compliance with SNH's Policy Statement: Strategic Locational Guidance for Onshore Windfarms in Respect of the Natural Heritage, 2009 (**APP4.13**) as it is located predominantly in Zone 1: Lowest natural heritage sensitivity: *"areas at the broad scale with least sensitivity to wind farms, with the greatest opportunity for development"* (Paragraph 26).
- 2.10 The site was included by THC in an area of search for wind farm development (The Highland Council Onshore Wind Energy: Interim Supplementary Guidance (2012) **APP3.3**) which applied during site identification. It is not designated for landscape and visual reasons and there are no similarly designated areas within close proximity.
- 2.11 ES Paragraphs 3.10-3.11 (**APP1.3**) set out the overall design strategy for the proposed wind farm, including a number of design objectives. These were to develop a layout that:
- would be cohesive and legible in key views as experienced from the surrounding landscape;
 - responds to the landform and is broadly contained by the topography of the site;
 - would relate well to the landscape setting of the site and its surroundings;
 - seeks to match the perceived scale of the turbines, and the scale of the overall wind farm, with the scale of the landscape;
 - relates well to other wind farms in the local area, as well as being coherent in its own right;
 - minimises the impact of the wind farm on views from Loch Ness and the Great Glen, key cultural heritage assets and local transport routes such as the A831 and A833;
 - minimises impacts on the residential amenity, including visual amenity, of properties located within close proximity to the site;
 - minimises potential impacts on nationally and locally designated areas; and
 - fulfils the above objectives whilst respecting other environmental and technical constraints including ecological, hydrological and ground conditions related constraints (including peat) identified during the EIA process.
- 2.12 Iterations of the wind farm layout also took account of general design objectives advocated within SNH guidance (**APP4.3**) as set out under ES paragraph 3.25, and more site specific design objectives set out under ES paragraph 3.26. These included:
- reduce the spread of turbines against the skyline or background landform, particularly when seen from key viewpoints (i.e. Glen Urquhart, the A831, the A82, the Great Glen and Loch Ness, Strathglass, and popular hill summits including Meall Fuar 'mhonaidh within the surrounding area);
 - minimise visibility of turbines from settlements and residential properties within the vicinity of the site;
 - achieve a balanced, consistently spaced composition of turbines, which seeks to minimise overlapping blades and towers when seen from key viewpoints (i.e. Corrimony Chambered Cairn, Shenval, A82 near Strone, B852 east of Loch Ness);
 - remove, relocate or amend the turbine tower height of turbines which appear more elevated than the rest in views from key viewpoints (i.e. Corrimony Chambered Cairn, Shenval, A82 near Strone, B852 east of Loch Ness, A833 near Glen Convinth);
 - locate turbines wholly within the Rocky Moorland Plateau Landscape Character Type (LCT), and minimise the necessary access tracks and ancillary infrastructure within the Wooded Glen LCT as defined in the Inverness and District Landscape Character Assessment (1999); and

- select an appropriate wind turbine (tower height and blade diameter) for the site, which appears in scale with the landscape of the Rocky Moorland Plateau LCT, when seen from within this LCT, and from the wider surrounding landscape.
- 2.13 The site occupies an afforested area of undulating plateau, approximately 10km west of the Great Glen and Loch Ness. Rocky summits flank the site to the north. The wind farm is proposed within the upper reaches of the forested shallow valley of Allt na Dalach Moire, a tributary of the River Enrick. The shallow south facing bowl within which the turbines are proposed is enclosed to the east by the higher ground of Creag Muigeil, and to the northwest by Carn an t-Slamain to Caorn nam Bad. Whilst the bowl is shallow, such that turbines would not be completely screened from view, the enclosing ridges will serve to reduce potential visibility and the extent of the Zone of Theoretical Visibility (ZTV).
- 2.14 An understanding of the south facing bowl-like topography of the site informed the design strategy, with turbines being positioned as far back within this as possible, aiming to reduce their visibility from the south, east and west in particular.
- 2.15 The Appellants do not consider that a difference in turbine height will be evident when seen from vantage points in close proximity to the site, as well as from more distant locations. The rotor diameter of the proposed turbines will be consistent across the whole wind farm and the taller turbines are generally proposed on lower ground, with a view to evening-up the apparent tip heights, rather than resulting in them looking more variable (as seems to have been misinterpreted in paragraph 8.49 of the Report of Handling **APP1.27**). The visible skyline is more often than not defined by the forestry on and around the site, which masks the local variations in topography and landform across the site, resulting in an almost indiscernible difference in turbine height.
- 2.16 Through the siting and design of the wind farm, the craggy outcrops of Càrn nam Bad, and Meall Cluainidh to the west of the site, the craggy summits of Carn Mòr, Creag nan Calman and Carn an t-Slamain to the north, and Creag Mùigeil to the east help to limit the extent of significant landscape effects and reduce the extent of likely visual effects.
- 2.17 As concluded within the LVIA, it is considered that the extensive nature of the Rocky Moorland Plateau, coupled with its large and open scale is well suited to accommodate carefully and appropriately designed wind farm development of the size and scale proposed, and such has already been accommodated elsewhere within this landscape type.

Key Visual Issues Raised

THC and SNH

- 2.18 THC consider that all users of roads should be considered to be of high sensitivity, because they may include tourists.
- 2.19 SNH outline a number of points regarding level and significance of visual effects assessed from viewpoints within the LVIA. The main points of divergence with regard to visual effects relate to Viewpoints 2, 9, 10, 13, 14, and 15, which they consider to be under assessed.
- 2.20 SNH refer to effects on the Rugged Massif, over 10km to the west. It can be confirmed that whilst there will be significant effects on long distance views from this area (east facing slopes) as illustrated by Viewpoint 12, the wind farm will not alter the character of the landscape in this area.

- 2.21 Other visual issues raised by Community Councils, Stop Turbines at Glenurquhart ("STAG"), GUCC, JMT, MCoFS include:
- Visual effects upon residents and local communities: discussed in this statement of appeal from paragraphs 2.29 – 2.36;
 - Effects on views from Munros and Corbetts (some which are in Wild Land Areas ("WLAs")), as well as promoted trails (Affric-Kintail Way, and the Great Glen Way): discussed in paragraphs 2.56 – 2.60;
 - Issues concerning felling which could open up visibility towards the turbines: discussed in paragraph 2.63;
 - Cumulative visual effects: considered in detail in this statement of appeal in paragraphs 2.65 – 2.89; and
 - The effects of lighting. It can be confirmed that infrared lights will be used (see proposed conditions in Appendix C) and that these are barely visible to the human eye.

Appellants' Response: Effects on Views

- 2.22 It is important to distinguish between effects on views and visual amenity, and effects on landscape resources and character. Whilst a change in a view, or views may be apparent from a point or an area, this does not necessarily mean that the character of the landscape will be affected. Reason for Refusal 1 focuses on visual effects.
- 2.23 Figure 6.5 of the LVIA (**APP1.3**) highlights the location of the 19 assessment viewpoints, which were agreed through consultation with SNH and THC. These are used as a proxy in order to understand the nature of visual effects across the study area, and indicate that significant visual effects would be contained within approximately 12km.
- 2.24 The Updated landscape and Visual Information (**APP1.29 to APP1.30**) provides additional comments in relation to specific viewpoints included in the LVIA, based on the table provided in the annex to the SNH consultation response (**APP2.1o**). This table expands on that included in the Appellants' letter and enclosure responding to the consultation letter of Scottish Natural Heritage (**APP1.19**), and the additional information provided in the SEI (February 2016) (**APP1.21**).
- 2.25 In terms of the visual assessment, the LVIA identified likely significant visual effects from Viewpoint 1: Shenval; Viewpoint 5: Corrimony Chambered Cairn; Viewpoint 11: Meall Fuar `mhonaidh and Viewpoint 12: Carn Bàn. There are a number of other viewpoints where high sensitivity (when considering judgements of both susceptibility and value) was identified, or where a medium size/scale and geographical extent was predicted, but at locations where the duration of time over which viewers will experience the view will be short. These are typically locations where views will be experienced as part of sequential views, on a journey, rather than at locations where people are likely to spend long periods of time. Effects at these locations were not considered significant within the LVIA, mainly as, with the exception of Viewpoint 2, the duration component of the magnitude of visual effect will be short.
- 2.26 As is stated in paragraph 8.71 of the THC Report of Handling (**APP1.27**) "*there is a level of subjectivity and the need for application of professional judgement in the assessment of visual effects*" and for this reason "*it is unsurprising that there are differences in opinion between the findings of the ES and the assessment undertaken [by THC] in reaching a view on the significance of effect.*"
- 2.27 Effects on views will be relatively limited because of the siting and design of the development, proposed within the upland plateau interior, in a shallow valley head which

forms a south facing bowl, and set back from the transitional slope edges of Glen Urquhart, utilising adjacent craggy outcrops and topography to help reduce wider visual effects.

- 2.28 Localised significant effects are not unusual for a wind farm development. In the recent decision to consent Corlic Hill Wind Farm the Reporter states (**APP6.3**) *“with regard to impacts on the site and its immediate surroundings, I have borne in mind that commercial-scale wind energy proposals will inevitably create significant effects within their immediate surroundings...”*

Views from Properties

- 2.29 Effects on residential visual amenity were not raised as a potential area of concern by either THC or SNH during consultation. Based on the limited extent of theoretical visibility from residential properties (as indicated by ES Figure 6.1a-i) (**APP1.3**), a detailed assessment of potential visual effects from individual residential properties was not undertaken as part of the LVIA.
- 2.30 Nevertheless a number of assessment viewpoints included in the LVIA were selected to be representative of the likely change in views experienced by those residential properties in closest proximity to, and with the most open views towards the proposed wind farm site. These are **Viewpoint 1**: Shenval, **Viewpoint 2**: Balbeg and **Viewpoint 3**: A831 near Balnain. Consideration of potential visual effects from settlements was also included in the LVIA.
- 2.31 In relation to the visual effects identified from these viewpoints in the LVIA, it is noted that THC Report of Handling (**APP1.27**) highlights no concerns about the level or significance of visual effect identified from Viewpoint 1 and Viewpoint 3.
- 2.32 Significant visual effects are described at **Viewpoint 1**: Shenval (a group of residential properties of high sensitivity, where the wind farm will be seen at an oblique angle across fields and above a forested horizon, at a distance of approximately 2.9km to the nearest turbine, (as described in ES Appendix Table 6.4.1 (**APP1.4**)).
- 2.33 Specifically in terms of areas of disagreement, at **Viewpoint 2**, residents at the road end in Balbeg will have glimpsed views of parts of turbines from some locations around properties and on the road leading away from their properties. The available view will vary with the time of year, as deciduous vegetation will provide more screening during the summer months. It is considered by SNH and Mark Steele Consultants Limited (“MSC”) for STAG that the effect will be significant. It is the Appellants’ opinion that the effect at Viewpoint 2 could be considered to be moderate and significant, because the receptors are residents who would be exposed to the change for long periods, and because the changes, whilst relating to partial views of a small number of turbines from a small area of the settlement, will be at relatively close proximity for residents going about their daily life. This partial and glimpsed view could not however be described as major, and would not affect views from any residential property to the degree that tests established through Reporter’s Decisions, regarding effects upon residential visual amenity would be failed. It would not extend to the settlement as a whole, as the potential for a view is limited to the immediate area of the viewpoint.
- 2.34 To further understand the likely implications of visual effects experienced from properties in local communities, a review of potential visual effects from residential properties which are likely to experience theoretical visibility of turbines, as indicated by the ZTV on Figure 1, was undertaken and is contained in **APP1.30**. Following this, it is recognised that receptors (people) at a number of residential properties located within 3km of the proposed turbines will experience views towards the proposed turbines, as set out in

detail in **APP1.29** and supported by **APP1.30**. Views will generally be limited to those experienced from the gardens, curtilages or access roads of properties, with the majority of properties having principal views away from the wind farm in a south, south-westerly or south-easterly direction across Glen Urquhart.

2.35 At the Harelaw Renewable Energy Park Inquiry (East Ayrshire and East Renfrewshire), Page 98, Paragraph 4.115 of the Reporter's Decision (**APP6.7**) states that "*Any consideration of proximity to houses effectively becomes an assessment of the effects of a wind farm on the amenity of a property: its pleasantness of place and its impact on living conditions. It is necessary to consider whether any of the effects on views or visual amenity have the potential to affect living conditions such that living at that property would become unpleasant or undesirable. This requires an objective approach, as far as possible, but is ultimately a matter of judgement.*"

2.36 With this in mind, despite the identification of significant effects on views and visual amenity from a number of properties within the community groups described in **APP1.29** and **APP1.30**, this assessment has found that in no instance would the proposed turbines, or other components of the development, be visually overbearing or dominant, or affect the outlook from these properties to such an extent that they would become widely regarded as an unattractive place in which to live.

Views experienced by Travellers

2.37 There is some overlap between travellers, tourists and recreational users. The former is assumed to cover road users; the next to include visitors to historic sites and those tourists travelling along roads and on boats on Loch Ness; and the latter, the users of promoted trails.

2.38 A number of assessment viewpoints included in the LVIA were selected as to be representative of the likely change in views experienced by travellers on roads. These are Viewpoints 3, 7, 8, 10, 15 and 18. Effects were not judged to be significant, although SNH disagreed with that finding for Viewpoints 10 and 15, and THC considered that all road users should be treated as high sensitivity. The Appellants maintain that people in vehicles on roads, which in this area are often narrow or winding, where concentration is required, or who may be passing rapidly through an area, and may not do so very frequently should not all be considered to be of high sensitivity, as for example may be the case for residents who would see changes for a longer duration.

2.39 The Appellants' letter and enclosure responding to the consultation letter of Scottish Natural Heritage (**APP1.19**) set out the limited opportunity for fleeting, filtered, partly screened and oblique visibility of the proposed wind farm from the A831 to the east, south and west through Glen Urquhart, when travelling between the Great Glen and Strathglass. This is considered to remain an accurate assessment of the likely and limited, sequential visual effects which will be experienced.

2.40 At **Viewpoint 10**, road users, some of whom will be tourists (and pedestrians on the adjacent footpath) on the A82 at Strone will see the wind farm, looking west up Glen Urquhart for a few moments before the road drops down to the glen floor, from where views will not be possible. For people in vehicles this view will last for around 30 seconds, and will be seen when they are travelling west. For walkers, the view from the roadside path could be experienced for a few minutes, as pedestrians walk alongside the busy A82 in a westerly direction, away from Urquhart Castle, losing visibility as they drop down to Borlum and Drumnadrochit. Viewpoint 15 is discussed under the heading of tourists, in the paragraphs below.

- 2.41 No significant sequential visual effects will be experienced from road routes to the east, south and west as a result of the introduction of the proposed development. The Report of Handling (**APP1.27**) supports the findings of the LVIA and paragraph 8.73 states: "*when considering the sequential impact on routes, for the local roads in the area, it is not considered that there is a difference in opinion as to the results of this assessment when considering the routes as a whole.*"

Views experienced by Tourists

- 2.42 A number of assessment viewpoints included in the LVIA were selected to be representative of the likely change in views experienced by tourists. These are Viewpoints 5, 14 and 15. Effects were not judged to be significant at Viewpoint 14 and 15, although SNH disagreed with those findings. Both are discussed below.
- 2.43 At **Viewpoint 14**, tourists on boats and users of canoes on the Great Glen Canoe Trail in the vicinity of Urquhart Bay, including ferry passengers on their way to Urquhart Castle, will see one turbine and the upper parts of other proposed turbines running along a distant skyline to the west, over 10km away, for a few minutes of their journey. As they get closer to the jetty, woodland along the shore and the intervening landscape will screen any views of turbines. The ZTV indicates very limited visibility from Loch Ness, and, considered as part of a journey, this localised area with some potential visibility will not result in significant effects upon tourists.
- 2.44 At **Viewpoint 15**, tourists, cyclists and recreational users picnicking near the B852 on the eastern shore of Loch Ness, or walking along a short section of the Change House Trail which is promoted on a sign board at that location, will see the upper parts of the proposed turbines running along a small part of a distant skyline to the west, as part of a very wide panoramic and large scale view of Loch Ness and the Great Glen. This will be the only location on the east side of Loch Ness where the wind farm could be seen, and needs to be considered in the context of the way people would typically use a roadside picnic place such as this, where they may stop for a short time, as well as in the context of the available panoramic view, in which the turbine blades along a skyline will be small and distant features.

Reason for Refusal 4: Effects on viewers at Corrimony Chambered Cairn

- 2.45 The effect on the heritage asset is considered by Dr Carter. This section considers only the effect on views as experienced by people visiting the location.
- 2.46 Visual effects on visitors to Corrimony Chambered Cairn are represented by LVIA **Viewpoint 5**, illustrated in ES Volume IV Figure 6.20.11 (**APP1.6**), and discussed in more detail below. The wind farm will be seen on the forested horizon over 4km away to the north-east (as discussed in ES Appendix Table 6.4.5, **APP1.4**).

Key Issues Raised

- 2.47 The significant visual effect described in the LVIA is not disputed, but THC in the Report of Handling (**APP1.27**) describe the turbines as being overbearing and dominant, partly because the viewpoint is lower than the development site, and partly because the trees allow a scale indicator. The fact that the turbine blade tip heights appear variable is suggested to be at odds with the smooth landscape of the skyline, and conflict with the SNH design guidance is suggested (paragraph 8.71, second bullet **APP1.27**).

Appellants' Response: Effects on Views from Corrimony Chambered Cairn

- 2.48 This Reason for Refusal overlaps with Reason for Refusal 1 in that it considers views from south west of the wind farm site as they are experienced by tourists and recreational users.
- 2.49 The text below sets out the way a visitor experiences the location, from arrival at the recognised parking area, visiting the monument and through to departure.
- 2.50 The cairn is signposted off the A831. From here a tree lined single track road leads to a car park, after about 1km. During this drive, the wind farm would not be seen as it would be behind the viewer. The car park is similarly partially enclosed by surrounding trees and local topography. Upon parking, a visitor walks west along the road, their back to the wind farm site, and will see the cairn framed by trees to their right. They will stop to read the interpretation board at the gate, from where the wind farm will be filtered from views by the trees to the east. Stepping forwards into the enclosure, they are now very close to the cairn, and will see the view as represented by Viewpoint 5 (ES Volume IV, Figure 6.20.11, **APP1.6**), with the chamber of the cairn directly in front of them. Looking around they see a modern agricultural landscape, with woodland, fields used for sheep grazing, and moorland and a forested horizon beyond. A farm near Uppertown of Buntait is seen to the north-east. A number of pylons are seen to the north, against the sky. The wind farm will be seen across the forested part of the horizon to the north-east, just over 4km away. The turbines will mainly be seen from hub upwards, with greater parts of the towers of five turbines also being seen. The turbines will present a relatively even spaced array, at relatively even tip heights. It will not be possible to see the turbines from within the chamber of the cairn. When leaving, once through the gate and out onto the road, trees will filter views and the wind farm will be seen only in glimpsed views as people drive away. There is no formal picnic site or other facility at the cairn which might encourage visitors to remain longer, and so most visits will tend to be quite short, with people then travelling on to their next point of interest.
- 2.51 It is considered by the Appellants that the arrangement meets the aspirations of current SNH guidance, including in relation to the following. It:
- Achieves a relatively simple design, as an array of turbines of broadly equal spacing across the skyline (e.g. illustration on page 11, **APP4.3**);
 - Relates well to the underlying relatively smooth landform (e.g. illustrations on pages 12 and 18-19, **APP4.3**);
 - Has a relatively simple relationship with the forestry block which forms the skyline, helping to reduce the perception of scale and distance, the trees reading as a block rather than as individuals (e.g. illustration on page 20, **APP4.3**);
 - Is seen with some physical separation from the viewpoint being provided by the afforested horizon, giving it a sense of being over the hill rather than being within the same area as the viewpoint, and reducing the potential for effects to be considered overbearing or dominant;
 - Leaves much of the horizon free of any wind turbines, occupying less than c.20 degrees of the 360 degree view, again preventing it from being dominant; and
 - Is seen above land which rises gently rather than steeply above the viewpoint, which means that the turbines will not appear overbearing or as if they are towering above the viewer.
- 2.52 From **Viewpoint 5**, the wind farm will be seen along with other modern elements in the landscape, such as commercial forestry, buildings, overhead powerlines and telegraph poles, appearing partially screened by topography, and as such would not represent a change to the character of the landscape. Although the impact upon the view will be

significant, there will not be a change to the landscape character of the landscape surrounding the cairn.

2.53 Effects on other tourists are discussed below, under the heading of recreational users.

Views experienced by Recreational Users

2.54 Recreational users are taken as being users of paths, in order to avoid overlap with the above.

2.55 Paragraph 2.14 of THC Report of Handling (**APP1.27**) outlines the *"The key recreational interests in this area are mountaineering, walking, cycling, and canoeing in the surrounding lochs. There are a number of long distance routes in the area, the most notable of which are the Great Glen Way and the Affric to Kintail Way. High level walks accessing the nearby hills including those identified as Munros, Corbetts and Grahams are also present in the surrounding area."*

2.56 A number of assessment viewpoints included in the LVIA were selected to be representative of the likely change in views experienced by users of paths and long distance routes. For the Affric Kintail Way these are Viewpoints 9, 7, 1, and 4. For the Great Glen Way they are Viewpoints 11, 10, 13, and 16. Viewpoint 14 represents the Great Glen Canoe Trail, and is discussed above. Viewpoint 15, discussed above, is on the National Cycle Route 78. Hill walkers are represented by Viewpoints 11, 12, 13, 16, 17, and 19.

2.57 SNH disagreed with the assessments for viewpoints 9, 10, 13 and 14 and 15.

2.58 At **Viewpoint 9**, walkers on the Affric Kintail Way above Cannich will see the wind farm for a short duration as they pass through a recent clearing in the forest. From other locations along the route, the forestry will obscure outward views. During the life time of any wind farm, areas of forest will come and go, with some felled locations having more open views and others closing up as the forest grows. However, as this area remains Forestry Commission Scotland land, it is likely that the majority of the trail will remain under woodland cover of some description for the foreseeable future.

2.59 At **Viewpoint 13**, walkers diverting from the Great Glen Way at the summit of Carn na Leitire will see Cnoc an Eas Wind Farm for a short period of time as they pass up and over the hill (434m). Druim Ba Wind Farm will also be seen much nearer by, if consented.

2.60 No significant effects on sequential views from recreational routes (including long distance footpaths to the south, east and west, and waterways to the east) are predicted within the LVIA, and the Report of Handling also agrees with this finding. Paragraph 8.74 (**APP1.27**) states: *"Walkers on long distance routes, such as the Great Glen Way [to the east] and the Affric to Kintail Way [to the west], are considered to be high sensitivity receptors. The development has theoretical visibility from both of these routes. It is however for limited sections of the overall route. With the exception of the matters raised in relation to specific views on long distance routes, the finding of the ES in relation to this matter is accepted."*

2.61 Those recreational users of the roads (the A82, A831, A833 and B852), and lochs (Loch Ness) are also covered by effects on travellers, discussed above and in the ES (Viewpoints 3, 6, 8, 10, 14 and 15).

2.62 Effects on recreational hill walkers are addressed in relation to Reason for Refusal 2 concerning Meall Fuar `mhonaidh (Viewpoint 11).

Consideration of how visual effects will change through the removal of forestry

- 2.63 Forestry north of the A831, to the south west of the Site has been recently felled, and it is understood that further forestry is likely to be felled during the life of the wind farm. Felling plans and compensatory planting plans, as well as a revised restocking plan for the site are included in the SEI, February 2016 (Figures 4.2-4.5) (APP). ES Volume II, Appendices, Appendix 4.2 (**APP1.4**) covers Forestry, and Plans 1-6 and Maps 1-6 show Felling and Restocking Plans for Kilmartin Forest, the area of the site. In terms of the wider area, Bidwells has provided further reporting and plans, under the heading of Glenurquhart Forests – Felling and Replanting, Bidwells, 21 June 2016 (**APP1.31**). ES Volume 1: Main Text and Figures provides a plan at Figure 9.1 (**APP1.3**) showing areas of Ancient Woodland, which is likely to remain under continuous woodland cover going forwards, and as such will maintain levels of screening by woodland along the north side of the glen, to the south-east of the site.
- 2.64 Whilst changes in forest and woodland may open up some views, it is also true that areas which are currently absent of forestry, or where young trees have been planted, may provide additional screening or filtering of views over the operational life. The findings of the LVIA have taken account of this.

Reason for Refusal 2: Cumulative visual effects including from Meall Fuar 'mhonaidh

Key Cumulative Issues Raised

- 2.65 The following parties raise concerns in relation to cumulative effects as part of their comments or objections: THC, SNH, GUCC, STAG, JMT, MCoFS, Scotways and Scottish Wild Land Group.
- 2.66 Concerns relate to cumulative visual effects associated with visibility of multiple wind farms experienced from upland areas and hill summits, including those located within the NSAs, WLAs and SLAs. Specifically, they relate to the perceived ring of wind farms as seen on the hills around Loch Ness and the Great Glen.

SNH

- 2.67 SNH do not object to the proposal but raise concerns in relation to the under assessment of cumulative effects (**APP1.21o**): *"The LVIA concludes that no cumulative landscape or visual effects will result under either scenario [Scenario 2 and 3]. We consider this is an under representation of the likely effects"*.
- 2.68 SNH appear to be discussing total or combined effects of all the existing and potential wind farms, rather than focussing on the additional effects arising from Cnoc an Eas and the specific impacts arising from the proposed development under consideration here, as they relate to the pattern and number of developments seen across the landscape.

Appellants' Response: Cumulative Visual Effects

- 2.69 Reason for Refusal 2 specifically cites cumulative effects as viewed by recreational users of the outdoors in the wider vicinity of the Site but particularly from the summit of Meall Fuar 'mhonaidh.
- 2.70 Paragraphs 6.204 onwards of ES Chapter 6 (**APP1.3**) set out the Cumulative Landscape and Visual Impact Assessment (CLVIA) which considers the assessment of cumulative effects on landscape and visual receptors.

- 2.71 SNH guidance (**APP4.8**) outlines the requirement to *"describe, visually represent and assess the ways in which a proposed windfarm would have additional impacts when considered together with other existing, consented or proposed windfarms"* (Para. 55, SNH, 2012). Therefore the CLVIA considered the **additional** effects on landscape and visual receptors arising as a result of the addition of the proposed development: *"The cumulative assessment therefore necessarily focuses primarily on the additional cumulative change which will result from the introduction of the proposed Cnoc an Eas Wind Farm."* [Bold emphasis added].
- 2.72 The CLVIA identified no significant cumulative visual effects as a result of the addition of Cnoc an Eas Wind Farm as outlined in ES Tables 6.29 - 6.38 (**APP1.3**). The CLVIA also considered the likelihood for **combined or total cumulative** visual effects (the approach is set out in ES paragraphs 6.207-6.209), however from the ten viewpoints from which cumulative visual effects are considered, **combined** cumulative visual effects were only predicted to occur from Viewpoint 11: Meall Fuar `mhonaidh. ES Table 6.32 states: *"Significant combined cumulative visual effects are likely to occur from this viewpoint, however the presence of Bhlariadh Wind Farm is likely to have the greatest contribution to these cumulative visual effects, and while Cnoc an Eas Wind Farm will introduce turbines to an additional proportion of the available views from this viewpoint, the proposed development will appear consistent with the existing and proposed pattern of wind development and will not affect the key focus of views north and south along the Great Glen, east to the Monadhliath Mountains and west towards the Munro summits of the Central Highlands."*
- 2.73 When considering the contribution of Cnoc an Eas Wind Farm to these combined or total cumulative effects, paragraph 6.325 goes on to summarise: *"... it is considered that the siting of Cnoc an Eas Wind Farm provides a sufficient spacing between other existing, consented and proposed wind farm developments and does not lead to the development [Cnoc an Eas Wind Farm] having a significant contribution to the potential combined or total cumulative landscape and visual effects."*
- 2.74 Since the submission of the application in July 2015, a number of changes to the cumulative baseline considered in the LVIA and CLVIA have occurred. As such, an update to the cumulative assessment contained in the original ES is included within the Updated Landscape and Visual Information in **APP1.29** and **APP1.30**.
- 2.75 The most notable change to the future cumulative scenario is that a proposal for Druim Ba to the east of the A833 and north-east of the proposed development was submitted on 23rd October 2015 (THC application reference: 15/03998/FUL) and is now at appeal on the grounds of non-determination (DPEA reference: PPA-270-2147). If consented, this will be the closest wind farm to Cnoc an Eas Wind Farm at approximately 9.6km.
- 2.76 The introduction of the proposed Druim Ba Wind Farm will extend the influence of wind energy development to the west of the Great Glen/Loch Ness. It is proposed approximately 4.5km from the western edge of the deep fissure of the Great Glen.
- 2.77 It is considered that the changes in the status of consented wind farms (including Bhlariadh and Beinneun) will not result in any significant effects beyond those already described in the LVIA or CLVIA (**APP1.3**). For schemes which have been consented, each of these proposals will appear as an extension to wind farms which are existing or under construction and the levels of effects will remain as described in the CLVIA.
- 2.78 Taking account of the changes in the cumulative baseline set out above, further **total** or **combined** cumulative effects are predicted, however these are likely to arise in relation to the introduction of the Druim Ba Wind Farm proposal in views from key viewpoint locations.

- 2.79 Visibility of Druim Ba from a number of LVIA viewpoints will result in significant combined cumulative visual effects in some locations between the two wind farms. These are considered to be Viewpoint 11: Meall Fuar `mhonaidh and Viewpoint 13: Carn na Leitire (also represented by Druim Ba Wind Farm LVIA viewpoint 11).
- 2.80 Taking account of the changes in the cumulative baseline, it is not considered that the updated cumulative baseline outlined above results in any changes to findings of significance of **additional** cumulative landscape and visual effects made within the 2015 CLVIA arising from the introduction of Cnoc an Eas Wind Farm. The assessment of visual effects will remain as set out in the LVIA at each of these locations, and will not be greater because of the cumulative addition to other wind farm projects to the view. SNH raise points in relation to the compatibility of Cnoc an Eas Wind Farm with the emerging pattern of wind farm development to the east and west of the Great Glen, recognising, positively, that the wind farm will be a separate development, with its own landscape context, but also suggesting that it will not fit with the pattern of existing wind energy development. It is apparent from the maps showing the distribution of wind farms (ES Figure 6.6 **APP1.3**) that the pattern is one of dispersed development across the whole area, both east and west of the Great Glen. Cnoc an Eas Wind Farm will tie in with this pattern of well-spaced individual wind farms located across this large scale landscape.
- 2.81 It is important when considering this issue to understand how people will generally experience the landscape and the wind farms present within it. The majority of people will typically experience this large scale and extensive landscape from lower levels, when in settlements and driving round the area. Whilst doing this, they will occasionally see views of wind farms usually individually, as they do today. The pattern and number of wind farms, which are apparent when viewing their locations in plan format on maps, will not be evident in practice by people living, travelling and working in the area. This is a large scale landscape of mountains and glens, and it takes considerable time to travel from one part to another.
- 2.82 It is only when up on the higher ground and mountains that multiple wind farms can and will be seen, and even then it is hard to see a picture that may be perceived as a ring of wind farms around Loch Ness which presents itself in a plan view, because of the vast scale of the landscape. The wind farms are well spaced in this landscape of extensive scale, and located in hill country, with deep glens between them, such that cumulative effects will remain relatively limited.

Cumulative Visual Effects at Viewpoint 11: Meall Fuar `mhonaidh

- 2.83 Reason for Refusal 2 focuses closely on cumulative visual impacts experienced by recreational users from the hill summit of Meall Fuar 'mhonaidh, which is represented by **Viewpoint 11** in the ES. A significant (moderate) visual effect is likely from this viewpoint, as outlined in Appendix Table 6.4.11 (**APP1.4**) which states "*The level of visual effect is judged to be moderate and significant taking note of the judgements of high sensitivity and low magnitude of effect in the context of the 360° panoramic view available from this viewpoint which to the east and north-east draws the eye towards the Great Glen and Loch Ness.*"
- 2.84 Since the submission of the application in July 2015, construction of Bhlairaidh Wind Farm has started, and although turbines are not presently visible in views from the summit of Meall Fuar `mhonaidh, this development should now be considered within the baseline situation of the LVIA (defined in the LVIA as Scenario 1). Bhlairaidh now represents the closest wind farm development to Meall Fuar `mhonaidh and will be a key feature in views from this distinguishable hill summit within the SLA.

- 2.85 When ascending the hill of Meall Fuar 'mhonaidh, within the SLA, which takes around 1.5 – 2 hours on foot, for much of the duration of the upward walk, Farr Wind Farm is visible to the north-east, whilst Dunmaglass and Corriegarth Wind Farms will be clearly seen to the south-east, closer to the walker, on the opposite side of the Great Glen. These wind farms will also be seen clearly from the first cairn, where an open view north-east along the Great Glen can be appreciated, and where it is expected that many people will stop and take photographs. At these distances, whilst seen, they do not affect the character of the landscape experienced in the walk up the hill.
- 2.86 From the hill summit, the views in the context of the SLA are focused on the dramatic views into the deep trench formed by the Great Glen to the north-east and south-west. The proposed development will be seen in a less interesting part of the available view from the top of this hill, looking north, and north-west across the large scale, open Rocky Moorland Plateau. In terms of the way one experiences the views upon arrival at the summit, a walker will look west, south-west, across the plateau into the large scale Bhlaraidh Wind Farm, now under construction, and to the hills beyond. They would turn to see Millennium Wind Farm and see the focus of the view, their eye led by the Great Glen south south-west, towards Ben Nevis, then south to Creag Meagaidh, and east to the Monadhliath Mountains. A viewer will then turn around and look into the trench of the Great Glen in the opposite direction to the north-east, when Druim Ba would be seen, then turn to the less interesting views to the north to north north-west, when Cnoc an Eas will be clearly seen across a forested glen head. Again, this relatively distant view, though representing a moderate visual effect, could not be described as affecting the landscape character or special qualities of the SLA as experienced at this location.
- 2.87 The part of the view which appears to be appreciated when facing south/southwest (and seems from the arrangement of flat stones on the south side of the summit cairn to be the place people typically sit when eating their lunch on the summit) is towards Millennium Wind Farm – which is seen silhouetted against the sky to the south-west – albeit in the distance. This view will also be towards Bhlaraidh, when it is constructed. As echoed in the Report of Handling (**APP1.27**), it is not considered by the Appellants that the development, given its position set back from Loch Ness, would significantly detract from the views up and down Loch Ness itself.
- 2.88 The Druim Ba Wind Farm is more distant from Meall Fuar 'mhonaidh than Cnoc an Eas but would be closer to the key focus of the view from this location, which is towards the Great Glen and Loch Ness, and which this hill summit is renowned for within the special qualities of the SLA. SNH in their response to Druim Ba (**APP4.15**) did not consider the individual or cumulative effect taking account of Cnoc an Eas to be significant, in spite of the wind farm being seen closer to the focus of the view along the Great Glen to the north east.
- 2.89 It is clear from the analysis in the ES that the main contributor to cumulative effects from the summit of Meall Fuar 'mhonaidh (Viewpoint 11) will be Bhlaraidh Wind Farm which is presently under construction. Given the proximity of the turbines of this development to the south-west of the viewpoint, in a proportion of the view which was previously less affected by wind farm development, its contribution to the visual experience of visitors to this popular hill summit will outweigh that of other existing, consented or indeed proposed wind farms, such that the additional contribution of Cnoc an Eas is not considered to be significant.

Reason for Refusal 3: Effects on the landscape of Loch Ness and Duntelchaig SLA

Key SLA Issues Raised

- 2.90 The Report of Handling considers effects on Loch Ness and Duntelchaig SLA in paragraph 8.58-8.62 (**APP1.27**). Areas of theoretical visibility are described, and the report sets out that the special qualities focus on the striking landscape feature formed by the steep sided trench with Loch Ness at its base. Effects on views looking west down Glen Urquhart, and from Meall Fuar 'mhonaidh are raised, the later in terms of encirclement by wind farms. It is recognised that the view would not detract from the views up and down Loch Ness. The key concern given is that the striking shape of features of the SLA, for which the landscape is designated, would be significantly affected.
- 2.91 Other parties raise effects on the SLA as part of their comments or objections including: SNH, GUCC and STAG.
- 2.92 These concerns mainly relate to the cumulative effect of views of several wind farms being seen from within the SLA, looking out of it.
- 2.93 As outlined in the Appellants' letter and enclosure responding to the consultation letter of Scottish Natural Heritage (**APP1.19**): *"In relation to the Loch Ness and Duntelchaig SLA, SNH considers there to be potentially significant effects upon the special qualities of the SLA."*

Appellants' Response: Effects on the Loch Ness and Duntelchaig SLA

- 2.94 This Reason for Refusal overlaps with the previous one, in that Meall Fuar 'mhonaidh (Viewpoint 11), lies within the SLA. Effects on views from this hill are considered in the previous paragraphs of this chapter of the Statement of Appeal.
- 2.95 ES Paragraphs 6.282 – 6.317 (**APP1.3**) set out the implications for designated landscapes considered in the LVIA and CLVIA, making reference to the assessment sections for landscape, visual and cumulative effects. ES Volume 1 Figure 6.4a (**APP1.3**) is useful in understanding the distribution of theoretical visibility across designated areas, showing a ZTV in combination with the boundaries of the designated areas.

Special Landscape Areas

- 2.96 A number of Special Landscape Areas (SLAs) were scoped out of the LVIA due to there being limited or no theoretical visibility, or in light of their relative distance from the proposed development and consequently the limited likelihood for significant effects arising. Those that were considered further are listed below.
- **Strathconon, Monar and Mullardoch SLA:** In relation to the Strathconon, Monar and Mullardoch SLA, the LVIA concludes in paragraph 6.308 that *"although the turbines of Cnoc an Eas Wind Farm will be visible from parts of the SLA, the turbines are not anticipated to detract from the special qualities of the SLA."* In the annex to its consultation response, SNH states *"As the turbines will be visible only from a very small proportion of the SLA at distances in excess of 10km, this is considered to be an accurate assessment"* (**APP2.1o**). Effects on this SLA do not feature within the Reasons for Refusal.
 - **Loch Ness and Duntelchaig SLA:** This SLA is considered as part of the response to Reason for Refusal 3 set out below. Effects on the landscape character and in relation to the special qualities are not considered to be significant. There are some limited locations where there will be a significant effect upon views from this SLA, specifically Meall Fuar 'mhonaidh. There will be some other locations where a more fleeting view

of the wind farm will be available, and, as such, where visual effects will be apparent but not significant. Viewpoints 10, 14 and 15 are examples where views will be seen from roads, roadsides or paths in the SLA, or from boats on Loch Ness.

- 2.97 As indicated by ES Figure 6.4a, theoretical visibility of the proposed turbines is very limited indeed across the SLA *"with the majority of the SLA not experiencing any visibility of the turbines"* (ES, paragraph 6.312 **APP1.3**). Nevertheless a number of LVIA viewpoints were located in the SLA as outlined within ES paragraph 6.312: *"Views from the SLA are represented by Viewpoint 10: A82 near Strone, Viewpoint 11: Meall Fuar 'mhonaidh, Viewpoint 14: Loch Ness Tourist Ferry Route and Viewpoint 15: B852 east of Loch Ness, with significant (moderate) visual effects identified from viewpoint 11. Although significant visual effects are identified from this location within the SLA, similar visual effects from the SLA will be limited"*.
- 2.98 The Loch Ness and Duntelchaig SLA boundary is shown on Map 20 in the Assessment of Highland Special Landscape Areas (**APP4.11**), and is illustrated on ES Volume 1 Figure 6.4 (**APP1.4**). The western boundary of the SLA is located approximately 10km east of the nearest turbines of the proposed development.
- 2.99 The SLA, a large area, is very clearly focused on the deep fissure and linear feature of the Great Glen, and there is a very limited area of potential visibility from the extent of the designated area. This includes a short stretch of Loch Ness and the eastern shore and the hill ridge and summit of Meall Fuar 'mhonaidh (discussed previously in detail).
- 2.100 In the Report of Handling (**APP1.27**) paragraph 8.59 states in relation to the special qualities of the SLA: *"these are considered to focus predominantly on the striking landscape feature formed by the steep sided trench with Loch Ness at its base."* This is true, however it is also important to consider the specific special qualities which are defined within the Assessment of Highland Special Landscape Areas report (**APP4.11**). Within Table 1 of the annex to its consultation response, SNH outline an assessment of effects on the special qualities of the Loch Ness and Duntelchaig SLA. The Appellants' letter and enclosure responding to the consultation letter of Scottish Natural Heritage (**APP1.19**) set out the potential for effects on the special qualities of the SLA, and more detail is provided in **APP1.29** as supported by **APP1.30**.
- 2.101 As stated in the Appellants' letter and enclosure responding to the consultation letter of Scottish Natural Heritage (**APP1.19**): *"SNH appears to base its finding of a significant effect on the SLA on the finding of significant visual effects from a number of viewpoints looking outside the SLA. However, this analysis is not in accordance with GLVIA3, and a finding of significant effects on a designated area should be based on analysis of the special qualities, which the ES demonstrates are not significantly affected."* This divergence from the approach advocated by GLVIA3 is supported by the statement found in the Report of Handling (**APP1.27**), paragraph 8.59 which states: *"The impact however, looking eastward [sic. westward] toward the development, as is likely from VP10, 14 and 15, is of significant concern and it is considered that in these views the striking shape or features of the SLA, for which the landscape is designated, is likely to be significantly affected."* Again, westward views looking out of the designated area are raised.
- 2.102 In each instance, the views experienced from these locations towards the proposed development are perpendicular to and looking out of the SLA, and the *"vast linear feature of Loch Ness and its dramatic landform trench"* as defined on page 118 of the Assessment of Highland Special Landscape Areas Report (**APP4.11**), along which views are focused.
- 2.103 The Assessment of Highland Special Landscape Areas Report (**APP4.11**) also outlines 'Key Landscape and Visual Characteristics' of the SLA, which amongst others include *"The skyline is generally horizontal although there are occasional features such as hill peaks,*

pylons, telecommunications mast and distant views of wind turbines” recognising the fact that this is not a landscape which is currently devoid of views of wind farms.

- 2.104 In addition, the *Key Landscape and Visual Characteristics* (page 118 of **APP4.11**) state: *“There are long vistas of grand proportions and the sheer scale of the loch dwarfs the numerous boats, and yachts which frequent its waters.”* It is not unreasonable to suggest that the sheer scale of the landscape will also dwarf the effects of seeing the upper parts of some wind turbines at over 10km distant.
- 2.105 In the section in **APP4.11** on *Sensitivity to Change*, sensitivity is recognised in locating large scale features on the side slopes or ridges of the glen, but at over 10km, distant views of the upper parts of turbines would not be seen as large features. Reference to tall manmade structures is made (page 120), but only where they are located on the hill sides and may compromise the sense of containment of the glen or diminish the sense of the vast scale of the landscape, which could not be the case at over 10km distance. The distant upper parts of turbines could not be seen to contain the Great Glen.
- 2.106 It is considered that potential effects on the landscape character and special qualities of this SLA are likely to be very limited, much in the same way as those for the Strathconon, Monar and Mullardoch SLA. SNH agree with the assessment of potential effects on the special qualities of that SLA (**APP2.1o**): *“As the turbines will be visible only from a very small proportion of the SLA at distances in excess of 10km, this is considered to be an accurate assessment”*, and as discussed above, the effects on the Loch Ness and Duntelchaig SLA will be equally limited in their extent.
- 2.107 Implications for the Loch Ness and Duntelchaig SLA (set out in paragraphs 6.310 – 6.317, and in paragraph 6.316 of **APP1.3**,) remain as previously stated: *“In summary, although visibility of Cnoc an Eas Wind Farm is predicted from the SLA, this will be limited to hill summits along the flanks of the Great Glen and a small proportion of Loch Ness and its eastern shore across Urquhart Bay. Visibility of existing (operational and under construction) and consented wind farm developments to the east and west of the Great Glen is a feature of views experienced from the elevated slopes and hills on the edges of the SLA, and it is considered that the introduction of the proposed turbines will not detract from the special qualities of the SLA to such a degree that they will not be present across the majority of the SLA, which will remain unaffected by wind farm development.”*
- 2.108 Although significant visual effects are predicted from a few locations in this SLA, including the view from the summit of Meall Fuar `mhonaidh, which at this location offers 360 degree panoramic views at a distance of nearly 11km from the proposed wind farm, it is not considered that the special qualities of the SLA will be significantly adversely affected by the proposal.
- 2.109 It is clear from the ZTV how little of the SLA would be affected by distant views of the wind farm, which is not surprising given the focus of the SLA upon the deep trench of the Great Glen, which by its nature will limit the potential for outward views. The SLA comprises a huge scale deeply incised glen and loch system, and is contained to the north west and south east by steep glen and loch sides. The edge of the SLA reflects the crest of the side slopes.
- 2.110 Key views will remain focused along the length of the trench itself, away from the proposed wind farm. Views down the westward glens looking out of the SLA, such as Glen Urquhart, are not mentioned in the special qualities or key characteristics, which do however mention views of existing wind farms. The change to this view will be seen from a limited area on a distant horizon, and be seen as a well-designed wind farm, in accordance with SNH wind farm design guidance.

Other Matters

Effects on Wild Land

- 2.111 In relation to WLAs, the SNH consultation response (**APP2.1o**) provides a somewhat conflicting review of the assessment of effects on the Central Highlands WLA. The response states that the LVIA "*understates the significance of effects*" in relation to "*the special qualities of the Central Highlands Wild Land Area, in particular the erosion of these qualities on the eastern periphery*", before going on to state that "*While the effects on the whole of the Central Highlands Wild Land Area will not be significant, it is considered that the wild land attributes and qualities on the eastern periphery will be further eroded by the addition of turbines at Cnoc an Eas, albeit that the majority of the Wild Land Area will be unaffected.*"
- 2.112 These comments are made in the context of the earlier statement: "*The proposed wind farm will be visible from the hill summits on the eastern fringe of the Central Highlands Wild Land Area and will introduce human influence to views from these locations, notably from the Munros south of Loch Mullardoch, between Loch Mullardoch and Loch Monar and north of Loch Monar. These summits also have views of up to 4 other operational/under construction wind farms*".
- 2.113 It is clear that the visibility from the WLA of existing operational and under construction wind farms, and the presence of the Beaully-Denny Power Line represent substantial existing 'human influence' in the available views from the Central Highlands WLA, at its closest point around 7km to the west of the proposed Site. Human influence, through the presence of visible built development in the surrounding landscape, will be further extended by the presence of Bhlaraidh Wind Farm, now under construction.
- 2.114 As was concluded in the Wild Land Assessment (Appendix 6.3, Table 6.3.3, **APP1.4**) which accompanies the LVIA:

"The turbines will not be visible from the majority of the Wild Land Area, as indicated by Figure 6.1 and Figure 6.4a."

"Whilst the turbines will be visible from high peaks and ridges within the Central Highlands Wild Land Area, they will not detract from its wild land qualities such that the baseline attributes will be changed. Overall, the wild land characteristics as described in the baseline will remain, even when the turbines are visible, and the area will continue to qualify as 'wild land'."

Summary and Conclusions

- 2.115 Taking account of each of the issues related to landscape and visual effects which are set out above, it is still considered that the proposed Cnoc an Eas Wind Farm is an appropriately sited and designed wind farm, and that the landscape and visual effects, including cumulative effects can be accommodated in landscape and visual terms, without compromising the SLA or other designated areas, as well as in cumulative terms.
- 2.116 In response to the Reasons for Refusal:

Reason for Refusal 1:

- The nature of the site lends itself to a well-designed wind farm, being a shallow bowl in a valley head, enclosed by ridges of higher ground to the east, north and north-west, and presently under commercial forest cover;
- Significant visual effects would be limited to a small number of viewpoints within approximately 12km, where the simple nature of the development site is apparent;

- Visibility of the proposed development will be limited in its overall extent, and views from sensitive receptors including those experienced by residents and recreational viewers, at settlements, and recognised or documented views will be very contained;
- No significant prolonged sequential visual effects will be apparent on views from main road routes, National Cycle Routes, long distance footpaths (including the Great Glen Way and the Affric Kintail Way) as a result of the proposed development;
- There will be some glimpsed views of short duration from the A831, A82, Loch Ness, and the Glen Affric Trail;
- No significant effects on views from settlements (the nearest settlement defined by THC is Drumnadrochit) will arise from the introduction of the proposed development, albeit that some scattered and small groups of residential properties, not formally defined as settlements, including in Balbeg and Shenval will experience a significant change to their view;
- These effects on views will not extend to significant effects upon residential visual amenity. The closest property to the wind farm with potential views of turbines is located over 1.6km from the nearest proposed turbine; and
- Whilst THC consider that all road users should be treated as high sensitivity, this is not supported, given the short duration over which travellers in cars would experience views, particularly when on A class roads. Instead, each location should be, and was, considered on a case by case basis.

Effects on views seen by tourists at Corrimony:

- There will be a significant visual effect from Corrimony Chambered Cairn, but the landscape character of the area around the cairn will not be significantly affected, remaining as a landscape with some modification by human activity;
- The wind farm will be clearly seen but the forested horizon will provide some sense of separation and screening of the lower parts of the turbines such that they could not be considered to be overbearing or dominant;
- The layout of the proposed wind farm as seen from Corrimony, is considered to accord well with the aspirations of SNH guidance on siting and design, in that it will equate to a relatively evenly spaced array across a smooth forested skyline; and
- Although SNH make comments on the proposals, they do not object.

Reason for Refusal 2:

- A significant stand-alone effect (moderate) is predicted from Meall Fuar `mhonaidh;
- The proposed development will be seen in the context of operational, under construction, consented and potentially also proposed wind energy developments from this location, but will not lead to any additional significant cumulative effects. The effect will remain moderate, as set out in the LVIA;
- Space will be maintained between the proposed development and other wind farms, and the wind farm will not interact in a significant way with views of the skyline (for example through affecting a distinctive part of the view) or with other wind farms;
- Bhlaraidh Wind Farm will remain the most significant contributor to views of wind farms when seen from Meall Fuar `mhonaidh, and will be seen to the south-west. As such total or combined cumulative effects are described as significant, but not because of the addition of Cnoc an Eas; and
- From Meall Fuar `mhonaidh, the proposed Cnoc an Eas Wind Farm will be seen in the opposite direction, away from the focus of the view up the Great Glen, and will not significantly extend this established pattern of development, wind farms both in close and distant views being a characteristic of existing views.

Reason for Refusal 3:

- The development will result in no significant effects on the landscape character of locally designated landscapes, albeit that there will be some significant visual effects from a limited extent of the SLA;
- The area of the SLA which would experience a change in view is very limited, as clearly demonstrated by the ZTV;
- The SLA comprises a huge scale deeply incised glen and loch system, and is contained to the north west and south east by steep glen and loch sides. The edge of the SLA reflects the crest of the side slopes. It is unsurprising therefore that the effects on this SLA will be so limited;
- Views down the westward glens looking out of the SLA, such as Glen Urquhart, are not mentioned in the special qualities or key characteristics, which do however mention views of existing wind farms; and
- The change to this view will be seen from a limited area on a distant horizon, and will be in accordance with SNH wind farm design guidance.

Other points:

- Significant effects on landscape character would be very localised within the Rocky Moorland Plateau LCT and Wooded Glen LCT and would not translate into significant landscape effects across the wider extents of these LCTs. The partial enclosure provide by the bowl will help to limit the extent of the ZTV;
- The proposed development will result in no significant effects on the landscape or special qualities of nationally designated landscapes (National Parks or National Scenic Areas);
- The proposed development will result in no significant effects on the landscape character of WLAs, about which THC and SNH agree, albeit that there will be some significant visual effects on outward views from the edge of these areas;
- Landscape of the same character as the development site (Rocky Moorland Plateau LCT) has been indicated as being able to successfully accommodate large scale commercial wind farm development, of a similar or larger scale than that of the proposed development.

2.117 Based on experience, it is considered that the overall geographic distribution, number and extent of significant landscape and visual effects identified in the ES are proportionate and not unexpected for a development of this size. Given these findings there appear to be no grounds for refusal, on the basis on landscape and visual effects. The proposed site offers some clear benefits in terms of the reduction of potential visibility, because of its location in a valley head, whereby views from the east, west and north will be more limited than would be the case if it was less contained.

2.118 It is considered that the wind farm could be successfully accommodated into the landscape and views from the surrounding area.

3. **Cultural Heritage**

- 3.1 The following chapter has been provided by Dr Stephen Carter, principal heritage consultant with Headland Archaeology (UK) Ltd, on behalf of the Appellants. A CV detailing Dr Carter's experience is set out in **Appendix B**.
- 3.2 Dr Carter's involvement with the proposed development began in December 2012 when he was engaged by the Appellants to advise on the feasibility of developing the Site from the perspective of cultural heritage constraints. Subsequently, following a decision to proceed with a planning application, colleagues of Dr Carter were responsible for the cultural heritage chapter for the ES and SEI. Dr Carter provided advice to them in 2014 and 2015 during the preparation of these documents, including discussion of the predicted impacts on the Corrimony Chambered Cairn, and also contributed to post-application correspondence with the Council and Historic Environment Scotland. Dr Carter was engaged again by the Appellants in June 2016 to prepare the evidence contained in this chapter on cultural heritage matters.
- 3.3 The scope of this evidence primarily reflects the Council's fourth Reason for Refusal and the advice it received from its own Historic Environment Team ("HET") and Historic Environment Scotland ("HES"), which formed the basis for that reason. It also responds to cultural heritage matters raised by other objectors to the proposed development.

The position of Highland Council

- 3.4 Reason for Refusal 4 (see paragraph 1.23 above) relates to cultural heritage matters and reflects the advice given by HES and the HET, who both objected to the application solely in relation to impacts on the setting of Corrimony Chambered Cairn.
- 3.5 The advice from HES is set out in a letter dated 19 August 2015 (**APP2.1e**) with confirmation that its position was unchanged following submission of SEI in a second letter dated 29 March 2016 (**APP2.2e**). HES considers that the proposed development would have a significant adverse impact on the setting of the Corrimony Chambered Cairn and this would be contrary to national policy, as set out in SPP paragraph 145 (**APP3.8**).
- 3.6 In addition to Corrimony, HES comments on five other designated historic assets in its advice: Achratagan hut circle and cairnfield (Scheduled Monument), Urquhart Castle (Scheduled Monument and Category A Listed Building) and three Scheduled Monuments at Garbeg. It is important to note that these assets do not give rise to any concerns. HES also endorses the approach to assessment adopted in the ES and considers that the methodology used is appropriate.
- 3.7 The advice from the HET is found in an e-mail dated 2 November 2015 (**APP2.1w**) where it concludes with an objection on the grounds of visual impact on the setting of the Corrimony Chambered Cairn.
- 3.8 The HET also deals briefly with the potential for impacts on currently unrecorded archaeological remains during construction works but, agreeing with the ES, it concludes that this can be dealt with by archaeological monitoring. This approach to mitigation is accepted in the Report of Handling (**APP1.27**, paragraph 8.38) and a suitable condition has been proposed in the suite of proposed conditions contained in **Appendix C**.

Cultural heritage matters raised by other objectors

- 3.9 Representations submitted by other objectors to the application also raise cultural heritage matters. These cover the same few topics and historic assets already noted in the HES and HET advice (above) but, in some cases, reach different conclusions from HES and the HET.
- 3.10 GUCC, in its response to the planning application (**APP2.1d**), notes the presence of numerous sites of historic interest in the glen and the resulting potential for additional sites to be found during felling operations for the development. This is not offered as a reason for objection.
- 3.11 GUCC goes on to note that turbines would be visible from the A82, close to Urquhart Castle as well as from boats on Loch Ness. It then records the HES objection in relation to the Corrimony Chambered Cairn and the HES assessments of the Scheduled Monuments at Achratagan and Garbeg. Finally, GUCC concludes that the proposed development “*would destroy the unique setting of these ancient monuments and must be rejected*”.
- 3.12 A second submission from GUCC (**APP2.2c**), responding to the SEI, notes that nothing has been done to address impacts on the Corrimony Chambered Cairn (since the objection by HES) and concludes that the wind farm would have a “*seriously detrimental impact on the ambience of the site*”. It also notes the potential for damage to currently unrecorded sites with the appeal site during construction phase.
- 3.13 Kiltarlity Community Council (KCC), in its response to the planning application (**APP2.1g**), notes (with approval) that the ES acknowledged impact on the Corrimony Chambered Cairn would be significant. KCC then criticises the ES, alleging that it “*almost unbelievably plays down impact on Urquhart Castle*”, with reference to views of turbines from Loch Ness and trunk road close to the castle. KCC concludes that “*the potentially appalling effect of the turbines ... on the all-important wider setting of Urquhart Castle is in itself perhaps the only reason needed for turning down this application*”.
- 3.14 STAG mentions cultural heritage matters in the overarching objection to the planning application submitted by Ian Kelly (**APP2.1p**) but this goes no further than summarising the objection from HES and noting that this has been taken into account in the policy assessment by STAG. Similarly, the STAG response to the SEI (**APP2.2m**) simply notes that HES has maintained its objection.

Scope of the evidence

- 3.15 The matters raised in the Council’s fourth Reason for Refusal and by the various objectors to the proposed development may be summarised under two headings:
- 3.15.1 Impact on selected designated historic assets due to the presence of the wind farm in their settings; and
- 3.15.2 Impact on currently unrecorded historic assets within the Site due to construction works.
- 3.16 Concern regarding setting impacts is clearly focussed on the Corrimony Chambered Cairn and this is the key cultural heritage issue for the appeal. The setting of other designated historic assets has only been raised by the two Community Councils and in neither case are the objections based on a formal assessment of predicted impacts.

- 3.17 Urquhart Castle and the Scheduled Monuments at Achratagan and Garbeg have already been assessed both by the Appellants in the ES (**APP1.3**, 11.136-150) and by HES in its response of 19 August 2015 (**APP2.1e**). The fact that these assets have been mentioned at all by the Community Councils in their representations simply reflects the inclusion of the assets in the HES response and the Community Councils add nothing to the analysis.
- 3.18 Dr Carter endorses the conclusions reached in the ES and the positions adopted by HES and the HET regarding Urquhart Castle and the assets at Achratagan and Garbeg. Given that adequate assessments have already been provided for these assets and in the absence of any concerns from HES or the Council's HET regarding these assets, it is concluded that no further analysis is required here.
- 3.19 The potential for impact of construction works on currently unrecorded assets is raised by GUCC but not included as a reason for objection. This issue has already been addressed in the ES where it was concluded that any potential adverse impacts could be adequately mitigated through a programme of archaeological works, to be agreed with the Council (**APP1.3**, 11.114-116). The Council's HET has agreed that this would be an effective strategy (**APP2.1w**) and it is assumed that this will be secured through the use of an appropriately worded condition. This will fully address the concern raised by GUCC and no further consideration of this matter is required here. A suitably worded condition is proposed in **Appendix C**.
- 3.20 It follows that the evidence presented here deals solely with the impact of the proposed wind farm on Corrimony Chambered Cairn due to change in its setting. This topic is addressed in three main sections:
- 3.20.1 Relevant policy and guidance;
 - 3.20.2 The predicted impact of the development on Corrimony Chambered Cairn; and
 - 3.20.3 The position of HES and the HET.
- 3.21 In the first section, policy and guidance relevant to the setting of Scheduled Monuments is summarised. This provides the framework for the second section where the impact of the proposed wind farm on the setting of the Corrimony Chambered Cairn is summarised and conclusions reached regarding compliance with relevant policies.
- 3.22 The summary of policy and guidance is also relevant to the third section in which the position taken by HES and the HET in their consultation responses regarding impacts on the setting of the cairn is examined.
- 3.23 The assessments in the ES and SEI (the latter does not differ in any material way from the ES) are endorsed and are not therefore repeated here at length. Instead, the chapter summarises the main points of the assessment with quotations from the ES at the relevant section of the evidence.

The setting of Scheduled Monuments in policy and guidance

National Policy and Guidance

- 3.24 The setting of historic assets is defined in the glossary of SPP in the following terms:

"[Setting] Is more than the immediate surroundings of a site or building, and may be related to the function or use of a place, or how it was intended to fit into the landscape of townscape, the view from it or how it is seen from areas round about, or areas that are important to the protection of the place, site or building."

(APP3.8, glossary page 75)

3.25 Guidance on setting issued by HES in 2016 explains that:

"Setting' is the way in which the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced." (APP5.1, page 6)

3.26 The relevance of setting in planning policy is established in the policy principles of SPP. This states that the planning system should:

"• promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning; and

• enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced." (APP3.8 paragraph 137 with references to setting underlined)

3.27 These principles are carried forward into specific policies in SPP and, in the context of the present appeal, policy relating to Scheduled Monuments is of particular relevance:

"Where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances." (APP3.8, paragraph 145 with reference to setting underlined)

3.28 For the avoidance of doubt, paragraph 145 is understood to establish two independent tests relating to Scheduled Monuments. These are "an adverse effect on a scheduled monument" and "an adverse effect on ... the integrity of its setting". The first test relates to physical effects on the actual Scheduled Monument (i.e. development works within a scheduled area that would generally require Scheduled Monument Consent). The second test relates to development within the surroundings of a Scheduled Monument when the monument itself is not affected. Only this second test is relevant in the present case as there are no Scheduled Monuments within the appeal site.

3.29 SPP does not define 'integrity' in the context of paragraph 145. It is considered that the integrity of a setting will be maintained if the principal characteristics of the setting that contribute to the cultural significance of the asset are retained. This understanding of the meaning of 'integrity' is supported by a recent appeal decision (APP6.3, paras 130, 131 and 141).

3.30 SPP also states:

"The purpose of scheduling is to secure the long-term legal protection of the monument in the national interest, in situ and as far as possible in its existing state and within an appropriate setting." (APP3.8, glossary page 74, reference to setting underlined)

3.31 Again, SPP does not define 'appropriate' in this context but it is considered that an 'appropriate setting' is one that retains the principal characteristics of the setting that

contribute to the cultural significance of the asset. It therefore supports the cultural significance of the asset.

3.32 It is clear from SPP that the fundamental reason the setting of Scheduled Monuments is relevant in planning policy is that setting can enhance the cultural significance of the monument by contributing to the way in which it is 'understood, appreciated and experienced', using the vocabulary of the HES guidance on setting (**APP5.1**, page 6).

3.33 The concept of cultural significance with respect to Scheduled Monuments is explained in Annex 1 of the HES Policy Statement 2016:

"Cultural significance of any monument, whether of international, national importance or more local significance, can be characterised by reference to one or more of the following; the characteristics are in three groups:

Intrinsic – those inherent in the monument;

Contextual – those relating to the monument's place in its wider physical environment or in the body of existing knowledge; and

Associative – more subjective assessments of the associations of the monument, including with current or past aesthetic preferences." (**APP5.2**, Annex 1, paragraph 5)

3.34 In this classification scheme, 'setting' is considered to be part of the contextual characteristics of an asset: "*the relationship of the monument and its parts with its wider landscape and setting*" (**APP5.2**, Annex 1, paragraph 5g).

3.35 Guidance on how to address setting in the context of development is provided by HES in one of its series of guidance notes on *Managing Change in the Historic Environment* (**APP5.1**)². Section 3 of the guidance promotes a three-stage approach to assessing the impact of change which (using the 2010 edition of the guidance) formed the basis of the assessment methodology in the ES (**APP1.3**, Chapter 11, s.11.11 to 11.29):

3.35.1 Stage 1: identify the historic assets that might be affected by the proposed development.

3.35.2 Stage 2: define and analyse the setting by establishing how the surroundings contribute to the ways in which the historic asset or place is understood, appreciated and experienced.

3.35.3 Stage 3: evaluate the potential impact of the proposed changes on the setting, and the extent to which any negative impacts can be mitigated.

3.36 There is scope here for some confusion in the use of the terms 'change in setting' and 'impact on setting' but the guidance is clear and consistent. 'Change in setting' refers to a neutral description of the way in which a proposed development would change the surroundings of an historic asset. 'Impact on setting' refers to way in which any change in the surroundings would affect the contribution it makes to the cultural significance of an asset. This distinction is made throughout the guidance and is reflected, for example, in the title to Section 3 ('Assessing the impact of change') and the description of assessment Stage 3 ('evaluate the potential impact of the proposed changes...').

²A new edition of the HES guidance on setting was released in June 2016 and all references are to this current edition unless stated otherwise. All application documents and related correspondence were drafted when the previous (2010) edition was current. Whilst the new edition contains some revision of the text, the principles and guidance remains effectively the same between the 2010 and 2016 editions.

3.37 It is therefore important to recognise that change in the surroundings of an historic asset does not necessarily lead to an impact (negative or positive) on the cultural significance of the asset. This will depend on the nature of the contribution that the setting makes to significance and whether this contribution is affected by the proposed change. As a result, Stage 3 contains two distinct steps: firstly an analysis of predicted change and secondly an assessment of the impact of that change.

3.38 In terms of the three-stage assessment process, the key point to note is that it is not possible to undertake an impact assessment (Stage 3) without first understanding the contribution that setting makes to the cultural significance of the asset (Stage 2). This is because whether change in the setting leads to an impact will depend on the way in which setting contributes to cultural significance.

Local policy and guidance

3.39 The setting of Scheduled Monuments is referenced in Policy 57 (Natural Built and Cultural Heritage) of the HwLDP. This states that:

"All development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting, in the context of the policy framework detailed in Appendix 2." (APP3.1 s.21.2.1, reference to setting underlined)

3.40 Policy 57 then defines additional criteria by which developments affecting features of national importance (including Scheduled Monuments) would be judged:

"For features of national importance we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services" (APP3.1 s.21.2.1)

3.41 The policy test here is 'significant adverse effects' although even these may be justified under the circumstances that are defined in the policy.

3.42 The relevant policy framework for Scheduled Monuments in Appendix 2 of the HwLDP refers to SPP, Scottish Historic Environment Policy (SHEP) and the Highland Council Historic Environment Strategy. The relevant sections of SPP and the HES Policy Statement 2016 (APP5.2), which has recently replaced SHEP, have already been identified. The Council's own Historic Environment Strategy (which is supplementary planning guidance) states:

"It is particularly important that scheduled sites are preserved in situ and within an appropriate setting – this includes the broader landscape context as well as the relationship between the monument and any related archaeological sites." (APP3.6, page 13, reference to setting underlined)

3.43 Strategic Aim 13 of the Historic Environment Strategy is:

"That scheduled monuments - and their setting - within Highland are protected from harmful developments which may affect their national importance." (APP3.6, page 13, reference to setting underlined)

- 3.44 These local policies and guidance relevant to the setting of Scheduled Monuments are consistent with the national documents; they do not introduce any different policy tests or change our understanding of the meaning of 'setting'.

Conclusions on relevant policy and guidance

- 3.45 The following conclusions can be drawn from this summary of policy and guidance relating to the settings of Scheduled Monuments:
- 3.45.1 Policy aims to preserve the cultural significance of Scheduled Monuments;
 - 3.45.2 All Scheduled Monuments have a setting and that setting will contribute to the cultural significance of the monument as part of its contextual characteristics;
 - 3.45.3 Change in the setting of a Scheduled Monument may affect the contribution to significance made by that setting;
 - 3.45.4 Change (for example visual change) is not in itself an impact on the cultural significance of a Scheduled Monument. An impact will only occur if the change affects the contribution made by setting to that cultural significance;
 - 3.45.5 The correct basis for an assessment is therefore an analysis of the contribution made by setting to the cultural significance of the asset. Any assessment should adopt the three-stage approach recommended by HES; and
 - 3.45.6 Adverse effects on the setting of a Scheduled Monument will generally be acceptable as long as the integrity of the setting is not compromised.

The predicted impact of the wind farm on the Corrimony Chambered Cairn

- 3.46 Corrimony Chambered Cairn is located 4.1km to the south-west of the proposed development at the west end of Glen Urquhart (see the plan at ES Figure 11.2 (**APP1.3**) where it is labelled with its Scheduled Monument Index No. 90081).
- 3.47 The cairn is a Clava-type passage grave; a circular cairn of stones with a central corbelled burial chamber reached via an entrance passage and surrounded by a ring of standing stones. Clava-type cairns are a distinctive Bronze Age regional monument type, restricted to the straths south of the Moray Firth from Corrimony eastwards to Strath Spey. They are named after the well-preserved examples at the type site at Balnuaran of Clava in Strath Nairn. Corrimony was excavated in the 1950s and is now on public display as a property in the care of the state.
- 3.48 The predicted impact of the wind farm on the cairn is assessed in the ES (**APP1.3**, Chapter 11, s.11.124-135) with confirmation in the main text of the SEI (**APP1.21**, Chapter 11, s. 11.4) that there is no change to the original assessment. What follows is based entirely on information and analysis provided in that detailed assessment in the ES.
- 3.49 The predicted impact of the wind farm may be summarised by answering the following questions:
- 3.49.1 How does setting contribute to the cultural significance of the cairn? (HES Assessment Stage 2)
 - 3.49.2 How would the wind farm be experienced in the setting of the cairn? (HES Assessment Stage 3: change in setting)

- 3.49.3 How would any change in setting due to the presence of the wind farm affect the cultural significance of the cairn? (HES Assessment Stage 3: impact on setting)
- 3.50 It may be noted that HES Assessment Stage 1 is not needed here as the one historic asset likely to be affected by the development (the cairn) has already been identified.
- 3.51 The cultural significance of the cairn (and the reason for its designation as a Scheduled Monument) resides primarily in its intrinsic characteristics. It is a well-preserved example of a Clava-type cairn that is publicly accessible and provides an informative resource for understanding the construction techniques, and funerary and ritual practices in this part of Scotland in the Bronze Age.
- 3.52 The contribution that setting makes to the cultural significance of the cairn is analysed in the ES at s.126-133 (**APP1.3**). Clava-type cairns are understood in a local landscape setting with no evidence for specific references to more distant man-made or natural topographic features. The Corrimony cairn is no exception to this general statement; it is located and appreciated in a typical valley setting. There is a possible second cairn, 100m to the north-east, that survives as a rounded grassy mound; this may be contemporary with the Corrimony Chambered Cairn.
- 3.53 In the Bronze Age this would have been a settled rural agricultural landscape, although probably more forested than at present. The present-day landscape setting remains essentially rural and agricultural so, despite the presence of modern components in views out from the cairn (including the metal fence enclosing the site, conifer plantations, houses, roads and electricity pylons), it is still possible to imagine something of the Bronze Age environment when visiting the site. The ability to see a second possible cairn from the Corrimony Cairn adds to this sense of the past.
- 3.54 It is primarily through a general appreciation of this local valley landscape (within 2km of the cairn) that setting contributes to the cultural significance of the cairn.
- 3.55 Another key characteristic of Clava-type cairns is the orientation of their passages in the south-west quadrant of the compass and Corrimony conforms to this pattern. Current academic interpretation is that the orientation of the passages towards south-west aligns them on the minor lunar stand-still, an notable event in the astronomical cycle of the moon that occurs only once every 19 years on the south-western horizon. The view south-west up the valley of the River Enrick is therefore relevant to understanding the setting of the cairn, although trees currently restrict the view to the horizon, particularly in summer. An appreciation of this view to the south-west adds to the cultural significance of the cairn.
- 3.56 The visual relationship between the wind farm and cairn is described in the ES at s.11.134 (**APP1.3**) and visibility of turbines is illustrated by reference to a photomontage (ES Figure 11.3a-k) from two cultural heritage viewpoints, CHVP1 and CHVP2 (SEI Figures 4.3 and 4.4 **APP1.21**).
- 3.57 Visitors to the cairn would typically approach the site from the east along the public road with the wind farm behind them with motorists parking in the small public car park 100m short of the cairn. The cairn is accessed through a gate on the north side of the road and the visitor encounters an information board at this point before crossing a ditch by a footbridge into the site. From this point onwards, the wind turbines would be visible in views towards the north-east (assuming good visibility) at a range of at least 4.1km. All 13 turbines would be seen behind a plantation with either complete blades or blades and the upper part of the tower visible.

- 3.58 ES Figure 11.3 illustrates how the turbines would appear in the background when standing at the outer end of the passage looking north-east into the central chamber of the cairn. It is representative of how the wind farm would appear from the immediate surroundings of the cairn. Views in all other directions from the cairn and views within the central chamber would be unchanged by the presence of the wind farm.
- 3.59 The impact of these visual changes is described in the ES at s.11.134 (**APP1.3**). The presence of the wind farm on the hills to the north-east would not change the character of the landscape local to the cairn. The ability of a visitor to appreciate the typical valley setting of the cairn, and to note the presence of a second possible cairn close by, would be unaffected. Similarly, the key view to the south-west would be unchanged and the ability of a visitor to understand this aspect of Clava-type cairns would be unaffected.
- 3.60 The wind farm would be visible in longer-range views to the north-east from the cairn and this would change a visitor's experience of the cairn, in particular the view looking into the entrance passage (illustrated as Figure 11.3 in the ES (**APP1.4**)). The presence of the wind farm in these views would add new man-made structures to the setting and would, to a limited degree, diminish the sense of place that the present-day rural setting of the cairn currently creates.
- 3.61 The finding in the ES (s.11.135 **APP1.3**) that this represents an impact of low magnitude on the cultural significance of the Scheduled Monument is endorsed; the contribution that setting makes to the cultural significance of the cairn would be only slightly reduced. The presence of the wind farm would not significantly affect a visitor's ability to understand and appreciate the monument and how it relates to the surrounding landscape.
- 3.62 This finding may be tested against relevant national and local planning policies. With reference to SPP paragraph 145 (**APP3.8**), the limited effect on the setting would not be sufficient to affect its integrity and therefore the proposed development should be judged as acceptable without the need to invoke 'exceptional circumstances'. The Scheduled Monument would continue to be experienced in an 'appropriate setting'.
- 3.63 With reference to the HWLDP, the Council cites two policies in its reason for refusal: 57 and 67 (**APP3.1**). Compliance with Policy 67 (Renewable Energy Developments) is directly dependent on compliance with Policy 57. Policy 57 (Natural, built and cultural heritage) requires the finding of a low magnitude impact on Corrimony Chambered Cairn to be weighed against the benefits of the proposed development. This balancing exercise is addressed in Chapter 5 of this Statement of Appeal where it is concluded that there is no breach of Policy 57.
- 3.64 In reaching this conclusion, account has been taken of the fact that steps were taken to mitigate the predicted adverse effects of the wind farm on Corrimony Chambered Cairn through the design process. In addition, enhancement measures have been proposed that would offset the residual impacts.
- 3.65 Mitigation of adverse operational effects of wind farms on the setting of historic assets can generally only be achieved through measures embedded in the design of the wind farm; this was the case for the proposed development. The ES documents design modifications that were made to reduce the impact of the wind farm on the setting of Corrimony Chambered Cairn (**APP1.3**, ES Chapter 9, s.11.107-109).
- 3.66 It was recognised at an early stage in the development of the design (pre-scoping) that some level of turbine visibility from the cairn was unavoidable and that this would lead to adverse impact on the cultural significance of the cairn. Therefore, as the design evolved, priority was given to minimising any adverse impact of the wind farm in this view. This

was achieved by maximising the visual porosity of the wind farm when viewed from the cairn, avoiding dense clusters of overlapping and stacking turbines in the view.

3.67 Following submission of the ES, and in response to the objection from HES, the Appellant made proposals for a programme of enhancement measures for Corrimony Chambered Cairn that would serve to offset residual impacts on the cairn (letter dated 10 September 2015, **APP1.15**). These proposals included measures to improve the promotion, signing, access and interpretation of Corrimony and to promote it better as part of the tourism resource of Glen Urquhart.

3.68 Any enhancement work would be subject to agreement with the Council and HES as appropriate. It should be noted that, at the time the proposals were being developed, HES was not willing to enter into discussions and therefore they remain in outline form only.

The position of HES and the HET

3.69 It is clear that HES and the Council's HET have reached different conclusions regarding the predicted impact of the wind farm on Corrimony Chambered Cairn and the acceptability of that impact.

3.70 The position of HES is set out in its consultation response of 19 August 2015 (**APP2.1e**). The actual assessment of the cairn is presented in four paragraphs on pages 2 and 3 of the Annex to the response. The first paragraph contains a basic description of the monument before moving on to a description of the setting in paragraphs 2 and 3. This description agrees with some of the material presented in the ES but it does not go beyond a neutral description to explain how the setting contributes to the cultural significance of the asset (Assessment Stage 2 of HES' own guidance on setting, (**APP3.6**)). As a result, it notes the placing of the cairn on a SW-NE alignment but does not explain the astronomical relevance of views to the south-west. Similarly it describes "*good outward views to the NE where the wind farm would be located*" but does not explain how these views contribute to the cultural significance.

3.71 In paragraph 4, HES describes how the wind farm would be seen from the cairn, referring to the photomontages supplied with the ES (ES Figure 11.3 **APP1.4**). It may be noted that HES incorrectly records the distance between wind farm and cairn as 3km when the actual minimum distance would be just over 4km to the nearest turbine. HES assesses this visual relationship as a significantly adverse impact on the cairn. This finding reflects its opinion that views along the valley (on the SW-NE alignment) were intended by the builders of the cairn and the wind farm would be highly visible on this alignment.

3.72 This analysis by HES is not accepted and it is argued that it places too much importance on the view to the north-east when it is the view to the south-west that was of astronomical interest to the builders of the cairn (as argued in the ES). Even if it is accepted that the view to the north-east is as important as HES suggests, HES does not explain why the presence of the wind farm at a range of over 4km diminishes a visitor's ability to appreciate or understand the alignment of the monument. Unlike the view to the south-west where the skyline is relevant to an appreciation of the minor lunar standstill, the skyline above which the wind farm would appear has no particular relevance to an appreciation of the cairn.

3.73 In summary, HES fails to adequately define how the setting contributes to the cultural significance of the cairn and, as a result, overstates the impact of the wind farm on that setting.

- 3.74 In the 'conclusion' to the Annex (page 4 **APP2.1e**), HES concludes that the wind farm proposal would be contrary to SPP paragraph 145 but it is not clear from the text whether HES has correctly understood the relevant test in SPP. HES misquotes paragraph 145, stating that it reads "*development which will have an adverse impact on scheduled monuments or their setting should not be permitted...*". The original text refers to 'the integrity of their setting', a point emphasised earlier in this statement.
- 3.75 It is not clear whether this misquotation is simply a slip of the pen but, if HES has misunderstood SPP on this point, it calls into question the validity of the conclusion reached on SPP.
- 3.76 The position of the HET is set out in a response dated 2 November 2015 (**APP2.1w**). The approach taken by the HET is to recognise Corrimony Chambered Cairn as a tourist attraction and therefore to assess impact on the 'amenity of the site' for modern-day visitors without assuming any knowledge of the historic environment.
- 3.77 It is recognised that some historic assets, like the Corrimony Chambered Cairn are both historic assets and tourist attractions but the HES guidance on setting is careful to separate these two aspects of some sites and provides the following advice:
- "Whether or not a site is visited does not change its inherent value, or its sensitivity to alterations in its setting. This should be distinguished from the tourism, leisure or economic role of a site. Tourism and leisure factors may be relevant in the overall analysis of the impact of a proposed development, but they do not form part of an assessment of setting impacts."* (**APP5.1**, page 9, final paragraph)
- 3.78 Following this advice (which was also present in the preceding edition of the guidance, s. 4.10), the HET should have undertaken an assessment of the impact on setting, as carried out by the Appellants for the ES, and then a separate assessment of visitor amenity (if required by their remit in the Council). The assessment offered by the HET makes no attempt to follow the staged process recommended in HES guidance on setting (**APP5.1**). Instead it refers to '*the key view from the perspective of the modern-day visitor*' and then describes the visual change in that view. Indeed, its concluding statement is an objection '*on the grounds of visual impact*'.
- 3.79 The HET does not offer an explicit policy justification for its concern with visitor amenity and the only development plan policy referenced in its response is Policy 57. The text of Policy 57 uses the word 'amenity' twice, both times in the same context. This is in a list of local/regional and national importance:
- "...we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource."*
- 3.80 Inspection of the lists of resources that are being referred to in the policy text (s.21.1.2 and 21.1.3 of the HwLDP **APP3.1**) reveals that they include examples of what would be referred to as natural environment resources, amenity resources and heritage resources. The policy states that the impact on a feature and its setting will be judged in the policy framework listed in Appendix 2 of the plan. As already noted in my evidence, the policies listed as relevant to a Scheduled Monument are SPP, SHEP and the Highland Council Historic Environment Strategy. There is nothing in Policy 57 of the HwLDP, or in any of the three policy documents that requires the assessment of the 'amenity' of a heritage resource. Indeed there are no references even to the concept of amenity in relation to historic assets in these documents.

3.81 In conclusion, the assessment of Corrimony Chambered Cairn, based on its amenity value, carried out by the HET has no basis in historic environment policy and is not a proper assessment of the impact of the proposed wind farm on the setting of the cairn. The HET does go on to discuss policy relevant to setting but this does not make up for the fact that its assessment is fundamentally flawed.

3.82 In summary, the HET fails to undertake a proper setting assessment, as recommended in HES guidance, focussing instead on visitor amenity. The findings of this assessment are not relevant to the Council's fourth Reason for Refusal and should be afforded no weight in any consideration of that Reason for Refusal.

Conclusions

3.83 Cultural heritage matters relevant to this appeal are both narrow and well-defined. The Council, adopting the advice it has received from its own HET and HES, considers that there would be a significant adverse impact on the setting of the Corrimony Chambered Cairn (a Scheduled Monument), sufficient to justify refusal of planning permission.

3.84 In contrast, the Appellants have recognised an impact of much lesser magnitude on this historic asset. The Appellants consider that any adverse impact would be outweighed by the benefits of the proposed development (as argued in Chapter 5 of this statement).

3.85 The potential for adverse impacts on the cultural significance of this asset was recognised from the outset and the layout of the proposed wind farm has been designed to minimise any adverse impacts. In addition, the Appellants have offered to deliver a programme of enhancements for Corrimony Chambered Cairn that would help to offset the residual impact of the proposed development.

3.86 The different conclusions reached in the various professional assessments of the cairn (by HES, the HET and in the ES) primarily reflect different approaches to the assessment of impacts on setting. The correct basis for an assessment is an analysis of the contribution made by setting to the cultural significance of the asset. Any assessment should adopt the three-stage approach recommended by HES in its published guidance on setting (**APP5.1**).

3.87 In terms of the three-stage assessment process, the key point to note is that it is not possible to undertake an impact assessment (Stage 3) without first understanding the contribution that setting makes to the cultural significance of the asset (Stage 2). This is because whether change in the setting leads to an impact will depend on the way in which setting contributes to cultural significance.

3.88 Both HES and the HET fail to fully and properly apply the recommended three-stage assessment process and, as a result, arrive at flawed conclusions. HES does not adequately define how the setting contributes to the cultural significance of the cairn and, as a result, overstates the impact of the wind farm on that setting. The HET does not undertake a proper setting assessment, focussing instead on visitor amenity.

3.89 The assessment reported in the ES follows the recommended approach and its findings should be preferred.

4. **Other Interests**

Noise

- 4.1 Chapter 7 of Volume I of the ES (**APP1.3**) addresses noise impacts from the proposed development. It is concluded that the predicted noise immissions arising from the proposed development during the operational phase have been assessed in accordance with ETSU-R-97: The Assessment and Rating of Noise from Wind Farms and comply with nationally endorsed guidance.
- 4.2 The assessment predicts that noise levels will meet the derived ETSU-R-97 noise limits at all measured residential receptors, for all wind speeds during both quiet day-time and night-time periods. There will be no unacceptable impact on amenity due to noise immissions arising from the proposed development.
- 4.3 In relation to construction effects, the assessment identifies a maximum potential increase of 0.8 dB(A) in the day-time average noise level during particular phases of the construction program at locations at the site entrance. Mitigation measures are proposed and the overall residual construction noise effects of the construction period at all assessment locations are considered to be of minor significance.
- 4.4 The Council's Reasons for Refusal do not include any concerns in relation to noise.
- 4.5 The Council's Environmental Health Officer ("EHO") submitted a response to the planning application (**APP2.1t**) confirming no objection to the proposed development subject to the imposition of planning conditions in the event of grant of planning permission.
- 4.6 Within the SEI of February 2016 (**APP1.21**) the Appellants acknowledged the response of the Council's EHO and agreed to the limits proposed, to be incorporated into planning conditions.
- 4.7 Suitably worded conditions to secure mitigation measures during the construction period and to prescribe the noise limits to be adhered to during the operational phase would provide adequate protection to the amenity of any affected dwellings in the vicinity of the proposed wind turbines and such conditions, taking into account the response of the Council's EHO, have been included at **Appendix C**.

Geology, Hydrology and Hydrogeology

- 4.8 Chapter 8 of Volume I of the ES (**APP1.3**) assesses the level of impact caused by the proposed development on the Site's water environment and soils. It concluded that, with mitigation, there are no predicted significant residual effects.
- 4.9 The Council's Reasons for Refusal do not include any concerns in relation to hydrology, geology or hydrogeology.
- 4.10 The Scottish Environment Protection Agency ("SEPA") responded to the planning application consultation on 14 August 2015 (**APP2.1n**) with an objection to the proposed development on the basis of a considered lack of information in relation to peat. The Appellants submitted a detailed response in the SEI of February 2016 (**APP1.21**) addressing those concerns. SEPA responded on 21 March 2016 (**APP2.2j**) withdrawing its objection subject to a condition being imposed if permission was granted to require submission of a Peat Management Plan.
- 4.11 Scottish Water has not objected to the proposed development.

- 4.12 The conclusions reached in the ES have been arrived at through the use of best practice methodologies and are the result of a thorough assessment of the impacts of the proposed development. The Appellants therefore consider that any impacts identified would be mitigated, such mitigation to be required by the imposition of appropriately worded conditions as set out in **Appendix C**.

Ecology

- 4.13 Chapter 9 of Volume I of the ES (**APP1.3**) sets out the results of the assessment of the impacts of the proposed development on ecology. Desk-based and field studies were undertaken to consider potential impacts of the proposed development on habitats, badgers, bats, fish, pine martens, red squirrels, wildcats, freshwater pearl mussels, otters and water vole.
- 4.14 Overall the potential effects of the proposed development on ecology are not considered to be significant for EIA purposes, and as such no mitigation is required. However the ES sets out enhancement measures to benefit red squirrel, pine marten and bats.
- 4.15 The Council's Reasons for Refusal do not include any concerns in relation to ecology. Scottish Natural Heritage ("SNH") has not objected to the proposed development.
- 4.16 In light of the proposed amendments to the proposals, addressed by way of SEI in February 2016 (**APP1.21**), further assessment work was undertaken and concluded that the residual significance associated with all impacts is either Minor adverse or Negligible and therefore not significant for EIA purposes.
- 4.17 The conclusions reached in the ES have been arrived at through the use of best practice methodologies and are the result of a thorough assessment of the impacts of the proposed development. The Appellants therefore consider that any impacts identified would be mitigated, such mitigation to be required by the imposition of appropriately worded conditions as set out in **Appendix C**.

Ornithology

- 4.18 Chapter 10 of Volume I of the ES (**APP1.3**) assesses the potential impacts of the proposed development on ornithology. It is concluded that the proposed development is not likely to result in any significant ornithological effects for EIA purposes.
- 4.19 Where potential adverse effects have been identified, detailed mitigation and enhancement proposals are being offered and indeed there are no formal consultation objections outstanding in this regard.
- 4.20 In light of the proposed amendments to the proposals, addressed by way of SEI in February 2016 (**APP1.21** and **APP1.24**), further assessment work was undertaken and concluded that the residual significance associated with all impacts is either Minor adverse or Negligible and therefore not significant for EIA purposes.
- 4.21 The Council's Reasons for Refusal do not include any concerns in relation to ornithology.
- 4.22 The Appellants therefore consider that any impacts identified could be satisfactorily mitigated, such mitigation to be required by the imposition of appropriately worded conditions as set out in **Appendix C**.

Transport

- 4.23 Chapter 12 of Volume I of the ES (**APP1.3**) sets out the potential impacts on traffic and transport as a result of the proposed development. The ES assessed the likely environmental effects of the traffic associated with the proposed development and sets out mitigation measures proposed to remove or reduce these effects as far as possible. The residual effects were found to be not significant.
- 4.24 The Council's Reasons for Refusal do not include any concerns in relation to transport.
- 4.25 The Council's own Transport Planning Team submitted a response to the planning application consultation (**APP2.1x**) with no formal objection to the proposed development but seeking imposition of conditions should planning permission be granted. The Council's Transport Planning Team maintained this position following receipt of SEI in February 2016 (**APP2.2p**).
- 4.26 Similarly, Transport Scotland submitted a response to the planning application consultation (**APP2.1y**) with no formal objection to the proposed development but seeking imposition of conditions should planning permission be granted. Transport Scotland maintained this position following receipt of SEI in February 2016 (**APP2.2q**).
- 4.27 The Council's Access Officer submitted a response to the planning application (**APP2.1s**) with no formal objection to the proposed development but seeking imposition of a condition requiring submission of an Outdoor Access Plan. The Access Officer maintained this position following receipt of SEI in February 2016 (**APP2.2n**). By correspondence to the Planning Officer dated 14 August 2015 (**APP1.14**) the Appellants confirmed their agreement to this request and a corresponding condition is included in the Appellants' list of proposed conditions in **Appendix C**.
- 4.28 The conclusions reached in the ES have been arrived at through the use of best practice methodologies and are the result of a thorough assessment of the impacts of the proposed development. The Appellants therefore consider that any impacts identified would be mitigated, such mitigation to be required by the imposition of appropriately worded conditions as set out in **Appendix C**.

Socio-economics: tourism

- 4.29 The ES addresses socio-economic matters in Chapter 13 of Volume I of the ES (**APP1.3**) and Chapter 13 of the SEI (**APP1.21**). This identified that whilst the proposed development would result in some visual effects, there is no substantiated evidence to indicate that these would alter either visitor numbers or visitor spending within the area. There would not be any significant effects in EIA terms in relation to tourism or that sector of the local or wider economy.
- 4.30 Reason for Refusal 1 references the proposed development as having "a significantly detrimental visual impact particularly as viewed . . . by travellers, including tourists . . . in the wider vicinity of the site but particularly to the north, south and east of the proposed development". There are also objections from GUCC (**APP2.1d, APP2.2b and APP2.2c**), KCC (**APP2.1g, APP2.2f**), the MCofS (**APP2.1i and APP2.2h**), Scotways (**APP2.1m**) and STAG (**APP2.1p and APP2.1, APP2.2m**) relating to concerns around tourism.
- 4.31 It is inevitable that visitors to the immediate area would undoubtedly note the presence of the wind turbines, but there is no evidence from any party to indicate that the development would adversely affect visitor numbers or visitor spend within the local area

or wider region to a significant, let alone to an unacceptable degree, such that the application should be refused planning permission.

4.32 It is also relevant to note on this topic that during 2012, the Economy, Energy and Tourism Committee of the Scottish Parliament heard evidence from a wide range of experts as part of an Inquiry into the achievability of the Scottish Government's 2020 renewable energy targets, the merits of the targets and what the risks and barriers are to realising them. Tourism was one of the issues investigated by the Committee and the evidence considered was extensive. The findings of the Committee³ were published in November 2012⁴.

4.33 The Committee considered the potential impact of the renewables industry on the tourism economy and at paragraph 288 of the report (**APP3.22** page 55), found that:

"While some strongly held localised and anecdotal opinion exists, the Committee has seen no empirical evidence which demonstrates that the tourism industry in Scotland will be adversely affected by the wider deployment of renewable energy projects, particularly onshore and offshore wind. Whilst care always needs to be taken in terms of the planning process and decisions on the siting of individual projects in areas popular with tourists and in our rural and wild land areas, no one has provided the Committee with evidence, as opposed to opinion, that tourism is being negatively affected by the development of renewable projects."

4.34 This demonstrates the lack of empirical evidence showing that the tourism industry will be adversely affected by the wider deployment of onshore wind and that the Committee has not been provided with evidence that tourism is being negatively affected by the development of renewable projects.

4.35 Moreover, it confirms that there is little evidence to suggest that wind farms are detrimental to the tourism industry, if located appropriately. It is considered that the proposed development is located appropriately, as has been described in the preceding landscape and visual chapter.

4.36 The Appellants' position is that the proposed wind farm, when considered against the backdrop of available research, is not expected to have a negative impact on tourism and the economic value of this sector in the area's economy, when judged individually, or cumulatively with other projects proposed for the area. The available research documents are all consistent in their conclusion that the development of wind farms will not result in a significant reduction in tourist numbers, tourist experience or tourism revenue.

4.37 Furthermore, from the review of various s36 and appeal decisions throughout the UK that have considered the relationship of wind farms, tourism and the local economy, there are consistent messages arising from determinations and these include:

4.37.1 There is no compelling evidence to support concerns about the tourist industry being undermined to a material degree by wind farm development.

4.37.2 Even in situations where wind farms are proposed in locations where tourism is a key sector in the local economy, Reporters and Inspectors have not been

³ The 'Economy, Energy and Tourism' Committee, 7th Report (2012) (session 4), Report on 'The Achievability of the Scottish Government's Renewable Energy Targets' (**APP3.22**).

⁴ Also of relevance is the report submitted to the Committee by Professor Cara Aitchison of the University of Edinburgh entitled 'Tourism Impact of Wind Farms' (2012 (**APP3.23**)).

convinced that effects would be sufficient to deter potential visitors such that there would be a significant effect on the tourist or wider economy of an area.

- 4.37.3 Submissions relating to a potential adverse impact on tourism are more often than not unproven and limited weight is attached to such submissions. Generally, very little or no evidence-based analysis is supplied to support claims that there would be an adverse effect on tourism.
- 4.38 In the Limekiln s36 Wind Farm decision (13 July 2015) (**APP6.2**), the Reporters set out in chapter 12 in terms of their overall conclusions (page 109, fifth last bullet):
- "there is no convincing evidence before us that appropriately sited wind farms result in detrimental impacts on tourism."*
- 4.39 In the Allt Duine s36 Wind Farm decision (30 July 2015) (**APP6.1**), the Scottish Ministers stated (page 20, third paragraph):
- "however, Ministers agree with the Reporter that there is little evidence that wind farms in general have a negative impact on tourism and Ministers must assume that the economic impact of the development will be broadly positive."*
- 4.40 There is no evidence to demonstrate that the proposed development would have a significant adverse effect on tourism and recreational activity and the relevant aspects of the economy in this part of Highlands.
- 4.41 Furthermore, in a relatively recent statement the then Scottish Government Minister for Business, Energy and Tourism, Fergus Ewing MSP stated that in 2015 there were 15.7 million overseas and domestic visits to Scotland, up 10% on the previous year, with tourists spending nearly £5billion. He added that *"the latest occupancy rates do not suggest that wind turbines are having a detrimental effect on tourism in the Highlands"* (**APP3.25** 15 September 2015).
- 4.42 He added in the statement that *"as both a Highlands MSP and Tourism Minister it is an industry close to my heart and I am pleased the latest visitor numbers suggest wind farms and tourism can co-exist and flourish together"*.
- 4.43 In addition, an article released about the same time, VisitScotland was formally quoted and their representative stated:
- "it is well documented that the vast majority of potential visitors would not be discouraged from visiting Scotland on account of wind farm developments. Wind farms and other renewable energy projects are a part of the landscape in nearly every destination in the world."* (**APP3.27**, 09/09/15)
- 4.44 Criticism has been made of the Appellants' lack of consideration of the 2014 Mountaineering Council for Scotland ("MCoS") survey. This survey (**APP3.30**) was undertaken in order to identify if the growing number of wind farms and their increasing reach into mountainous areas was having any impact upon mountaineering activity. MCoS members were the primary target group for the survey. The survey authors, the MCoS itself, suggest that *"This survey provides empirical evidence from a niche market important for tourism in remote areas of Scotland"*. It provides the opinions of a small segment of the tourism market in Scotland and the results should be read in this context. It is clearly targeted at the mountaineering community, principally for their views on potential impacts on mountainous areas and therefore cannot conceivably reflect the views of the tourism industry as a whole.

- 4.45 There are also some concerns regarding the neutrality of the questionnaire employed in this survey. The survey posed a series of questions including "Q1: *Are there places in Scotland's mountains less appealing?*", "Are there places less likely to (re-) visit in Scotland", and "Q4: *Is Scotland becoming less appealing for walking and climbing?*". Again, it is important to note the question wording and the way in which it is likely to provoke a negative response. The report notes that 35% of respondents thought Scotland was becoming less appealing for walking and climbing and a further 32% thought it would become less appealing as more wind farms are built. 11% did not think it was becoming less appealing but would avoid areas with wind farms. Over a fifth (21%) thought there was no impact. This shows the range of opinions in relation to the appeal of walking and climbing in the context of wind farms.
- 4.46 The authors recognise that the views of MCoS members are likely to be less favourable towards wind farms than other climbers or walkers (**APP3.30** paragraph 3, page 5) and acknowledge the potential for bias in the survey results (paragraphs 3-6, p5/6). It notes complaints received from some respondents, stressing the survey's basic assumption that wind farm effects could only be neutral at best and the lack of scope for registering any positive impacts or views of their effects. The report was prepared by the MCoS itself. Given the concerns expressed in it, as well as those observed here, it should not be considered an independent or neutral piece of research.
- 4.47 The ClimateXChange review for the Scottish Government in 2012 (**APP3.26**). This report was commissioned to "*review the evidence published since the Moffat Report and to see what more recent research has to say about the impact of wind farms on tourism in Scotland*". The Report concluded that: "*...there is no new evidence to contradict the earlier findings that wind farms have little or no adverse impact on tourism in Scotland*".
- 4.48 Two studies into the effects of a wind farm on tourism post-construction are revealing. The first was at Artfield Fell Wind Farm in Dumfries and Galloway. The survey, commissioned for Scottish and Southern Electricity in late 2006 into the post-development tourism impact of the 15 turbine 19.5MW Wind Farm (Ex Post Evaluation of the Impact of Artfield Fell Wind Farm on Dumfries & Galloway Tourism: SSE (2006) – research evidence submitted to the Blackcraig wind farm Public Inquiry (2007) (**APP3.29**)), demonstrated that 90% of respondents at the tourism businesses surveyed did not consider that the wind farm had had any impact on their business performance, 3% considered that the wind farm had had an adverse impact on their business but only minor, while 7% did not know what the impact had been. In terms of impact upon Dumfries and Galloway tourism as a whole, 83% considered that the wind farm had had no impact, 3% that the wind farm had had a medium adverse impact, and 14% did not know.
- 4.49 A post-development evaluation was also undertaken as part of the EIA of the Fairburn Extension Wind Farm in 2012 (**APP3.28**) for SSE Renewables in the Scottish Highlands. This assessed both the post-development effects of the existing 20 turbine 40MW Fairburn wind farm on tourism in the area, and also the potential pre-development impact of the proposed Fairburn Extension wind farm. The research showed that only 4% of business respondents considered a high and significant adverse impact had occurred as a result of the existing Fairburn wind farm having been operating since early 2010, with 85% considering it had had no or a very low adverse impact. A further 11% considered that their businesses had benefitted from the revenue generated during the project's construction and from on-going expenditure from and accommodation provided to maintenance workers.
- 4.50 Overall, the Appellants' position is that the proposed development is considered to be acceptable in terms of tourism and recreation matters.

Socio-economics: economic benefits

- 4.51 The Appellants have also undertaken an economic appraisal of the proposed development presented in Chapter 13 of the SEI submission (**APP1.21**). This records that:
- 4.51.1 541.5 full time equivalent job years are expected to be generated in Scotland by the Cnoc an Eas wind farm development, of which two thirds would be expected to be taken by Highland residents;
 - 4.51.2 almost £9.4 million in earnings is expected to be generated in Highland;
 - 4.51.3 over £28 million of GVA (Gross Value Added) is expected to be generated in Scotland;
 - 4.51.4 the construction phase is expected to generate an average 25 FTEs per year over two years in Highland, and more than 80 FTEs per year in Scotland over the two year construction period;
 - 4.51.5 the long term employment benefits from the development, however, will exceed the short term construction stage impacts, with potential job creation over 25 years totalling 180 FTEs in Highland through Community Fund supported projects, 45 FTEs due to landowner spending, and 35 annual maintenance and other operational FTEs.
 - 4.51.6 The opportunity for community participation in a Revenue Sharing opportunity associated with the proposed development in line with Scottish Government Good Practice Principles for Shared Ownership (**APP3.35**).
- 4.52 Specifically in respect of the above point 4.51.6, the Appellants have signed a Memorandum of Understanding with Soirbheas, a registered charity whose aims and objectives are to strengthen and support the communities of Glen Urquhart and Strathglass, through investment in local renewable energy schemes. The Appellant was referred to Soirbheas by the GUCC as the appropriate body to negotiate a scheme of community benefit and shared ownership on behalf of the community (**APP1.26**).
- 4.53 The Appellant is offering the opportunity for Soirbheas to participate in a shared ownership scheme, through a revenue sharing arrangement as set out in the agreements set out in Appendix 13.2 of the SEI (**APP1.21**) in accordance with Scottish Government Good Practice Principles for Shared Ownership (**APP3.35**). Soirbheas will be given the opportunity to purchase a share of the revenues of the project at cost (and not market value), post construction of the windfarm, taking up to a 10% royalty in the project with a guaranteed minimum return. The per centage amount of that guaranteed minimum return will be specified in a more detailed Revenue Sharing Agreement which will be agreed and signed nearer to the commencement of construction, should Soirbheas take up the opportunity presented in the MoU. The terms of the MoU impart no obligation on Soirbheas to participate and allow them sufficient time post construction to appraise the opportunity before committing to a decision. The signing of the MoU, and these principles, allow Soirbheas the opportunity to be a meaningful financial partner in Cnoc an Eas windfarm.
- 4.54 The policy implications and relevance of economic benefits and the shared revenue scheme are discussed in Chapter 5 of this Statement of Appeal. Overall, the Appellants' position is that the proposed development brings with it the potential for positive socio-economic effects and has the potential to contribute to Scottish Government targets for shared ownership in renewable energy projects.

Other Matters

- 4.55 Chapter 14 of Volume I of the ES (**APP1.3**) assesses potential impacts on aviation, telecommunications, TV reception and dust as a result of the proposed development.
- 4.56 With respect to aviation, the Civil Aviation Authority and the Ministry of Defence have confirmed that they have no objections to the proposal (**APP2.1a** and **APP2.1h**).
- 4.57 Highlands and Islands Airports Limited ("HIAL") submitted a response on 29 March 2016 (**APP2.2d**) with an objection on the basis that there was potential for the proposed turbines to affect the performance of electronic aeronautical systems for the Inverness Airport radar. The Appellants produced a report (**APP1.32**), as sought by HIAL, identifying that there is no line of sight between Inverness Airport radar and the proposed turbines. As such there is no effect to the radar and the Appellants consider that HIAL's concerns have been addressed.
- 4.58 With respect to telecommunications, three communications links have been identified in the vicinity of the Site. However the turbines have been located so as to be outwith the paths of the links or any areas where they could cause interference to the links and as such will not affect the telecommunication links. The ES concluded that there will be no significant effects on telecommunications and other infrastructure from the proposed development.
- 4.59 With regard to TV reception and dust, the ES concluded that it was unlikely that the proposed development will affect TV reception of homes within the assessed area and that any dust effects would be temporary and not significant. There are no outstanding consultee objections in relation to either of these matters.
- 4.60 The Council's Reasons for Refusal do not include any concerns in relation to aviation, telecommunications, TV reception or dust.
- 4.61 For completeness, the ES identified that shadow flicker could be scoped out of the assessment due to the fact that there are no properties within 130° of north and within 1030m of the proposed development and so the phenomenon could not occur.
- 4.62 The conclusions reached in the ES have been arrived at through the use of best practice methodologies and are the result of a thorough assessment of the impacts of the proposed development. The Appellants therefore consider that any impacts identified would be mitigated, such mitigation to be required by the imposition of appropriately worded conditions as set out in **Appendix C**.

Other Interests Conclusions

- 4.63 For the reasons explained above, the impacts of the proposed development upon noise, geology, hydrology and hydrogeology, ecology, ornithology, transport, socio-economic, aviation, telecommunications, TV reception, dust and shadow flicker interests are, in the Appellants' opinion, entirely acceptable.
- 4.64 The Appellants have been very clear in setting out the case for the proposed development in that the predicted significant or otherwise adverse environmental effects associated with the proposed development are very limited and in relative terms are considered acceptable.

4.65 The conclusions reached by the Appellants in this Statement of Appeal and in the ES and SEI have been arrived at through the use of best practice methodologies and are the result of a thorough assessment of the impacts of the proposed development. The conclusion reached is that any impacts identified would be mitigated, such mitigation to be required by the imposition of appropriately worded conditions as set out in **Appendix C**.

5. **Planning Policy Assessment**

- 5.1 This Chapter has been prepared by David Stewart, Principal of David Stewart Planning Ltd, whose qualifications and experience are set out in **Appendix B**. It draws in particular on the chapters on landscape and visual issues and cultural heritage issues provided by Sam Oxley and Dr Stephen Carter which precede it in this Statement.

Scope of Planning Policy Evidence

- 5.2 The proposed development will be considered against a background of UK and Scottish Government energy policy, national planning policy and advice, and the relevant provisions of the statutory development plan. While the starting point for the determination of a planning application, or, as in this case, an appeal will always be Sections 25 and 37(2) of the 1997 Act which require determinations to be made in accordance with the terms of the Development Plan unless there are material considerations that would warrant a departure therefrom, it is helpful to place the Development Plan into context in light of UK and Scottish energy policy, followed by the Scottish Planning Policy context.

Development Plan Position

- 5.3 The Highland-wide LDP (HWLDP) (**APP3.1**) was adopted in April 2012 and superseded the former Highland Structure Plan. While the Inverness Local Plan remains in force, in part, the Council has helpfully noted in its Handling Report that there are no relevant policies within the Plan in respect of the proposed development and this Site. There has also been the adoption of the Inner Moray Forth LDP (July 2015) (**APP3.2**) whose main relevance for this Appeal is that it has confirmed the final boundaries of the Special Landscape Area around Loch Ness.

HWLDP (APP3.1)

- 5.4 The Report of Handling (**APP1.27**) refers to 16 policies from the Plan, although of these, only three appear in the reasons for refusing the proposed development, these being Policies 28 on sustainable design, 57 on natural, built and cultural heritage and 67 on renewable energy. Of particular importance is that Policy 67 provides not only the range of the criteria which are to be assessed but also, crucially, the balancing exercise now required by SPP (2014) (**APP3.8**) in which the benefits of a development, both locally and further afield can be weighed against the adverse effects that may be identified from the carrying out of the development. Such an exercise is not found within most of the other policies of the Plan although it should be noted that Policy 57 does provide for the balancing of significant adverse effects against the wider benefits. Yet even here there is some tension between the wording of Policy 67 which has a simple balancing exercise and the wording of Policy 57, which appears to set a higher threshold at which the benefits may outweigh the harm.
- 5.5 The text of Policy 67 states that the Council will assess proposals against "other policies of the development plan" but Policy 67 is comprehensive and covers all the relevant topics. Testing a proposal separately against each of the other 14 policies when the topics they cover are already encapsulated within Policy 67 does not assist the decision-maker in addressing the balancing exercise. For example, Policy 61 on Landscape can be seen as providing guidance on the matters that the Council intends should be taken into account but Policy 67 remains the all-embracing test that determines the acceptability of the landscape effects, not Policy 61. However, I do note that in Policy 57, there is an overall hierarchy of Natural, Built and Cultural heritage features which has some significance for

the proposed development. It sets out three tiers of importance, with the first tier comprising features of local/regional importance, and which covers, for example, (according to Appendix 2 of the Plan), Special Landscape Areas. Developments may be allowed inside such areas if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource. That reference to "unacceptable" takes us back to the balancing exercise in Policy 67 and shows that even by being inside an SLA there is no presumption against a development such as a wind farm. In the present case, the proposal may be visible from some very limited areas of the SLA around Loch Ness, but visibility from parts of the SLA does not engage this part of the policy. Similarly, it is clear that issues relating to effects on the setting of heritage assets, which is a matter to be considered in detail in this appeal, do not rely merely on identifying that there may be an effect. Just as the national advice in SPP paragraph 145 refers to development which may affect the integrity of a heritage asset such as a Scheduled Ancient Monument, here Policy 57 talks about development which may compromise the heritage resource.

- 5.6 Policy 28 deals with the context of sustainable design and climate change. This sets out the framework under which the criteria for assessment of a variety of criteria will be developed. However, while it does refer to climate change issues in its preamble, this is primarily in the context of location and design of development to maximise opportunities for reducing greenhouse gas emissions, rather than stand-alone renewable energy developments. There is no balancing exercise within Policy 28 and as such there is a degree of tension between its broad spatial strategy approach and the detailed criteria which are to be found in Policy 67.
- 5.7 Finally, it is important to note the contents of Policy 68 which address issues relating to community ownership. Where a community takes a share in a renewable energy scheme, such as a wind farm, then this may allow the Council to consent a scheme with greater impacts on that community than they would normally consider acceptable. The extent of the potential community involvement in this proposal has already been referred to in this Statement of Appeal and is addressed again below.

Supplementary Guidance

- 5.8 The HWLDP refers to consideration of the provisions of the Highland Renewable Energy Strategy 2006 (HRES) (**APP3.4**), but although this remains an extant document, it has now been superseded by the new SPP 2014 (**APP3.8**) and by the draft proposals in the Emerging Supplementary Guidance which was issued for consultation from September 2015 (**APP3.5**). In particular, its focus on the sequential testing of wind farm sites is no longer appropriate in the light of the national guidance which requires the adoption of the same approach to identifying strategic sites for wind energy developments across Scotland. The Report of Handling (**APP1.27**) suggests that there are three policies in the HRES (**APP3.4**) which remain relevant, these being H1 on Education and Training, K1 on Community benefit and N1 on local content of works. However, none of these in themselves would be a critical factor in the determination of an application.
- 5.9 The Interim Supplementary Guidance on onshore wind energy (March 2012) (**APP3.3**) has now been superseded by draft Onshore Wind Energy Supplementary Guidance (**APP3.5**) following the publication of SPP 2014 (**APP3.8**) with its revised approach to identifying areas of search for strategic wind energy development. However, at this early stage in its progress towards adoption, the weight that can be given to it is very limited. The initial draft of the new Spatial Framework shows parts of the Site as being in Group 3 of the SPP 2014 Table 1 schedule, with part being Group 2 due to carbon soils mapping. Using the latest SNH mapping of carbon rich soils and peat, seven of the turbines would lie outwith the SNH Class 1 and 2 zones and six of the turbines within them (**APP3.36**), although no issue about the effects of the turbines on these resources has been raised by

any party given the detailed work to examine the resource on site. The draft SG has a detailed sensitivity study for one sub-area around Loch Ness (which does cover the Site), and the SEI of February 2016 provided a planning appraisal of the scheme in the context of this study, which is commended to the Reporter (**APP1.21**). It will in due course be expanded in further drafts to cover the rest of the Council area, but its weight is minimal at this early stage in progressing towards its adoption. The new Draft SG (**APP3.5**) can be expected to change significantly with the additional work it envisages as well as in response to consultation replies, and its main contribution to the Reporter is in its guidance on the new Spatial Framework based on SPP 2014 principles.

Renewable Energy Policy Context

- 5.10 The background to energy policy at the UK and Scotland level has already been set out in documents before this inquiry such as the Appellants' ES (**APP1.3**) and Planning Statement (**APP1.12**) and as the Reporter will be very familiar with this it is not necessary to repeat that material here. However, it is helpful to summarise where we are now in terms of the UK position and the position adopted by the Scottish Government.
- 5.11 By 2020, 15% of all the energy consumed in the UK has to be from renewable sources, and since this includes heating and transport which face particular difficulties in developing renewable sources of energy, one of the big issues which has been debated at recent planning inquiries has been the extent to which the UK is on track to meet its overall commitments by 2020. The implications of the Referendum vote still have to be digested on this point, but commitments to delivering on the European and global imperatives have not been diminished. There has been a great deal of debate at recent appeals in Scotland as to whether there remains an imperative to deliver a continuing flow of new wind energy projects in the light of the decision by the UK Government to halt the financial support to the industry through the Renewables Obligation, (announcement by the DECC Energy Secretary in the House of Commons in June 2015 (**APP3.18**)). Only days before, however, the EU had announced in a Renewable Energy Progress Report review of the trajectory toward the 2020 targets in the UK that there was now a very real danger that the overall targets would be missed because of failures to achieve the necessary contribution from the heating and transport sectors (**APP3.15**). These problems are highlighted in a leaked letter from Ms Rudd to Cabinet colleagues (**APP3.19**) in which she conceded that despite the public stance the Government was taking on onshore wind, her own Departments' internal figures – which she pointedly stated were not made public – showed there was a likelihood that the overall target would be missed and that significant contingency steps would have to be taken to meet the target. Indeed the scale of the undershoot could be as much as 50TWh a year by 2020 – not far short of the entire annual production in the UK from all renewable sources that had been achieved by 2012. Some of the problems arise from decisions not to proceed with a range of renewable energy projects from biomass to offshore wind schemes, while other non-carbon sources of power such as new nuclear and tidal power developments are not programmed to start generating until the early 2020s at best. There are also clear issues about delivering renewable sources of energy for heating and transport that Ms Rudd's letter also flagged up.

The position in Scotland

- 5.12 Despite the changes to financial support at the UK level, it remains the firm commitment of the Scottish Government to move forwards to its current target of the equivalent of at least 100% of Scotland's electricity supply to come from renewable energy sources by 2020 – this is in comparison to the figure for the UK as a whole which is only 30%. This is restated explicitly in the Chief Planner's letter to all Scottish Councils as recently as November 2015 (**APP3.20**) which refers directly to Ms Rudd's Commons Statement and confirms that it does not signal any weakening of the approach being taken by Ministers

in Scotland – indeed it also confirms that even the 100% figure is not to be regarded as a cap if and when it is reached.

- 5.13 A statement of policy on renewables in Scotland is contained in the Electricity Generation Policy Statement, published by the Scottish Government in June 2013 (**APP3.10**). This confirmed that the renewables potential in the country was such that it would be capable of generating much more than would be needed to meet the domestic demand for electricity and the remainder could be exported to the rest of the UK and to continental Europe to help other countries meet their binding targets.
- 5.14 In September 2013, Audit Scotland published a report entitled Renewable Energy (**APP3.33**). This recognised that meeting the renewable energy target by 2020 would rely on the continued expansion of wind energy (page 24). It noted that the annual rate of installation was increasing in Scotland, having reached an annual 634MW per year in the five years up to 2012. However, it also found that this growth rate would only deliver a total of about 10.9GW of installed capacity by 2020, which would be about 3.1GW short of what would be needed to meet the 2020 target; *"Achieving the 2020 target requires average annual increases in installed capacity of at least 1,250MW between 2015 and 2020 – double the rate achieved over the last five years"* (Page 26). The timing of consenting for new projects is also now critical. For projects only just entering planning today, it is highly unlikely that they will be able to secure consent, satisfy conditions, follow the tendering process and then achieve both construction and a grid connection in place on the ground in time to contribute towards the 2020 targets. Consenting schemes now in planning such as the present proposal offers the only solution which gives rise to any real prospect of having installed capacity in place by the target date that the Scottish Ministers have set.
- 5.15 The issue about the conflicting messages emerging from the UK Government, where publicly they are confident that progress to targets are on track while privately admitting that the 2020 targets are likely to be missed by a very long way, has been highlighted in the recent appeal decision involving the proposed wind farm at Corlic Hill near Greenock, in Inverclyde, issued by the Reporter David Buylla on 17 May 2016 (**APP6.3**). The Council had argued that with the apparent view of the Government in London that the electricity targets would be reached, there was less weight to be given to the delivery of more renewable electricity in Scotland. However, the Reporter disagreed, whatever the merits of the UK Government stance on the 2020 targets, since not only were these not caps of any kind, but the appeal proposal would make a contribution to the ultimate goal of the targets, which is to achieve significant reductions in greenhouse gas emissions and the development of an extensive and effectively renewable energy infrastructure. Thus the proposal would contribute to such benefits regardless of whether it was required to achieve the UK 2020 targets (para 24 of the decision letter). This was reiterated again in the much more recent decision of Reporter Dan Jackman at Windy Edge, Hawick in Scottish Borders (paras 53-55) issued on 6 June 2016 (**APP6.4**).

Scottish Planning Policy

- 5.16 The application comes forward against the background of a clear recognition at national and international level that there is an urgent need to take steps to tackle climate change and reduce carbon emissions. That recognition has led to a series of international, European and national policy developments in response to the issue of climate change. In the context of Scotland, the present Scottish Government target is for at least the equivalent of 100% of electricity demand to be generated from renewable sources by 2020 and Cnoc an Eas has the potential to make a significant contribution to that target, since it has had a 2020 grid connection offer. The significant support from national policy which the proposed development therefore draws is an important material consideration.

- 5.17 In terms of the national planning policy context which flows directly from the Scottish Government's energy policy statements, NPF3 (**AP3.7**) sets out the strategic spatial policy context for decisions and actions by the Government and its agencies, and all local authorities are required to reflect this policy in their strategic and local development plans (from the Ministerial Foreword). SPP (**APP3.8**) reaffirms the strong commitment by the Scottish Government to the need for the planning system to respond in a positive manner to the demands of Government energy policy, and that more has to be done through the planning system to meet the challenging targets which have been set.
- 5.18 NPF3 (**APP3.7**) was published in June 2014 and is the spatial expression of the Scottish Government's economic strategy. It identifies national developments and other strategically important development opportunities. Development plans must have regard to it and Ministers expect planning decisions to "*support its delivery*" (page iv). Amongst its wide-ranging policies, it sets out the need for a strategy to reduce reliance on fossil fuels, and emphasises not just the challenges in embracing a renewable and low carbon economy but also the wider benefits that this will bring, especially in employment creation.
- 5.19 The latest version of SPP was also published in June 2014 (**APP3.8**). The first version from 2010 had brought together a wide range of earlier policy statements on different topics and this format is retained in the latest version. SPP is non-statutory in that it does not form part of the development plan for the purposes of Sections 25 and 37(2) of the 1997 Act, but the Act also requires that both Scottish Government publications (such as the NPF and now this SPP) together with the preparation of development plans by local authorities must be carried out with the objective of contributing to sustainable development. The SPP is a material consideration that carries significant weight for decision-making (set out under the "Status" of the SPP on page 2).
- 5.20 The contents of SPP will be familiar to all the parties to the appeal and it is not considered necessary to restate the main principles nor the detailed guidance within it on renewable energy. However, there are two key areas of the SPP advice where it is necessary to explore further the implications for wind energy developments.
- 5.21 The first of these two issues is the fundamental approach to the delivery of sustainable development. The national strategic basis for sustainable development is clearly set out in NPF3 where the vision for Scotland (1.2) sets out, as part of the aim for a successful, sustainable place, the development of a growing low carbon economy. It looks for a low carbon place where the opportunities to be a world leader in low carbon energy generation both onshore and offshore have been seized. Natural and cultural assets are to be respected as sustainable economic, environmental and social resources for the nation. This is then carried through into SPP 2014, which repeats the four "outcomes" that planning decisions are expected to contribute towards (from paragraphs 13-23). Clearly no single development is expected to engage or deliver all four of these, and relative to this proposal we can discount "*a more connected place*" in Outcome 4.
- 5.22 However, the other three will have relevance to a wind energy development. Outcome 1 refers to a successful, sustainable place, and includes reference to supporting sustainable economic growth. Development of wind energy will bring significant economic benefits to the immediate locality in terms of employment creation in the construction period and maintenance, ensuing as well as supporting the supply chain, with an important element of the overall cost of the project met within this area of Northern Scotland, and the SEI (**APP1.21**) provides a detailed economic appraisal of this issue. Delivering "*a low carbon place*" in Outcome 2 is clearly achieved by a wind energy proposal. Delivering "*a natural resilient place*" in Outcome 3 requires a holistic view of environmental capital as opposed to just simple preservation or enhancement of the different aspects of it. Combating climate change will in itself support many of the aims of protection for the natural

environment such as, for example, reducing the effects of climate change on nature conservation issues. In a sense, Outcomes 2 and 3 are also not incompatible in the context of a wind farm, because all wind energy development is almost entirely reversible, and while the development may last for a generation, it is not denying future generations the opportunity to see the landscape or heritage assets in the same way that they appeared before the development.

- 5.23 After paragraph 27 SPP (**APP3.8**) states that *"This SPP introduces a presumption in favour of development that contributes to sustainable development"*, and paragraph 28 goes on to state that *"The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost"*. Paragraph 29 then goes on to define a series of principles that should flow from this, including a number of issues that have already been identified such as climate change mitigation, delivery of energy, cultural heritage and natural heritage. These issues all have to be related back to the four Outcomes referred to above.
- 5.24 The question therefore is how the presumption is to be applied and given weight in the planning system. Since the HWLDP (**APP3.1**) is less than five years old, the guidance in paragraphs 32-34 of SPP on the primacy of the Development Plan is not directly engaged. Instead the presumption in favour of sustainable development is to be dealt with as a material consideration which has quite considerable importance.
- 5.25 That is not for a moment to suggest that something which is an inherently sustainable form of development should be permitted at any cost, and this is explicitly recognised in paragraph 28. The focus of the decision-making approach has to be on identifying what adverse effects may arise from the development and putting these into the context of the other criteria in paragraph 29, and specifically also the very detailed criteria in paragraph 169 in terms of a wind energy development, to reach a conclusion on acceptability. That conclusion will in most cases involve the balancing of the impacts that will arise against the benefits that will flow from consenting the development, all against the overall presumption in favour of promoting sustainable development. An onshore wind farm is inherently a sustainable form of development, in that it meets key objectives of policy in delivering low carbon energy to replace that provided by fossil fuels, but whether a particular onshore wind energy scheme will be acceptable under the general balancing exercise is a matter for the decision-maker in each case. There will clearly be some schemes in which the totality of harm that may arise (and there will always be some significant effects identified for EIA purposes for any form of wind energy development) is such that it does not outweigh the benefits that arise. It is the contention of the Appellants in this case that the scheme does benefit from the presumption in favour of sustainable development that is set out in SPP, as the degree of adverse effects in EIA terms that is identified in this case falls well short of that necessary to rebut that presumption. Indeed, the effect of the presumption can be argued as meaning that the balance is being tipped in favour of a development that is as a matter of principle sustainable, such that the extent of the adverse effects arising from it would have to be greater in order to outweigh the benefits.
- 5.26 This was the approach taken in the Lochend appeal decision in Caithness (**APP6.5**), where the Reporter at paragraphs 90 and 91 found that since the proposal did not compromise any of the Outcomes in SPP it benefited from the presumption in favour, especially when taken in the context of its compatibility with the aims and objectives of the HWLDP.
- 5.27 The other key area to which attention needs to be drawn is the change in the approach to the identification of areas of search for strategic onshore wind development. This is a

response to the concerns of Government that the past practice at local authority level has been to identify all potential constraints rather than focussing on the key ones that may give rise to planning objections. Thus in establishing new guidelines for all planning authorities in formulating their Spatial Frameworks, the new advice (paragraphs 161-166 and Table 1 of SPP) refers to areas where wind farms will not be acceptable - National Parks and National Scenic Areas (Group 1); "Areas of significant protection" (Group 2); and "Areas with potential for wind farm development" (Group 3). In terms of Group 2, SPP indicates that these are areas where wind farms may be appropriate in some circumstances. In Group 3 wind farms are likely to be acceptable subject to detailed consideration against identified policy criteria. SPP goes on at paragraph 169 (**APP3.8**) to set out guidance for development management decisions.

- 5.28 The fundamental difference between the spatial approach in the 2010 and 2014 documents is the way in which the different categories of areas are to be defined. SPP 2010 advocated a three tiered approach with areas requiring significant protection; areas with potential constraints where proposals would be considered on their merits; and areas of search where proposals were likely to be supported subject to detailed assessment. However, under the new advice, the Group 2 constraints are limited to those specified in Table 1 as opposed to a series of possible constraints on cultural and natural heritage, tourism, landscape, recreation, aviation, defence and telecommunications.
- 5.29 There can be little doubt that the change in the approach towards the creation of Spatial Frameworks for strategic wind energy development (SF) between SPP 2010 and SPP 2014 has had a major impact on the way in which emerging Local Development Plans have had to be treated. All Councils which had adopted their LDPs before June 2014 will have to reappraise their Spatial Frameworks, and produce an SPP 2014 compliant Spatial Framework. This is now under way in Highland with a draft Spatial Framework being included in the September 2015 consultation for the Draft Onshore Wind Energy Supplementary Guidance (**APP3.5**).

Setting of cultural heritage features

- 5.30 This Statement of Appeal provides a detailed submission from Dr Stephen Carter on behalf of the Appellants, and he has set out the key national policies and advice on settings of heritage assets, so it is not necessary here to summarise the policy issues surrounding settings issues.
- 5.31 I do however note the statutory duty under Section 59 of the 1997 Act in the context of exercising planning functions in relation to listed buildings, which is that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

- 5.32 The reference to the Secretary of State is now superseded by Scottish Ministers.

Community Shared Ownership

- 5.33 The Scottish Government published Good Practice Principles for Shared Ownership of Renewable Energy Developments (SOoRED) on 15th September 2015 (**APP3.35**). The document sets out an expectation for every renewable energy project to include an element of community shared ownership. The Scottish Government considers such arrangements to help improve community empowerment and increase the potential local economic and social benefits from such projects.

- 5.34 The document sets out a 500MW target for community ownership/shared ownership in Scotland by 2020. The target was met in late 2015, but the Scottish Government is reviewing the target to maintain momentum and its support for community and local ownership remains undiminished (see the Chief Planner’s letter of 11th November 2015 **APP3.20**).
- 5.35 SOoRED sets out that where an element of shared ownership in a renewable project is proposed this can be reflected in a planning application by explaining the indirect economic and social impacts which will flow from such an arrangement. SOoRED explicitly acknowledges that cumulatively, the potential benefits of community energy projects are nationally significant. It also reiterates bullet point 1 of paragraph 169 of SPP 2014 (**APP3.8**) which notes that “*net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities*” are a relevant consideration for renewable energy projects.
- 5.36 SOoRED sets out the models of shared ownership which are considered relevant for the purpose of guidance. A Shared Revenue model, such as that on offer at Cnoc an Eas windfarm is one of the options considered to be a relevant structure of shared ownership.
- 5.37 SOoRED notes that where the resulting benefit to a local community is quantifiable, this can be presented in a planning application. The SEI submitted in support of the planning application for Cnoc an Eas windfarm provides an economic appraisal of the windfarm including the prospect of shared ownership (**APP1.21**).
- 5.38 The guidance further notes that where an appropriate partner group has not been identified, the intention for shared ownership can be outlined but will not be considered to be as strong as those with an identified and committed partner. The converse of such a position must therefore be that where a community partner has been identified and committed, more material weight can be attached to the prospects of the socio-economic benefits which could flow from shared ownership. For Cnoc an Eas a Memorandum of Understanding has been signed with Soirbheas, a relevant local community group which was given a mandate to negotiate a community benefit package including shared ownership by GUCC (**APP1.26**).
- 5.39 The Scottish Ministers are anxious to secure community involvement in the ownership of onshore wind farms, and as Policy 68 of the HWLDP recognises this is bound to have some impact on the decision-making process. As such some weight should be given to this aspect of the proposal.

Planning assessment against the adopted Local Development Plan

- 5.40 As noted earlier, the key policy is Policy 67 (**APP3.1**), which sets two primary considerations at the outset, apart from the desirability of the renewable energy development proposals being well related to the source of the primary renewable energy resources needed for their operation. These two considerations are:
- 5.40.1 The contribution of the proposed development towards meeting renewable energy generation targets; and
- 5.40.2 Any positive or negative effects it is likely to have on the local and national economy.

and they are considered as separate topics below.

The contribution of the proposed development towards meeting renewable energy generation targets

- 5.41 The proposed development, as currently envisaged, could deliver 44.2MW of installed capacity and has a carbon payback period of between 18 and 25 months (see para 5.77 of the Planning Statement submitted with the Application (**APP1.12**), gives rise to the socio economic benefits expressed in SEI (**APP1.21**) as well as the prospect for community shared ownership, all of which underpin the sustainable economic development credentials of the proposal.
- 5.42 The national policy perspective, established through NPF3 (**APP3.7**) and SPP (**APP3.8**), is to continue to support the deployment of renewable energy in appropriate locations and in particular both documents reiterate the Scottish Government's commitment to meet ambitious climate change targets. Indeed, the letter from the Chief Planner at the Scottish Government to all Heads of Planning in Scotland makes this crystal clear (**APP3.20**). Despite the announcements from the UK Secretary of State for Energy and Climate Change in June 2015 (**APP3.18**) about the delivery of onshore wind to meet the 2020 targets, the Scottish Government's policies on onshore wind remain unchanged – aiming not for 30% of electricity from renewable sources by 2020 but 100%. Indeed, the letter reinforces the point that there is no cap on the support for renewable energy developments, including onshore wind, once the target has been reached.
- 5.43 On this basis, the reality is that the proposed development would make a significant contribution to meeting renewable energy targets and as such would accord with this policy criterion.

Any positive or negative effects it is likely to have on the local and national economy

- 5.44 From experience across the UK, the Appellants expect a spend on the development of in excess of £53million, with a significant proportion of that predicted to be spent in the Highland area. In addition, the Appellants have proposed and prepared a draft Unilateral Undertaking with a turbine tower supplier in Argyll (see Appendix 13.1 of the SEI – **APP1.21**). One of the long-standing objectives of UK and Scottish energy and planning policy has been to secure greater benefits to UK manufacturing and service industries from the promotion of wind energy manufacturing capacity within the UK. Supporting a key industry in Scotland in this way is therefore an important element of the project.
- 5.45 The income derived from shared ownership in Cnoc an Eas windfarm will be used by Soirbheas to support its charitable aims within the Glen Urquhart and Strathglass areas.
- 5.46 The SEI included an economic appraisal which considered both the potential benefits of community participation in the scheme and the value of the project to the Highland and Scottish Economies (**APP1.21**). This is addressed in detail in Chapter 4 of this Statement of Appeal.
- 5.47 Against those very clear benefits, the only significant issue as regards the local or national economy that has been raised by the Council is the potential for harm to tourism interests, and this has been fully addressed in Chapter 4 of this Statement of Appeal.

Criteria for assessment under Policy 67

- 5.48 The text of Policy 67 then goes on to refer to assessment against other policies of the Plan, the HRES and Planning Guidelines, and to have regard to any other material considerations. Comment has already been made on the application of other policies in the plan, the lack of weight to be given to the HRES and the minimal weight to be given

to the emerging SG. The reference to “other material considerations” would, under Section 25, be something that you would undertake once you had assessed a proposal against the policies in the plan – not as part of a policy in the plan.

5.49 The main body of the policy is then set out as:

Subject to balancing with these considerations and taking into account any mitigation measures to be included, the Council will support proposals where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments (see Glossary), having regard in particular to any significant effects on the following:

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

5.50 The Planning Statement (**APP1.12**) sets out a comprehensive assessment of the proposals against all of the criteria set out above and that material does not need to be restated here. The Report of Handling (**APP1.27**) followed the same process, citing many of the comments made in the Planning Statement and accepting that in many respects, where there was a degree of differences in the conclusions drawn by consultees such as SNH or their own advisers, these could come down to subjectivity. It should also be noted that the covering letter with the SEI provided a planning appraisal of the scheme in the light of the SEI submission (**APP1.20**). Chapters 2 and 3 of this Statement of Appeal set out comprehensive material on the landscape and visual effects and effects on heritage settings, and these confirm the views of the Appellants made at the application stage that the proposal is in general conformity with the aims and objectives of the Development Plan Policy 67 when the inevitable adverse effects for this form of development which have been identified through the EIA process are fed into the balancing exercise against the very real benefits, including economic benefits and shared ownership, that arise from the continued exploitation of renewable energy in this way.

5.51 There is however one issue that does need a comment in the context of the weight to be given to Policy 67 in combination with Policy 57, in dealing with the effects on the setting of Corrimony Cairn, which has been dealt with comprehensively by Dr Carter. He has highlighted the proper tests set out in SPP (**APP3.8**) which refer in para 145 to the

distinction between an adverse effect on a Scheduled Monument or on the integrity of its setting. Looking at Policy 57 (**APP3.1**), it is clear that it is referring in the case of a Scheduled Monument to avoiding development that would “compromise” the heritage resource, and this can be equated to the “integrity” test for setting which is found in para 145. Since the aim of the policy is to avoid compromising the heritage resource, this must mean for a Scheduled Monument that the setting would have to make an important contribution to the importance and value of the asset, and as a result, even if it is possible to identify an EIA significant effect, which may be adverse, in respect of certain viewpoints, that cannot equate to an overall finding that the integrity of the heritage asset is being compromised. From Dr Carter’s evidence I am satisfied that there is no breach of Policy 57 in this respect and that it is not necessary to invoke the specific balancing exercise it contains, since there are no significant adverse effects on the setting of the monument and it is not being compromised.

- 5.52 Non-compliance with Development Plan policies other than Policy 67, and notably in this case Policy 28, would only arise as a result of an initial non-compliance with Policy 67. It has been concluded that there is no separate issue raised by Policy 28 which is not already covered by Policy 67, but more crucially Policy 67 has a full balancing exercise within it to test a renewable energy development, which Policy 28 does not.

Other Material Considerations

- 5.53 Issues raised within SPP (**APP3.8**) have been addressed through this Statement and given the very close alignment of Policy 67 (**APP3.1**) with SPP, conformity with one would generally confirm conformity with the other. However, it is important to reinforce the presumption in favour of sustainable development which is a policy thread running through NPF3 (**APP3.7**) and SPP 2014 (**APP3.8**), which is separate from the Development Plan provisions. Moving towards a low-carbon economy has to involve the radical changes in the electricity generation industry that have been coming forward over the last 15 years in Scotland, and wind energy is the major contributor to the targets that have been set. Clearly there may be cases where there are significant adverse effects of such a scale that a wind farm proposal is unable to benefit from the presumption in favour, but that is not the case here. The proposed development thus gains considerable support from national energy policy in Scotland, and it is the very presence of that policy guidance at national level that provides the weight behind the need for and benefits of renewable energy on a site by site basis.
- 5.54 The publication of the Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments in September 2015 (**APP3.35**) has raised another factor which provides support for this application which contains the potential for an element of shared ownership in line with Scottish Government targets and aspirations.

Planning Assessment Conclusions

- 5.55 As an overarching point, it cannot reasonably be disputed that the appeal comes forward against the background of a clear recognition, nationally and internationally, that there is an urgent need to tackle climate change and reduce carbon emissions. The context to this includes the Scottish Parliament passing the Climate Change (Scotland) Act in 2009. That set out targets to reduce greenhouse gas emissions; there is an interim target of a 42% reduction by 2020 and an 80% reduction by 2050. The Scottish Government’s Renewables Action Plan was updated and extended by the 2020 Routemap for Renewable Energy in Scotland which reflects the new target of meeting an equivalent of 100% demand for electricity from renewable energy by 2020 (**APP3.13**). In November 2012 the Scottish Government set an interim target of an equivalent of 50% demand by 2015. Fundamentally, these targets are not caps and the Chief Planner’s letter (**APP3.20**) makes this very clear indeed – even once the 100% target for electricity for renewables

has been reached. The proposal derives support from both NPF3 and SPP in seeking to deliver sustainable development, and the foregoing summary of the SPP advice shows that the three key sustainability indicators would all be satisfied through the proposed development and as such the Reporter can apply a presumption in favour of the proposed development.

- 5.56 In terms of the proposed development, the potential to deliver major investment directly into the local economy and to support the on-going growth of the renewables sector within Scotland remains an important and material factor of significant weight. Given that the real potential remains to increase this investment through acquisition of components from Wind Towers Scotland, the potential economic benefit that could arise would increase further. Most of the work of site establishment, civil engineering, site cabling, provision of construction plant, machinery and materials, together with site surveying is usually undertaken by local contractors and relying heavily on local labour where available; an approach that the Appellants are actively pursuing with regard to other projects it has undertaken throughout Scotland. This part of the work amounts to between a quarter and a third of the total project cost; a typical UK wind farm development at Tallentire in Cumbria is highlighted in the UK Renewable Energy Roadmap Update 2013 (Case Study 5 on Page 45) (**APP3.17**) that confirmed around one third of total construction expenditure was directed towards the local community. In the case of Cnoc an Eas, calculations on the economic benefit of the site to the local and wider area are provided in the SEI (**APP1.21**) and amount to earnings of £9.4m to the Highland economy and £28m Gross Value Added (GVA) to the Scottish economy.
- 5.57 The Appellants consider that when the proper balance is undertaken in accordance with the LDP there is no material conflict with the aims and objectives of Policy 67. Non-compliance with Development Plan policies other than Policy 67 would only arise as a result of the initial non-compliance with Policy 67 as identified by the Council, and that is why it has been concluded that there is that there is no substantive case for arguing a stand-alone conflict with Policy 28. No conflict with Policy 57 has been identified in terms of cultural heritage or effects on the Special Landscape Area of Loch Ness.
- 5.58 In the context of the proposed development, the Appellants are also committed to the principle of a Community Fund and has engaged with the local community to offer a shared ownership scheme in line with the latest advice from Scottish Ministers. This engages the advice in Policy 68 of the HWLDP (**APP3.1**) which addresses the relationship between wind energy proposals and community involvement, such that this proposal can derive some support from this policy.
- 5.59 The Council's approach is considered to be unbalanced and the limited environmental issues have been given disproportionate weight in their assessment, notably in the context of heritage where the assessment is in the view of the Appellants, seriously flawed. In addition, the positive aspects of the proposal (delivery of cleaner, greener electricity, reduction in carbon emissions, greater diversity of supply and contributions to local economy including the prospect of community shared ownership in the scheme) add further to the balance against the localised adverse effects that may arise.

6. Overall Conclusions

- 6.1 It is considered that the overall geographic distribution, number and extent of significant landscape and visual effects identified in the ES are proportionate and not unexpected for a development of this size. Given these findings there appear to be no grounds for refusal, on the basis on landscape and visual effects. The proposed Site offers some clear benefits in terms of the reduction of potential visibility, because of its location in a valley head, whereby views from the east, west and north will be more limited than would be the case if it was less contained.
- 6.2 Cultural heritage matters relevant to this appeal are both narrow and well-defined. The Council, adopting the advice it has received from its own HET and HES, considers that there would be a significant adverse impact on the setting of the Corrimony Chambered Cairn (a Scheduled Monument), sufficient to justify refusal of planning permission. In contrast, the Appellants have recognised an impact of much lesser magnitude on this historic asset and consider that any adverse impact would be outweighed by the benefits of the proposed development. The potential for adverse impacts on the cultural significance of this asset was recognised from the outset and the layout of the proposed wind farm has been designed to minimise any adverse impacts. In addition, the Appellants have offered to deliver a programme of enhancements for Corrimony Chambered Cairn that would help to offset the residual impact of the proposed development.
- 6.3 The impacts of the proposed development upon noise, geology, hydrology and hydrogeology, ecology, ornithology, transport, socio-economic, aviation, telecommunications, TV reception, dust and shadow flicker interests are, in the Appellants' opinion, entirely acceptable.
- 6.4 The Appellants have been very clear in setting out the case for the proposed development in that the predicted significant or otherwise adverse environmental effects associated with the proposed development are very limited and in relative terms are considered acceptable.
- 6.5 It cannot reasonably be disputed that the appeal comes forward against the background of a clear recognition, nationally and internationally, that there is an urgent need to tackle climate change and reduce carbon emissions. The context to this includes the Scottish Parliament passing the Climate Change (Scotland) Act in 2009. That set out targets to reduce greenhouse gas emissions; there is an interim target of a 42% reduction by 2020 and an 80% reduction by 2050. The Scottish Government's Renewables Action Plan was updated and extended by the 2020 Routemap for Renewable Energy in Scotland which reflects the new target of meeting an equivalent of 100% demand for electricity from renewable energy by 2020. In November 2012 the Scottish Government set an interim target of an equivalent of 50% demand by 2015. Fundamentally, these targets are not caps and the Chief Planner's letter of November 2015 makes this very clear indeed – even once the 100% target for electricity for renewables has been reached. The proposal derives support from both NPF3 and SPP in seeking to deliver sustainable development, and the foregoing summary of the SPP advice shows is that the three key sustainability indicators would all be satisfied through the proposed development. As such, the Reporter can apply a presumption in favour of the proposed development.
- 6.6 The potential to deliver major investment directly into the local economy and to support the on-going growth of the renewables sector within Scotland remains an important and material factor of significant weight. Given that the real potential remains to increase this investment through acquisition of components from Wind Towers Scotland, the potential economic benefit that could arise would increase further. Most of the work of site establishment, civil engineering, site cabling, provision of construction plant, machinery

and materials, together with site surveying is usually undertaken by local contractors and relying heavily on local labour where available; an approach that the Appellants are actively pursuing with regard to other projects it has undertaken throughout Scotland. This part of the work amounts to between a quarter and a third of the total project cost. In the case of Cnoc an Eas, calculations on the economic benefit of the Site to the local and wider area are provided in the SEI amount to earnings of £9.4m to the Highland economy and £28m Gross Value Added (GVA) to the Scottish economy.

- 6.7 The Appellants consider that when the proper balance is undertaken in accordance with the LDP there is no material conflict with the aims and objectives of Policy 67. Non-compliance with Development Plan policies other than Policy 67 would only arise as a result of the initial non-compliance with Policy 67 as identified by the Council, and that is why it has been concluded that there is that there is no substantive case for arguing a stand-alone conflict with Policy 28. No conflict with Policy 57 has been identified in terms of cultural heritage or effects on the Special Landscape Area of Loch Ness.
- 6.8 The Appellants are also committed to the principle of a Community Fund and has engaged with the local community to offer a shared ownership scheme in line with the latest advice from Scottish Ministers. This engages the advice in Policy 68 of the HWLDP (**APP3.1**) which addresses the relationship between wind energy proposals and community involvement, such that this proposal can derive some support from this policy.
- 6.9 The Council's approach is considered to be unbalanced and the limited environmental issues have been given a disproportionate weight in their assessment, notably in the context of heritage where the assessment is in the view of the Appellants seriously flawed. In addition, the positive aspects of the proposals (delivery of cleaner, greener electricity, reduction in carbon emissions, greater diversity of supply and contributions to local economy including the prospect of community shared ownership in the scheme) add further to the balance against the localised adverse effects that may arise.
- 6.10 For all of those reasons the Appellants respectfully submit that the appeal should be allowed and planning permission be granted.

Appendices

- Appendix A: List of Appellants' Supporting Documents
- Appendix B: CVs for Consultants
- Appendix C: Appellants' Proposed Planning Conditions

Appendix A – List of Appellants’ Supporting Documents

1 Application and Related Documents	
APP1.1	Application Covering Letter to The Highland Council dated 16 July 2015
APP1.2	Completed Application Form and Notices of Application served
APP1.3	Environmental Statement dated July 2015 – Volume I: Main Text and Figures
APP1.4	Environmental Statement dated July 2015 – Volume II: Appendices
APP1.5	Environmental Statement dated July 2015 – Volume III: THC Compliant Visualisations
APP1.6	Environmental Statement dated July 2015 – Volume IV: SNH Compliant Visualisations
APP1.7	Environmental Statement SNH Viewpoint Pack dated July 2015
APP1.8	Environmental Statement Non-Technical Summary dated July 2015
APP1.9	Environmental Statement dated July 2015 – <u>Confidential</u> Figure and Appendix
APP1.10	Application Drawings Pack (Figures 100-101 to 100-112)
APP1.11	Design and Access Statement dated July 2015
APP1.12	Planning Statement dated July 2015
APP1.13	Pre-Application Consultation Report dated July 2015
APP1.14	Appellant letter and enclosure of 14 August 2015 responding to the letter of objection submitted by Mountaineering Council of Scotland
APP1.15	Appellant letter of 10 September 2015 responding to the letter of objection submitted by Historic Scotland
APP1.16	Appellant letter and enclosures of 22 September 2015 responding to the letter of objection submitted by the John Muir Trust
APP1.17	Appellant letter and enclosures of 19 October 2015 responding to the letter of objection submitted by Glen Urquhart Community Council
APP1.18	Appellant letter and enclosure of 20 October 2015 setting out its position on engagement with the Drumnadrochit Chamber of Commerce
APP1.19	Appellant letter and enclosure of 13 November 2015 responding to the consultation letter of Scottish Natural Heritage
APP1.20	Supplementary Environmental Information Covering Letter to The Highland Council dated 25 February 2016
APP1.21	Supplementary Environmental Information dated February 2016 – Main Text, Figures and Appendices
APP1.22	Supplementary Environmental Information Non-Technical Summary dated February 2016

APP1.23	3D Model submitted with SEI [Only available electronically]
APP1.24	Supplementary Environmental Information dated February 2016 – <u>Confidential</u> Figure
APP1.25	Amended Application Drawing – Revised Site Layout: Site General Arrangement (Figure 100-101) submitted with SEI
APP1.26	Appellant letter and enclosures of 23 March 2016 responding to the further letter of objection submitted by Glen Urquhart Community Council
APP1.27	Report of Handling dated 29 April 2016
APP1.28	Decision Notice dated 9 May 2016
APP1.29	Updated Landscape and Visual Information: Text and Non-Technical Summary dated June 2016
APP1.30	Updated Landscape and Visual Information: Figures dated June 2016
APP1.31	Glenurquhart Forests – Felling and Replanting, Bidwells dated 21 June 2016
APP1.32	Cnoc an Eas Wind Farm, Radar Line of Sight Assessment dated June 2016
2 Consultation Responses	
APP2.1	<p>Consultation Responses to Application, including:</p> <p>APP2.1a Civil Aviation Authority (27 July 2015)</p> <p>APP2.1b Forestry Commission Scotland (3 November 2015)</p> <p>APP2.1c Friends of the Great Glen (5 September 2015)</p> <p>APP2.1d Glen Urquhart Community Council (GUCC) (Undated)</p> <p>APP2.1e Historic Scotland (19 August 2015)</p> <p>APP2.1f John Muir Trust (JMT) (14 August 2015)</p> <p>APP2.1g Kiltarlity Community Council (KCC) (21 August 2015)</p> <p>APP2.1h Ministry of Defence (4 August 2015)</p> <p>APP2.1i The Mountaineering Council of Scotland (3 August 2015)</p> <p>APP2.1j NATS (30 July 2015)</p> <p>APP2.1k RSPB (8 September 2015)</p> <p>APP2.1l RSPB (Undated)</p> <p>APP2.1m ScotWays (10 September 2015)</p> <p>APP2.1n SEPA (14 August 2015)</p> <p>APP2.1o Scottish Natural Heritage (25 September 2015)</p> <p>APP2.1p Stop Turbines at Glenurquhart (STAG) (7 September 2015)</p> <p>APP2.1q STAG: Impact of Wind Farms on Tourism (7 September 2015)</p> <p>APP2.1r Scottish Wild Land Group (10 September 2015)</p> <p>APP2.1s The Highland Council – Access (23 July 2015)</p> <p>APP2.1t The Highland Council – EHO (23 September 2015)</p> <p>APP2.1u The Highland Council – Flood Risk Management (19 August 2015)</p> <p>APP2.1v The Highland Council – Forestry Officer (6 November 2015)</p> <p>APP2.1w The Highland Council – Historic Environment Team (2 November 2015)</p> <p>APP2.1x The Highland Council – Transport Planning (27 August 2015)</p> <p>APP2.1y Transport Scotland (31 July 2015)</p>
APP2.2	<p>Consultation Responses to Supplementary Environmental Information, including:</p> <p>APP2.2a Forestry Commission Scotland (29 April 2016)</p> <p>APP2.2b Glen Urquhart Community Council (21 March 2016)</p> <p>APP2.2c Glen Urquhart Community Council (4 April 2016)</p> <p>APP2.2d Highlands and Islands Airports Limited (29 March 2016)</p> <p>APP2.2e Historic Environment Scotland (29 March 2016)</p>

	APP2.2f Kiltarlity Community Council (Further Response - Undated) APP2.2g Ministry of Defence (21 March 2016) APP2.2h The Mountaineering Council of Scotland (18 March 2016) APP2.2i NATS (2 March 2016) APP2.2j SEPA: Further Response (21 March 2016) APP2.2k Scottish Natural Heritage (24 March 2016) APP2.2l Soirbheas (23 March 2016) APP2.2m Stop Turbines at Glenurquhart (STAG) (11 April 2016) APP2.2n The Highland Council – Access (1 April 2016) APP2.2o The Highland Council – Flood Risk Management (29 March 2016) APP2.2p The Highland Council – Transport Planning (10 March 2016) APP2.2q Transport Scotland (10 March 2016)
APP2.3	Third Party Representations (insofar as they are available)
3 The Development Plan, Renewable Energy Policy and Other Material Considerations	
APP3.1	Highland-wide Local Development Plan (April 2012)
APP3.2	Inner Moray Firth Local Development Plan (July 2015)
APP3.3	Highland Council Interim Supplementary Guidance: On-shore Wind Energy (March 2012)
APP3.4	Highland Renewable Energy Strategy (May 2006)
APP3.5	Highland Council Onshore Wind Energy – Draft Supplementary Guidance (September 2015)
APP3.6	Highland Council – Supplementary Guidance: Historic Environment Strategy (January 2013)
APP3.7	National Planning Framework 3 (NPF3) 2014
APP3.8	Scottish Planning Policy (SPP) 2014
APP3.9	Scottish Planning Policy: Some Questions Answered (5 December 2014)
APP3.10	Scottish Government – The Electricity Generation Policy Statement (June 2013)
APP3.11	2020 Routemap for Renewable Energy in Scotland (2011)
APP3.12	2020 Routemap for Renewable Energy in Scotland – Update (19 December 2013)
APP3.13	2020 Routemap for Renewable Energy in Scotland – Update (17 September 2015)
APP3.14	Scottish Government – Energy in Scotland (January 2015)
APP3.15	European Commission – Renewable Energy Progress Report (June 2015)
APP3.16	Scottish Government – Renewable Energy Policy (April 2015) (Website extract)
APP3.17	DECC: UK Renewable Energy Roadmap Update (November 2013)
APP3.18	DECC: UK Energy Secretary Announcement dated 18 June 2015
APP3.19	Letter of 29 October 2015 from Amber Rudd in relation to EU 2020 Renewables Target
APP3.20	Letter of 11 November 2015 from John McNairney to all Heads of Planning in relation to energy targets and SPP
APP3.21	DECC: Onshore Wind Direct and Wider Economic Impacts (May 2012)

APP3.22	Report on the achievability of the Scottish Government's Renewable Energy Targets, The Scottish Parliament (23 November 2012)
APP3.23	University of Edinburgh: Report on Tourism Impact of Wind Farms by Professor Cara Aitchison (2012)
APP3.24	The Scottish Parliament Official Report – Economy, Energy and Tourism Committee (5 February 2014)
APP3.25	Energy Voice, Fergus Ewing MSP, Statement on Tourism and Wind Farms (15 September 2015)
APP3.26	Climate X Change Report on Impacts of Windfarms on Scottish Tourism (2012)
APP3.27	Press & Journal Article - 'Tourists turn away from Highlands because of turbines' by Jane Candlish (9 September 2015)
APP3.28	Post Evaluation of the impact on Fairburn Extension Wind Farm on Tourism in the Scottish Highlands, SSE Renewables
APP3.29	"Blackcraig Hill Wind Farm, Dumfries and Galloway, Tourism Impact Assessment", Roger Tym & Partners, Final Report January 2008
APP3.30	Wind Farms and Changing Mountaineering Behaviour in Scotland, The Mountaineering Council of Scotland (March 2014)
APP3.31	DECC: Public Attitudes Tracking Survey – Wave 17 (April 2016)
APP3.32	Scottish Government: Energy Statistics for Scotland (December 2015)
APP3.33	Audit Scotland: Renewable Energy (September 2013)
APP3.34	Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments (April 2015)
APP3.35	Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments (revised September 2015)
APP.3.36	Plan of Final Layout with presence of constraints identified for Group 1 and Group 2 of SPP Table 1 (CAE_05_00440_V02) (June 2016)
4 Landscape and Visual	
APP4.1	Landscape Institute and Institute of Environmental Management and Assessment – Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
APP4.2	Scottish Natural Heritage – Visual Representation of Wind Farms: Good Practice Guidance, Version 2.1 (December 2014)
APP4.3	Scottish Natural Heritage – Siting and Designing Wind Farms in the Landscape, Version 2 (May 2014)
APP4.4	Scottish Natural Heritage – Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations, Guidance (June 2015)
APP4.5	Countryside Agency and Scottish Natural Heritage – Landscape Character Assessment: Guidance for England and Scotland (2002)
APP4.6	Countryside Agency and Scottish Natural Heritage – Landscape Character Guidance for England and Scotland: Topic Paper 6, Techniques and Criteria for Judging Capacity and Sensitivity (2004)
APP4.7	Landscape Institute – Photography and Photomontage in Landscape and Visual Impact Assessment: Advice Note 01/11 (2011)

APP4.8	Scottish Natural Heritage – Guidance: Assessing the Cumulative Impacts of Onshore Wind Energy Developments (March 2012)
APP4.9	The Highland Council – Visualisation Standards for Wind Energy Developments (May 2013)
APP4.10	The Highland Council – Visualisation Standards for Wind Energy Developments (March 2015)
APP4.11	The Highland Council – Assessment of Highland Special Landscape Areas (2011)
APP4.12	Scottish Natural Heritage ‘The Landscapes of Scotland’ Map
APP4.13	Scottish Natural Heritage ‘Strategic Locational Guidance for Onshore Wind Farms in respect of the Natural Heritage’, Policy Statement 02/02 (March 2009)
APP4.14	Caroline Stanton Landscape Architect and Buchan Landscape Architecture: Describing the key qualities of Scotland’s wild landscapes – Descriptions of Core Areas of Wild Land: Central Highlands Core Area for Wild Land (February 2015)
APP4.15	Scottish Natural Heritage consultation response to Druim Ba wind farm (11 December 2015)
5 Cultural Heritage	
APP5.1	Historic Environment Scotland: Managing Change in the Historic Environment – Setting (2016)
APP5.2	Historic Environment Scotland Policy Statement (June 2016)
6 Appeal Decisions	
APP6.1	Allt Duine s.36 Decision and Report
APP6.2	Limekiln s.36 Decision and Report
APP6.3	Corlic Hill Appeal Decision (PPA-280-2022)
APP6.4	Windy Edge Appeal Decision (PPA-140-2055)
APP6.5	Lochend Appeal Decision (PPA-270-2108)
APP6.6	Balnacoil Appeal Decision (PPA-270-2106)
APP6.7	Harelaw Renewable Energy Park s.36 Decision and Report

Appendix B – CVs of Consultants

Sam Oxley CV

Sam Oxley is a chartered landscape architect and Landscape Director of LUC, a multi-disciplinary environmental consultancy. She has been a Chartered Member of the Landscape Institute since 1999, and has a Masters degree in Landscape Design from Sheffield University, 1995, and a BSc (Honours) in Geography from Durham University, 1992.

She has 20 years of experience in the field of Landscape and Visual Impact Assessment (LVIA), and has worked on numerous wind farm and grid connection projects across Scotland, England and Wales, as well as numerous offshore wind farms.

Her work has included landscape and visual impact assessment and cumulative landscape and visual impact assessment, as well as feasibility and scoping studies, development of mitigation measures in relation to siting and design, or alteration of proposals subsequent to them obtaining planning permission. It has also included assessing impacts upon the visual amenity of local residents.

She has previously given oral evidence at parliamentary hearings and inquiries, including: Cairn Duhie Wind Farm (RES, 2016); Swift Wind Farm (RES, 2015); Bamff Wind Farm (SPR, 2014); Brunta Wind Farm (PNE Wind Ltd, 2014); Clocaenog Wind Farm (RWE npower renewables Ltd); River Valley Wind Farm (RWE npower renewables Ltd, 2014); Llynfi Afan Wind Farm (Gamesa, 2013); Fforch Nest Wind Farm (RWE npower renewables Ltd, 2011); Burnhead Wind Farm (Wind Prospect, 2012); Cushnie Wind Farm (Falck Renewables, 2010); Kildrummy Wind Farm (npower renewables, 2008); Lochelbank Wind Farm (npower Renewables, 2007-8); Snowgoat Glen Wind Farm (npower Renewables, 2007-8); Luas Line, Dublin (Carl Bro Ireland/RPA, 2001/2006); Waverley Railway Project, Scottish Borders (Scottish Borders Council, 2006); and Edinburgh Airport Rail Link (EARL, 2006).

She has also prepared proofs of evidence/precognitions or supporting information for appeals including: Shennanton Wind Farm (Brookfield 2016); Larbrax Wind Farm (Brookfield, 2015-6); Glenouther Wind Farm (Gamesa 2016); Muirhall South Wind Farm (Muirhall Energy, 2014); Kinross Sand and Gravel Quarry (Laird Aggregates Ltd, 2013); Moorhouse Wind Farm (Coriolis, 2008-12); A8000/M9 Spur (City of Edinburgh Council, 2007); Quay 2005 (Associated British Ports, 2003); Garthdee Retail Development, Aberdeen (Haslemere Estate Management, 2001-2003); Dalry Road Shopping Centre (Scottish Metropolitan, 2000-2001); Warrenpoint Deep Water Quay (Warrenpoint Harbour Authority, 2000); Forres Supermarket, Scotland (Scottish Metropolitan 2000); Princes Street Galleries (EDI, 1999); South Hampshire Rapid Transit, Fareham (Hampshire County Council, 1998); and New South-East Works, Kent (Blue Circle Cement, 1998).

In addition to those she has provided evidence for, listed above, she has worked a very large number of other projects including: Sheringham Shoal Offshore Wind Farm (Scira, 2005-6); Humber Offshore Wind Farm (2006-2008); Neart na Gaoithe Offshore Wind Farm (Mainstream, 2012-13); Dogger Bank Offshore Wind Farm (Forewind, 2012-13); Mellock Hill Wind Farm (West Coast Energy, 2004); Neuadd Goch Wind Farm (RWE npower renewables Ltd, 2012-13); Hillhead Wind Turbine (2010); Islay Community Turbine (Islay Energy Trust 2012); and Culterfield Wind Farm (2012).

She has worked for developers who are promoting projects, land owners objecting to schemes and with local authorities who are receiving applications, to raise awareness of issues due to the effects arising from developments. She has written landscape character assessments and guidance for statutory authorities, and prepared sensitivity studies for local planning authorities, to help inform appropriate development. Whilst she has given evidence for schemes which she feels able to support, she has also declined to give evidence for projects which she did not feel she could support.

Dr Stephen Carter: Qualifications and Experience

Profile

2008 - present Principal Consultant, Headland Archaeology (UK) Ltd

1996 - 2008 Director of Headland Archaeology (UK) Ltd

1992 - 1995 Project Manager, AOC (Scotland) Ltd

1989 - 1992 Archaeological Scientist, AOC

1978 - 1988 Freelance Archaeologist

Professional Qualifications

BSc (Joint Hons) Botany & Geography - University of Bristol (1983)

PhD Archaeology - University College London (1987)

Professional Affiliations

Member of the Chartered Institute for Archaeologists (1990)

Fellow of the Society of Antiquaries of Scotland (2008)

I was a founder member and director of Headland Archaeology from 1996 but in 2008 I stepped back from this business management role to concentrate on consultancy work for the company. I continue to work in this new role with a workload that is currently dominated by on-shore wind farm projects.

I have worked in the historic environment sector for over 35 years but my original academic training was in natural sciences. This is reflected in my earlier specialism in palaeo-environmental techniques and landscape-scale historic environment studies. Over the past 18 years this knowledge has been directed towards environmental impact assessment. I have developed particular experience of mineral extraction and wind farm developments and in the setting of heritage assets. I now regularly provide advice and expert witness services on cultural heritage issues in development management, including experience of hearings and public inquiries. I have also given evidence in criminal prosecutions brought under Ancient Monuments legislation.

Although practising within a commercial organisation, I am actively involved with other parts of the historic environment sector. I have been a member of various committees and working groups of the Chartered Institute for Archaeologists (the professional institute for the sector in the UK) and have served on the boards of leading third sector organisations including the Council for British Archaeology, Archaeology Scotland and Society of Antiquaries of Scotland (where I am currently a trustee). I am also a member of the

Strategic Historic Environment Forum, promoting delivery of Scotland's Historic Environment Strategy.

Experience specifically relevant to on-shore wind farm development

My experience of on-shore wind has been built up over the past 16 years, initially working on Environmental Impact Assessments. As projects have moved through the planning process, I have also appeared as an expert witness at public inquiries and hearings, and managed mitigation works during construction of wind farms. I am therefore familiar with all stages of the on-shore wind farm development process from site selection to construction.

Since 2006 I have provided evidence as a cultural heritage witness for over 40 wind farm planning appeals, s.36 inquiries and DCO hearings in various parts of the United Kingdom and Ireland.

Key cultural heritage issues for onshore wind farms generally relate to the setting of heritage assets and this has been my own experience. I have been closely involved with the development of better approaches to the setting of heritage assets. I was invited by the Planning Inspectorate in England to speak about the setting of heritage assets at a training event for Inspectors and have also lectured on setting and wind farms in other professional training courses.

1.0 David Stewart Qualifications and Experience

- 1.1 I hold the degree of Master of Arts in Geography from Fitzwilliam College, Cambridge, and the Diploma in Town Planning from the Central London Polytechnic, now the University of Westminster. I am a Chartered Town Planner, being a Member of the Royal Town Planning Institute.
- 1.2 I have been engaged in town planning work for forty-six years, the first nineteen of which were in local government. I held posts with County and District Councils in Surrey, Hampshire, Somerset, Cheshire and Wiltshire, dealing with development control, conservation and local plans work. My final local government post was as Director of Planning and Environmental Services with the Kennet District Council in Eastern Wiltshire, a largely rural area with an extensive AONB (Wessex Downs) as well as part of the Avebury and Stonehenge World Heritage Site. Here I was responsible not only for planning and building control but also the Council's Environmental Health functions. I moved to private practice in Truro in March 1989 and since May 1990, I have run my own practice firstly in Cornwall and now in Devon. My work in development control and local plans now covers projects across England, Scotland, Northern Ireland and Wales.
- 1.3 In terms of my involvement in wind energy, I have appeared as a planning witness at public inquiries/hearings in respect of applications for wind turbines, either on appeal or after a call-in, on 132 occasions since 1992 involving 24 in Scotland, 85 sites in England and 23 in Wales (eleven of them involving applications for more than 50MW of installed capacity submitted under Section 36 of the Electricity Act). I have also provided the planning evidence for 39 written representations appeals involving wind farm developments since 2000, the majority of these being in Scotland. I am currently involved in 18 further wind energy projects at different stages of the planning process, from scoping studies to public inquiry stage, throughout the UK, as well as hydro and solar proposals.

Appendix C – Appellants’ Proposed Planning Conditions

Time Limits and Decommissioning

1. The development hereby permitted shall be removed in accordance with Condition 2 below after a period of 30 years from the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the development. Written notification of this date shall be given to the Planning Authority no later than 1 calendar month after the event.

Reason: In recognition of the expected lifespan of the wind farm and in the interests of safety and amenity once the wind farm is redundant.

2. Not later than 12 months before the expiry of the 30 year period referred to in Condition 1, a decommissioning and site restoration scheme shall be submitted to the Planning Authority for its written approval. The scheme shall make provision for the removal of the wind turbines and the associated above ground equipment and turbine foundations to a depth of at least 1 metre below the ground. The scheme shall detail the lengths of the access road to the site and the lengths of access tracks within the site boundary which are to be retained following decommissioning and site restoration. The scheme shall also include the management and timing of any works together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land from which the turbines and any ancillary equipment and structures have been removed together with the appointment of an Ecological Clerk of Works (ECoW). The approved scheme shall be implemented as approved.

Reason: To ensure the development is decommissioned and the site restored at the expiry of the permission.

3. If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 12 months, unless otherwise agreed in writing with the Planning Authority, then a scheme shall be submitted to the Planning Authority for its written approval within 3 months of the end of that 12 month period for the repair or removal of that turbine. The scheme shall include either a programme of remedial works where repairs to the relevant turbine are required, or a programme for removal of the relevant turbine and associated above ground works approved under this permission and the removal of the turbine foundation to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: To ensure appropriate provision is made for turbine(s) requiring repair or for turbine(s) which require decommissioning.

Appearance

4. No wind turbine shall be erected on site until details of the finish and colour of the towers, nacelles, blades, meteorological mast and external transformer units have been submitted to and approved in writing by the Planning Authority. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no name, sign, or logo shall be displayed on any external surfaces of the turbines, wind monitoring mast or any external transformer units other than those required to meet health and safety requirements. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

5. Prior to commencement of the construction of the control building, details of the design, external appearance, dimensions and materials for the building and any associated compound or parking area and details of surface and foul water drainage from the control building shall be submitted to and approved in writing by the Planning Authority. The

development of the control building and any associated compound or parking area shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

6. The wind turbines hereby permitted shall have three blades which shall rotate in the same direction. The overall height of the wind turbines numbered 2, 3, 5, 6, 9 and 11 shall not exceed 136.5m to the tip of the blades and the wind turbines numbered 1, 4, 7, 8, 10, 12 and 13 shall not exceed 126.5m to the tip of the blades (wind turbine numbering shown on Figure 4.1a: Development Layout of the Environmental Statement Figures) when the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

Reason: In the interests of the character and appearance of the area.

7. All cables between the turbines and between the turbines and the control building on site shall be laid underground.

Reason: In the interests of visual amenity.

8. There shall be no external lighting of the site save for the exception of any PIR security lighting at the control building and each turbine, temporary site illumination detailed as part of the approved Construction Method Statement, PIR security lighting at the entrance to the control building and each turbine during the operational life of the development or aviation lighting to be installed on the turbines with the prior written approval of the Planning Authority.

Reason: In the interests of visual amenity.

Construction Method Statement

9. No development shall take place until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMS, subject to any variations approved in writing by the Planning Authority. The CMS shall include:
 - a) details of the phasing of construction works;
 - b) the formation of temporary construction compounds, access tracks and any areas of hardstanding;
 - c) details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
 - d) details of foundation design;
 - e) dust management;
 - f) pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
 - g) temporary site illumination during the construction period;
 - h) details of the proposed storage of materials and soils and disposal of surplus materials;
 - i) details of timing of works;
 - j) details of surface treatments and the construction of all hard surfaces, access tracks between turbines (with the exception of the length of access track between T3 and T7, wind turbine numbering shown on Figure 4.1a: Development Layout of the Environmental Statement Figures); and between turbines and other infrastructure and the proposed permanent access from the A831 to the site;
 - k) details of routeing of onsite cabling;
 - l) details of emergency procedures and pollution response plans;
 - m) siting and details of wheel washing facilities;
 - n) cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
 - o) a site Construction Environmental Management Plan to include details of measures to be taken during the construction period to protect wildlife and habitats;

- p) details and a timetable for post construction restoration/reinstatement of the temporary working areas, and the construction compound;
- q) details of the restoration of the existing access track from the A831 during the process of constructing the new permanent access from the A831;
- r) working practices for protecting nearby residential dwellings, including the erection of temporary noise barriers at the property at Woodend Croft and general measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009;
- s) details of safety arrangements for crossing public rights of way during construction;
- t) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
- u) a Site Waste Management Plan to include details of measures to be taken during the construction period to minimise the disturbance of soil and peat;
- v) the excavation, use and subsequent restoration of the approved borrow pits;
- w) the upgrading and the surface treatment of that stretch of the existing access track identified on Figure 12.1 of the Supplementary Environmental Information (February 2016) as running between the two points marked on Figure 12.1 with the label "Upgraded Works to Temporary Relief Access to Tie Into Existing Levels at Either End of Track".

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

Alternative Access Spur

10. Prior to commencement of construction of the access track between turbines numbered 3 and 7 (wind turbine numbering shown on Figure 4.1a: Development Layout of the Environmental Statement Figures), a scheme proposing detailed routing and construction methods for this track shall be submitted to and approved in writing by the Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure the access track between T3 and T7 is appropriately located and to minimise disturbance to peat in this area of the wind farm site.

Construction Traffic Management Plan

11. No development shall take place until a Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the Planning Authority. The approved CTMP shall be carried out as approved in accordance with the timetable specified within the approved CTMP. The CTMP shall include proposals for:
 - a) the routing of construction traffic;
 - b) scheduling and timing of movements;
 - c) the management of junctions to and crossings of the public highway and other public rights of way;
 - d) any identified works to accommodate abnormal loads along the delivery route including any temporary warning signs;
 - e) temporary removal and replacement of highway infrastructure/street furniture;
 - f) reinstatement of any signs, verges or other items displaced by construction traffic;
 - g) banksman/escort details;
 - h) a road condition survey for (i) the length of the A831 from the junction with the A82 to the entrance to the site and (ii) the length of the A833 from the junction with the A862 to the A831; and
 - i) a timetable for implementation of the measures detailed in the CTMP.

Reason: In the interests of highway safety.

Hours of Construction

12. Construction work on the site shall only take place between the hours of 0700 – 1900 hours Monday to Friday inclusive and 0700 – 1300 hours on Saturdays with no such work on a Sunday or Public Holiday. Outwith these specified hours development on the site must be limited to wind turbine erection, maintenance, pouring of concrete, emergency works, dust suppression and the testing of plant and equipment, unless otherwise approved

in advance in writing by the Planning Authority. Where emergency works are required, notification shall be given to the Planning Authority within 48 hours of their occurrence.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

Micrositing

13. The wind turbines and anemometer mast hereby permitted shall be erected at the following grid co-ordinates:

Turbine	Easting	Northing
1	241802	833775
2	242225	834092
3	242599	834173
4	241518	833276
5	242012	833507
6	242470	833681
7	242849	833865
8	241543	832648
9	241928	833058
10	242568	833213
11	242153	832789
12	242225	823455
13	241811	832380
Anemometer mast	241530	832978

Notwithstanding the terms of this condition the wind turbines and other infrastructure hereby permitted may be microsited within 50 metres, save that no wind turbines or other infrastructure may be micro-sited to within 50 metres of the centre point of any watercourse. The consequential realignment of access tracks following the micro-siting of turbines is permitted, save for the access track between turbine 3 and turbine 7 (wind turbine numbering shown on Figure 4.1a: Development Layout of the Environmental Statement Figures) which shall be constructed in the position approved by the Planning Authority pursuant to condition 10. A plan showing the position of the turbines and anemometer mast on the site shall be submitted to the Planning Authority.

Reason: To enable necessary minor adjustments to the position of the wind turbines and other infrastructure to allow for site-specific conditions.

Ecology

14. No development shall take place until an independent Ecological Clerk of Works (“ECoW”) has been appointed, such appointment to be approved in writing by the Planning Authority. The terms of appointment shall:

- (a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and supplementary environmental information lodged in support of the application and the Construction and Environmental Management Plan, Forestry Design Plan, Breeding Bird Protection Plan and other plans approved in terms of the conditions of this permission (“the ECoW Works”);
- (b) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity; and
- (c) Require the ECoW to report to the appropriate statutory body any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during

any period of post construction restoration works approved as part of the Construction Method Statement.

Reason: To protect ecological interests.

15. The Forestry Development Plan contained in the Environmental Statement (July 2015) and Figures 4.3 and 4.5 from the Supplementary Environmental Information (February 2016) shall be implemented unless otherwise approved in writing by the Planning Authority.

Reason: In the interests of nature conservation.

16. No development shall take place until a Habitat Management Plan ("HMP") has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented as approved, under supervision of the ECoW. The HMP shall include measures for black grouse habitat enhancement taking into account:

- (a) a black grouse lek survey to be undertaken during the year of construction; and
- (b) any works occurring within 750 metres of any black grouse lek(s) must not take place until two hours after sunrise between 15 March and 15 May.

Reason: In the interests of nature conservation.

17. No development shall take place until a Breeding Bird Protection Plan ("BBPP") for the breeding bird population of slavonian grebe, merlin, golden eagle, hen harrier and red kite has been submitted to and approved in writing by the Planning Authority. The approved BBPP shall be implemented as approved.

Reason: In the interests of nature conservation.

Archaeology

18. No development shall take place until the wind farm operator has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation ("WSI") which has been submitted to and approved in writing by the Planning Authority. This written scheme shall include the following components:

- a) an archaeological evaluation to be undertaken in accordance with the agreed WSI; and
- b) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed WSI.

Reason: To protect and/or record features of archaeological importance.

Aviation Lighting

19. Prior to the erection of the first turbine, a scheme for aviation lighting for the wind farm consisting of Ministry of Defence accredited infra-red aviation lighting will be submitted to and approved in writing by the Planning Authority. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission.

Reason: In the interests of aviation safety.

Air Safety

20. No development shall take place until the Planning Authority has been provided with:
- a) the dates of commencement and anticipated completion of the construction;
 - b) the maximum extension height of any construction equipment; and
 - c) latitude and longitude of every turbine.

Reason: In the interests of aviation safeguarding.

Outdoor Access Plan

21. No development shall take place until an Outdoor Access Plan has been submitted to and approved in writing by the Planning Authority. The Outdoor Access Plan shall include details of the provision and management of public access to the site and the management of temporary partial restrictions on access to areas where construction activities or forestry operations are taking place. The Outdoor Access Plan shall implemented as approved.

Reason: In the interests of ensuring public access to the site and the safety of members of the public during the construction period and during periods where forestry operations are being undertaken

Noise

22. The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in the table attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
- (a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Planning Authority on its request, within 14 days of receipt in writing of such a request.
 - (b) Within 21 days of this condition coming into force the wind farm operator will submit to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
 - (c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
 - (d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.
 - (e) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e). The instrumentation used to undertake the measurements shall be

calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

- (f) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (e) above unless the time limit has been extended in writing by the Planning Authority.

Note: For the purposes of this condition, a "dwelling" is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

Table 1: Noise Limits

Location	Standardised 10 m Wind Speed, ms ⁻¹ as determined within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	Noise Limit, dB, L _{A90,10min}											
At all times												
Fallachan	35.0	35.0	35.0	35.0	35.0	36.0	37.9	38.7	38.7	38.7	38.7	38.7
Cnoc Na Raineach	35.0	35.0	35.0	35.0	35.0	36.7	38.6	39.4	39.4	39.4	39.4	39.4
Corrish	35.0	35.0	35.0	35.0	35.0	35.8	37.7	38.5	38.5	38.5	38.5	38.5
All other properties	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

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

Receptor Name	Eastings (m)	Northings (m)
Fallachan	243366	831143
Cnoc Na Raineach	242594	830850
Corrish	243488	831212

Note to Table 2: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. 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).

Guidance Note 1

(a) Values of the L_{A90}, 10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The L_{A90} , 10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the condition to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at 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 is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter.

(e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b).

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the L_{A90} , 10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

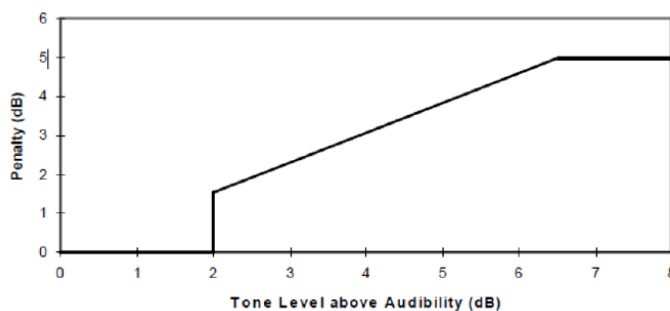
(b) For each 10 minute interval for which L_{A90} , 10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Table attached to the noise condition, 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.

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

(e). Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Table attached to the conditions then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table attached to the conditions then the development fails to comply with the conditions.