



Kirkan Wind Farm Highland *Planning* Statement

prepared for
Kirkan Wind Farm Limited

March 2019



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1 Introduction

1.1 Background

- 1.1.1 JLL has been commissioned by Kirkan Wind Farm Limited (“the Applicant”) to provide planning and development advice in relation to an application to the Scottish Ministers under Section 36 (“s.36”) of the Electricity Act 1989 (“the 1989 Act”), to construct and operate a wind farm development of over 50 MW, comprising 17 turbines, with an anticipated indicative total installed capacity of 81.6 MW, located approximately 5.8 km west of the village of Garve, in the Highlands (hereafter referred to as “the proposed development”). In addition, the Applicant is also seeking consent for deemed planning permission under Section 57 of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), as amended.
- 1.1.2 The application site falls within The Highland Council area (“THC”) area. THC will be one of a number of relevant statutory consultees for the consideration of the application.
- 1.1.3 The Applicant held a formal pre-application meeting with THC and other consultees. The output from this was a Pre-Application Advice Pack which covered policy and other matters. Similarly, a formal Environmental Impact Assessment (“EIA”) Scoping exercise was undertaken which addressed additional policy matters of relevance to the application. Such matters have been taken into account in the design of the proposed development and are referenced as appropriate in this Planning Statement.
- 1.1.4 The application is accompanied by an Environmental Impact Assessment Report (“EIA Report”) which has been undertaken in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the EIA Regulations”). The EIA Report presents information on the identification and assessment of the likely significant positive and negative environmental effects of the proposed development.
- 1.1.5 This Planning Statement makes various cross references to information contained in the EIA Report and presents an assessment of the proposed development against relevant policy with due regard given to the provisions of the statutory Development Plan for the THC area, national energy and planning policy, and other relevant material considerations. The Planning Statement is supplementary to, and should be read in conjunction with, the EIA Report submitted with the application.

1.2 The Applicant

- 1.2.1 The Applicant is applying for consent for the Kirkan Wind Farm. Kirkan Wind Farm Limited is a project company owned by Coriolis Energy Limited (‘Coriolis Energy’) and ESB Asset Development Limited (‘ESB’).
- 1.2.2 ESB is Ireland’s premier energy company and is a leading independent power generator in the UK market. ESB has a track record of over 20 years as a successful investor in the UK since commissioning one of the first independent power generating plants at Corby in Northamptonshire in 1994.
- 1.2.3 ESB owns and operates wind farms across the UK and Ireland with a total installed capacity of 450 MW.
- 1.2.4 ESB works in partnership with Coriolis Energy. Coriolis Energy identifies and works on the development of wind farm proposals, and ESB constructs and operates those wind farms.
- 1.2.5 Coriolis Energy is a specialist independent wind farm development company operating throughout the UK. Its principals have been responsible for successfully developing some 15 onshore wind farms in the UK with a capacity of over 500 MW over a period of 17 years.

1.3 Site Location and Description

- 1.3.1 The project area is located in Strathvaich Estate, which sits within the Garve District of the Ross and Cromarty region of the Highlands. The project area lies to the south of the A835 trunk road from Garve to Ullapool, to the east of the operational Corriemoillie and Lochluichart wind farms.
- 1.3.2 The wider landscape is characterised by rolling moorland, with numerous blocks of forestry plantations also present. The Corriemoillie and Lochluichart wind farms characterise the local landscape to the south of the A835. The Glascarnoch Loch, associated dam and river are located to the north of the A835.
- 1.3.3 Surrounding land use consists of open moorland deer stalking and rough grazing. There is also an area of mixed plantation within the eastern side of the proposed development area.
- 1.3.4 The current settlement pattern around this area is typically characterised by dispersed isolated dwellings and farmsteads. The nearest village of Garve is located a little further away from the proposed development area, approximately 5.8 km to the south east. Figure 1.1 illustrates the site's location in a sub-regional context.

1.4 The Proposed Development

- 1.4.1 Chapter 2 of the EIA Report provides a detailed description of the proposed development, including all ancillary infrastructure such as access and electrical connections. In summary, the key components of the wind farm would comprise the following:
- 17 turbines, of approximately up to 4.8MW each and a maximum tip height of 175 m (an overall installed capacity of up to 81.6MW);
 - Hardstanding areas at the base of each turbine, with a maximum total area of 1850 m²;
 - Up to two permanent meteorological masts and associated hardstanding areas;
 - 10,830 m of access track with associated watercourse crossings – of which 10,230 m are new access tracks, and 600 m are upgrades to existing tracks;
 - An operations control building with parking and welfare facilities;
 - A substation compound;
 - A prospective modular energy storage facility;
 - Telecommunications equipment, including masts;
 - Up to three temporary construction compounds;
 - Up to three borrow pits, to provide suitable rock for access tracks, turbine bases and hard standings; and
 - Underground cabling linking the turbines with the substation.
- 1.4.2 Vehicular access would be direct from the A835 via the existing car parking / former borrow pit / telecommunications infrastructure junction, approximately 600m east of the Aultguish Inn.
- 1.4.3 In addition, it is the Applicant's intention to retain the construction compound located immediately adjacent to the substation for purpose of potentially hosting a permanent co-located energy storage facility. This would, at present, be anticipated to comprise a lithium-ion battery technology solution, with modular elements comprising a number of battery housings, as well as central switchgear, metering and transformer, and space for access and operations.
- 1.4.4 Due to the currently fast evolving nature of this area, both in terms of technological advances in battery energy density and performance as well as in the design and existence of various potential service

markets, it has been deemed necessary by the applicant to apply a 'Rochdale Envelope' approach, with detailed designs to be approved by way of planning condition.

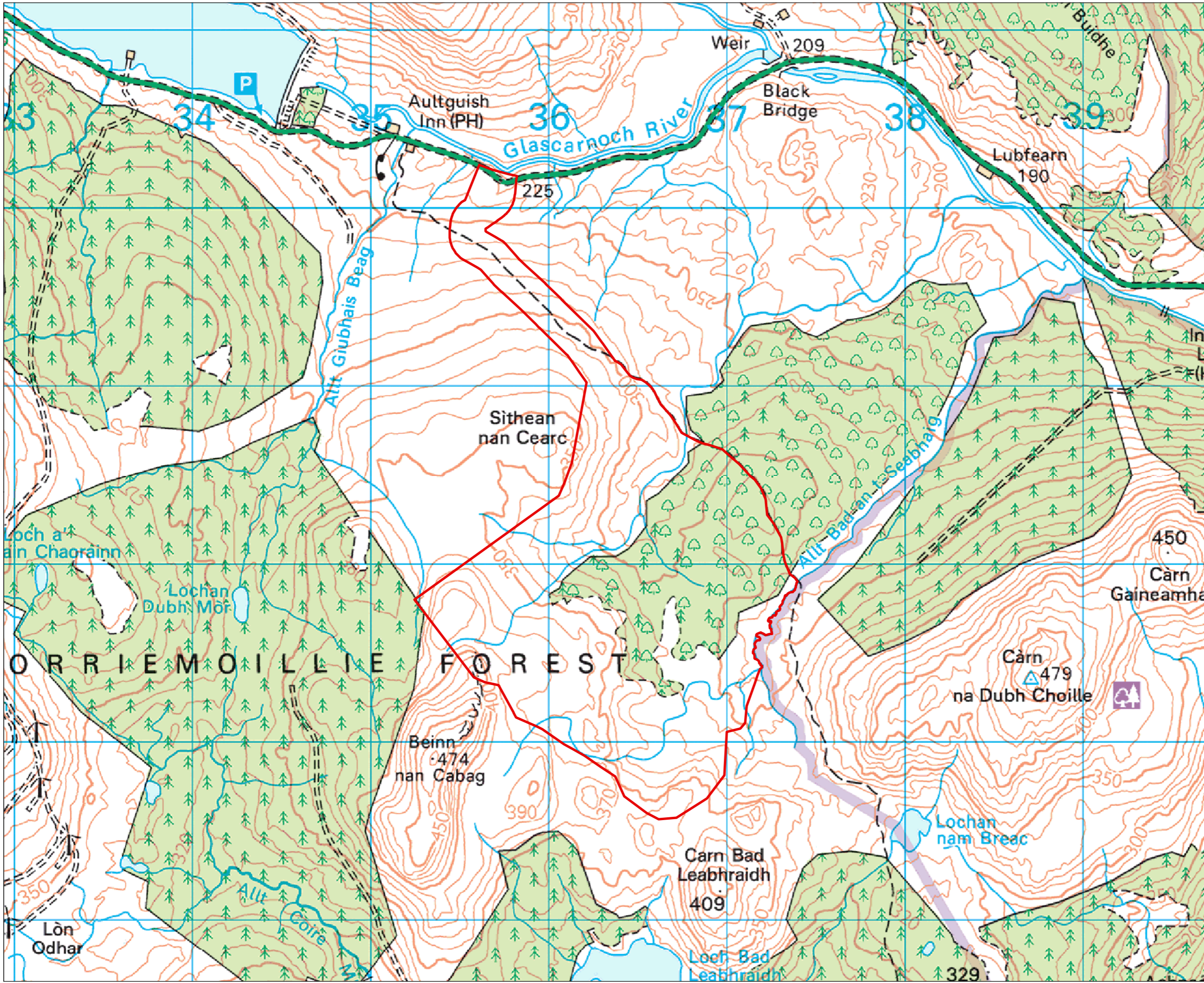
1.4.5 This approach would give the maximum flexibility so to enable an appropriately designed scheme the best chance of delivery, without otherwise likely need to return to apply for amendments to the Section 36 consent.

1.4.6 Therefore, the number, dimensions, housing type, finish, arrangement, security fencing and landscaping of energy storage elements would be subject to later approval. Figure 1.2 illustrates the layout of the proposed development.

1.5 Structure of Planning Statement

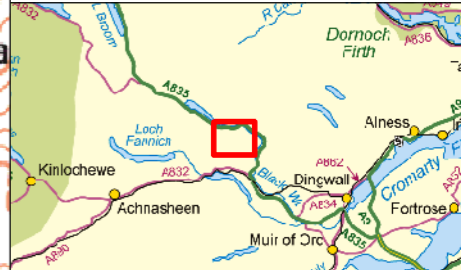
1.5.1 The structure of this Planning Statement is as follows:

- Chapter 2 sets out an overview of the relevant statutory and regulatory framework applicable to the s.36 application;
- Chapter 3 addresses out relevant national planning policy and guidance;
- Chapter 4 explains the renewable energy policy framework;
- Chapter 5 sets out the benefits that would arise from the proposed development;
- Chapter 6 provides a summary of the relevant Development Plan and applicable Supplementary Guidance;
- Chapter 7 assesses the proposed development against THC's 'lead' policy which deals with renewable energy developments, namely, Highland-wide Local Development Plan Policy 67. This Chapter also considers the Onshore Wind Energy Supplementary Guidance which has been produced to support the application of Policy 67;
- Chapter 8 assesses the proposed development against remaining Development Plan policies and applicable Supplementary Guidance;
- Chapter 9 presents overall conclusions;
- Appendix 1 contains the associated Planning Policy Schedule;
- Appendix 2 contains supporting text in relation to the renewable energy policy framework.



Legend:
 Site Boundary

Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936
 Units: Metre

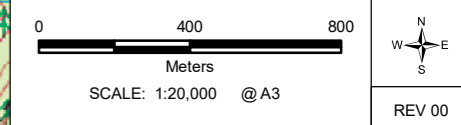


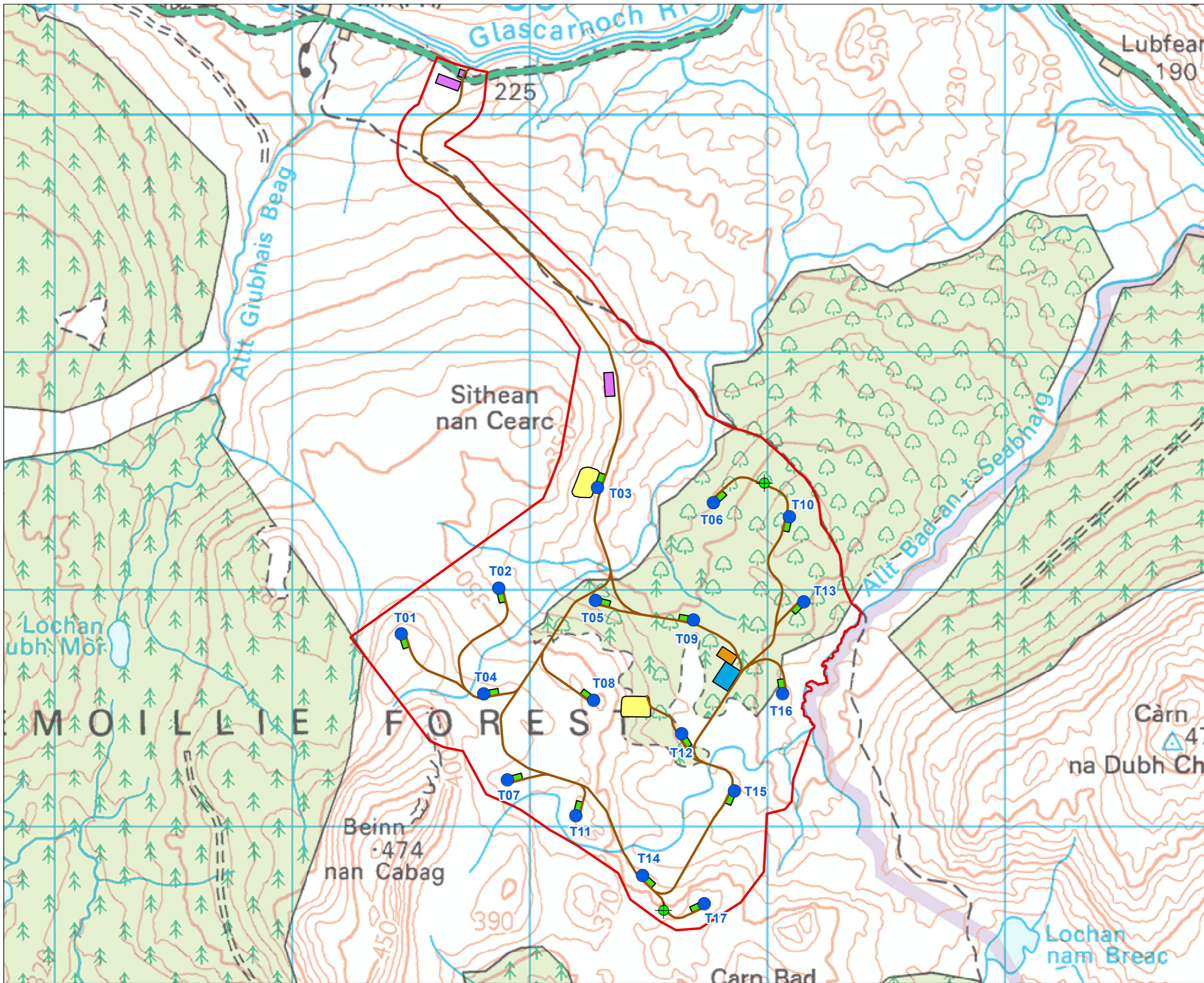
Rev	Date	Description	Drn	Chk	App
00	14/03/2019	First Draft	FC	JS	JS

Kirkcaldy Wind Farm



TITLE: Figure 1.1 - Site Location Plan (Sub Regional Context)





- Legend:**
- Site Boundary
 - Access Track
 - Turbine Location
 - Turbine Hardstanding
 - Borrow Pit
 - Construction Compound
 - Substation (100 x 75m)
 - Substation Compound (75 x 45m)
 - + Met Mast Location

Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936
 Units: Metres

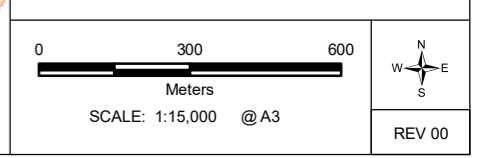


Rev	Date	Description	Drm	Chk	App
00	14/03/2019	First Draft	FC	JS	JS

Kirkan Wind Farm



TITLE: **Figure 1.2 - Proposed Development Layout**



2 The Statutory Framework

2.1 Introduction

2.1.1 The application for the proposed development has been submitted to the Scottish Government under s.36 of the 1989 Act. As part of this application process, the Applicant is also seeking that the Scottish Ministers issue a Direction under s.57(2) of the 1997 Act that deemed planning permissions be granted for the proposed development. This Chapter summarises the legislative framework within which the proposed development requires to be considered.

2.2 Statutory Duties

2.2.1 A decision on the Application under the 1989 Act is the principal decision to be made in this case.

2.2.2 Paragraph 3 of Schedule 9 to the Electricity Act 1989 deals with preservation of amenity. In summary, the provisions set out a number of environmental features to which regard must be had and that mitigation must be considered. Sub-paragraph 1 can be relevant to an Applicant if they hold a License at the date a s.36 application is made. Sub-paragraph 2 applies in any event. Sub-paragraphs 1 and 2 state:

(1) "In formulating any relevant proposals, a licence holder or a person authorised by exemption to generate, transmit, distribute or supply electricity

(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

(2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to—

(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and

(b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph."

3) Without prejudice to sub-paragraphs (1) and (2) above, in exercising any relevant functions each of the following, namely, a licence holder, a person authorised by exemption to generate or supply electricity and the Secretary of State shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters".

2.2.3 The Applicant has sought to develop a project that takes full account of the Schedule 9 duties. It is relevant to note the use of the terms 'desirability' and 'reasonably' with regard to project design, siting and mitigation. This recognises that there are balances and reconciliations to be considered in decision making for this type of application.

2.2.4 Although the Applicant is not bound at the present time by the requirements of Schedule 9 of the 1989 Act, the Scottish Ministers will have to have regard to sub paragraph 2 and 3. As a consequence, the Applicant has considered these matters during the design of the proposed development. This is demonstrated by the robust evaluation and assessment of effects as set out within the EIA Report. This

approach was identified by Lord Hodge in the delivering the Judgement of the Supreme Court in *Trump International V The Scottish Ministers* {2015} UKSC 74 (see paragraph17).

2.2.5 In the Fauch Hill / Harburnhead s.36 decision (page 5, paragraph 1) it was set out by the Reporters with regard to Schedule 9 of the 1989 Act that:

"The provisions of Schedule 9 of the Electricity Act 1989 apply to the assessment of wind farms with an installed capacity of over 50 MW. The Scottish Government's position is that whether an applicant is licensed or not, Ministers will have regard to the Schedule 9 provisions and expect them to be addressed through the Environmental Statement. We are satisfied that both applications have submitted sufficient environmental information and that the relevant requirements have been complied with. We are also satisfied that both applications have had regard to the relevant environmental matters and within the parameters of their chosen design have done what they reasonably could to mitigate any impact."

2.2.6 The EIA for the proposed development demonstrates that due regard has been paid to Schedule 9 of the 1989 Act and appropriate mitigation has been considered in detail.

2.3 The Role of the Development Plan

2.3.1 In considering the overall statutory and regulatory framework within which the proposed development should be assessed, the statutory Development Plan is a material consideration which should be taken into account in the round with all other relevant material considerations. It is important to note however, that s.25 of the 1997 Act is not engaged as there is no 'primacy' of the Development Plan in an application made under the 1989 Act, as detailed below. This matter is now settled following various High Court and Court of Session cases in recent years¹.

¹ See R (on the application of Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Energy & Climate Change; William Grant / Dorenell s.36 Wind Farm Judicial Review case of June 2012; and, Fauch Hill / Harburnhead s.36 Wind Farm Decision.

3 National Planning Policy and Guidance

3.1 Introduction

3.1.1 Relevant national planning policy guidance and advice is addressed in this Chapter. Reference is made to the National Planning Framework, Scottish Planning Policy and Scottish Government advice on renewable developments. National planning policy is a very important consideration: amongst other matters it sets the framework of development management factors and the approach to Spatial Frameworks for onshore wind energy.

3.2 The National Planning Framework 3

3.2.1 The National Planning Framework 3 ("NPF3") was published on 23 June 2014. NPF3 is a long term strategy for Scotland and is the spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Together, NPF3 and SPP (2014), applied at the strategic and local levels, are intended to help the planning system deliver the Scottish Government's vision and outcomes for Scotland and to contribute to the Government's central purpose. SPP is further considered below.

3.2.2 High level support for renewables is provided through the "vision" which is referred to as *inter alia*:

- A successful, sustainable place – "*we have a growing low carbon economy which provides opportunities...*";
- A low carbon place - "*we have seized the opportunities arising from our ambition to be a world leader in low carbon generation, both onshore and offshore...*";
- A natural resilient place - "*natural and cultural assets are respected; they are improving in condition and represent a sustainable economic, environmental and social resource for the nation...*".

3.2.3 Further support is provided in Chapter 3 "A Low Carbon Place" which sets out the role that Planning will play in delivering the commitments set out in 'Low Carbon Scotland: The Scottish Government's Proposals and Policies'. It states:

"the priorities identified in this spatial strategy set a clear direction of travel which is consistent with our world leading climate legalisation".

3.2.4 The introduction to Chapter 3 states that the Scottish Government's ambition "*is to achieve at least an 80% reduction of greenhouse gas emissions by 2020*".

3.2.5 Paragraph 3.7 states onshore wind is "*...recognised as an opportunity to improve the long term resilience of rural communities*".

3.2.6 Paragraph 3.8 states that the Government's aim is to meet at least 30% of overall energy demand from renewables by 2020 – this includes generating the equivalent of at least 100% of gross consumption from renewables.

3.2.7 Paragraph 3.9 states:

"Our Electricity Policy Statement sets out how our energy targets will be met. We are making good progress in diversifying Scotland's energy generation capacity, and lowering the carbon emissions associated with it, but more action is needed. Maintaining security of supplies and addressing fuel poverty remain key objectives. We want to continue to capitalise on our wind resource..."

3.2.8 Paragraph 3.23 states that "*onshore wind will continue to make a significant contribution to diversification of energy supplies*".

3.2.9 In conclusion, it is clear that onshore wind development is recognised as a key technology in the energy mix which will contribute to Scotland becoming ‘a low carbon place’ which in turn will be a key part of the ‘vision’ for Scotland (as set out at paragraph 1.2 of NPF3). Furthermore, the Scottish Government has made it unequivocally clear that it wants to continue to “*capitalise on our wind resource*”. The proposed development would significantly contribute to the 2020 renewable electricity and energy targets as set out in NPF3 and to longer term Government policy objectives and targets. The Government’s 2020 renewable electricity and energy targets will be missed by that year, but remain as targets to be attained and indeed have been supplemented by steeper targets for 2030 – as explained below.

3.3 Scottish Planning Policy

3.3.1 SPP was published on 23 June 2014. The purpose of SPP is to set out national planning policies which reflect Scottish Government Ministers’ priorities for the operation of the planning system, and for the development and use of land. Paragraph (iii) states that the content of SPP is a material consideration that carries significant weight, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.

Relationship of SPP to National Outcomes

3.3.1 Paragraph 9 of SPP refers to ‘Outcomes’ as they relate to the Scottish Government’s ‘Purpose’ “*of creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth...*”.

3.3.2 Paragraph 10 adds that the Scottish Government’s 16 national outcomes articulate in more detail on how the Purpose is to be achieved. It adds that the pursuit of these outcomes provides the impetus for other national plans, policies and strategies and many of the principles and policies set out in them are reflected in both SPP and NPF3.

3.3.3 Paragraph 13 of SPP introduces four planning outcomes which explain “*how planning should support the vision*” for the planning system in Scotland. These are further referred to below.

3.3.4 Paragraph 18 makes reference to the Climate Change (Scotland) Act 2009 which has set a target of reducing greenhouse gas emissions by at least 80% by 2050, with an interim target of reducing emissions by at least 42% by 2020. SPP explains that section 44 of the 2009 Act places a duty on public bodies to act in the best way to contribute to the delivery of emissions targets as set out in the Act, and to help deliver the Scottish Government’s climate change adaption programme.

Principal Policies of SPP

3.3.5 SPP contains two Principal Policies, namely ‘sustainability’ and ‘placemaking’².

3.3.6 Sustainability is addressed at Page 9. SPP states at paragraph 24 that:

“the Scottish Government’s central purpose is to focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth”.

3.3.7 Paragraph 25 adds that the Scottish Government’s commitment to the concept of sustainable development is reflected in its Purpose.

3.3.8 Paragraph 27 cross refers to the Government’s Economic Strategy which it states “*indicates that sustainable economic growth is the key to unlocking Scotland’s potential ... and to achieving a low carbon economy ...*”. It also makes reference to the need to maintain a high quality environment and to pass on “*a sustainable legacy for future generations*”.

² ‘Placemaking’ is not addressed in this Planning Statement as it is directed at the built environment and not development of this type, in the countryside.

Presumption in Favour of Development that contributes to Sustainable Development

3.3.9 A new 'Policy Principle' in the planning system, introduced in SPP is the statement at Paragraph 27, is as follows:

"This SPP introduces a presumption in favour of development that contributes to sustainable development".

3.3.10 Paragraph 28 continues and states:

"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".

3.3.11 A presumption in favour is not a new concept to Scottish planning (albeit mirroring a similar recent change in England), but now takes on a much more prominent role in national planning policy. It is a formal policy presumption which the system has not seen since the changes made to the Town and Country Planning (Scotland) Act 1972³. For practical purposes it is a (relatively) new approach. Although little practical guidance is available, the approach to its application in wind farm cases has been fairly consistently set out by a number of Reporters. As explained below, paragraphs 32 and 33 of the SPP explain how the presumption operates, but not what it is.

3.3.12 The introduction of the presumption in favour of development that contributes to sustainable development has important consequences for development management practice. Paragraphs 32 and 33 of SPP explain how this Policy Principle is 'operationalised' in development management.

3.3.13 Paragraph 32 states that *"the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making"*. SPP directs decision makers as follows:

"proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising ..."

3.3.14 Paragraph 33 adds:

"Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old".

³ The move in Scotland to the presumption being in favour of proposals which accorded with the Development Plan rather than general development is explained in the House of Lords case of *City of Edinburgh Council v Secretary of State for Scotland, Revival Properties Ltd. v City of Edinburgh Council, Secretary of State for Scotland v Revival Properties Ltd* [1997] 1 W.L.R. 1447 where the court held *"Section 18A of the Act of 1972, which was introduced by section 58 of the Planning and Compensation Act 1991, creates a presumption in favour of the development plan. That section has to be read together with section 26(1) of the Act of 1972. Under the previous law, prior to the introduction of section 18A into that Act, the presumption was in favour of development. The development plan, so far as material to the application, was something to which the planning authority had to have regard, along with other material considerations. The weight to be attached to it was a matter for the judgment of the planning authority. That judgment was to be exercised in the light of all the material considerations for and against the application for planning permission. It is not in doubt that the purpose of the amendment introduced by section 18A was to enhance the status, in this exercise of judgment, of the development plan."*

- 3.3.15 The footnote to this paragraph specifies that Development Plans or their policies should not be considered as out of date solely on the grounds that they were adopted prior to the publication of SPP.
- 3.3.16 The approach set out above, requires that in circumstances where the relevant policies are out of date, or where the Development Plan document is more than five years old, the presumption in favour of sustainable development is engaged. The Development Plan is more than five years old in this case.

Relevant Appeal and s.36 Cases and the Presumption in Favour

- 3.3.17 The most recent s.36 case which deals with the presumption in detail, in the context of the Highland area and the Development Plan in question in this case, is the Caplich s.36 decision⁴ which was issued on 27 April 2018. The Inquiry Report ("IR") is very informative (dated 29 November 2017). The particular paragraphs of the IR that are most relevant are 2.128 through to 2.144.

- 3.3.18 The Reporter starts by setting out his position on the presumption with a clear rebuttal of the Highland Council's position on how the presumption should operate where he states at paragraph 2.128:

"I agree with the Applicant that the introduction of a formal policy presumption into SPP was a very significant step. I do not accept the Council's view that it effectively repeats the approach of a criteria based policy such as LDP Policy 67 (in which support in principle was offered, provided that certain criteria are satisfied). My view is that, by being set out separately in SPP as a requirement to be followed both in policy formulation and decision making, the presumption has greater significance, and that it would not be "double counting" as the Council suggests, to give weight to the presumption, over and above the positive weight that would be given to a proposal that complied with the relevant development plan policy".

- 3.3.19 The Reporter further rebutted the Council's position at paragraph 2.143 of the IR where he stated:

"I do not agree with the Council that the wording of LDP Policy 67, which is supportive of renewable energy proposals unless they would be "significantly detrimental overall" is effectively equivalent to the requirement of SPP paragraph 33 for adverse effects to "significantly and demonstrably" outweigh a proposals benefit. The Policy 67 test relates to an assessment of the overall degree of harm arising from a proposal rather than to the balancing exercise of harm against benefit, as is the purpose of Paragraph 33".

- 3.3.20 The Reporter was very clear in setting out the approach to be taken in order to decide whether or not the presumption applies and how it should be implemented. In this regard, at paragraph 2.129 he stated:

"It is of course necessary, if the presumption is to have any bearing on the determination of this application, for it to be demonstrated that what is proposed could reasonably and accurately be described as a development that would contribute to sustainable development".

- 3.3.21 At paragraph 2.131 the Reporter stated that the presumption applies to all forms of development that would contribute to sustainable development, regardless of the age of content of a Development Plan, but importantly stated:

"However, the effect of paragraphs 32 and 33 of SPP is that the age and content of the development plan may affect the weighing of a proposal's positive and negative implications in the planning balance".

- 3.3.22 At paragraph 2.133, the Reporter made reference to what the Reporter described as the "tilted balance" where he stated:

⁴ The Scottish Ministers agreed with the Reporters findings, reasoning and conclusions as set out in the IR and adopted them for the purposes of their own decision (Caplich, Ministers Decision Letter, page 4).

"When a development plan is more than five years old, paragraph 33 is engaged and this requires that when weighing the benefits and disbenefits of a proposal in the planning balance, it will be necessary for any adverse impacts 'significantly and demonstrably' to outweigh the benefits of the proposal. Therefore, in such circumstances, the planning balance is tilted in favour of the proposal'.

3.3.23 It should be noted that the Reporter⁵ is clear on the matter of the tilted balance being engaged as a result of the operation of paragraph 33, where at paragraph 2.141 of the IR he states:

"SPP paragraph 33 not only refers to policies being out of date as being a trigger for the tilted balance. It also separately applies that where a development plan is more than five years old (as is the case here). This suggests that a development plan that is less than five years old but contains out of date policies may trigger the tilted balance, but that a plan that is more than five years old, conclusively will" (underlining added).

3.3.24 The Reporter went on in the following paragraph to state that he concluded that:

"If the proposed development is found to be that which would contribute to sustainable development, then as a result of SPP paragraph 33, the planning balance should be tilted in its favour, such that any adverse impact it would have must be shown significantly and demonstrably to outweigh its benefits"⁶.

3.3.25 In the Caplich case, the Reporter considered whether the development should be regarded as that likely to contribute to sustainable development. He set out his reasoning (in Chapter 8 of the IR) with specific reference to the 13 principles of sustainable development contained at paragraph 29 of SPP, and with reference to the four SPP 'planning outcomes' and the 19 assessment criteria set out at paragraph 169 of SPP.

SPP Appraisal of the Proposed Development with regard to the Presumption in Favour

3.3.26 Paragraph 29 of SPP assists by setting out that policies and decisions should be guided by a number of principles. Those of relevance are listed in Table 3.1 below together with a summary response of the extent to which the proposed development is consistent or otherwise with the respective principle:

⁵ The Reporter in the Fauch Hill Appeal Decision Notice (dated 13 June 2018, Ref: PPA-400-2084), also in a case in which the Development Plan was more than five years old, took the same approach, referencing the tilted balance, stating at paragraph 74: *"The second provision of paragraph 33 [of SPP] effectively tilts an assessment of the balance between a development proposal's positive and negative implications, in favour of approval, because it requires any adverse impact not only to outweigh, but to significantly and demonstrably outweigh, its benefits. I have adopted this 'tilted balance' in my approach to the assessment of this proposal's positive and negative aspects".*

⁶ This approach is consistent with the approach in *Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37 – the Supreme Court adopted the rubric "tilted balance" in terms of the operation of the presumption at paragraph 14 of the NPPF, addressing how it operated in practice and stated "the balance is tilted in favour of the grant of permission, except where the benefits are 'significantly and demonstrably' outweighed by the adverse effects" (paragraph 54).

Table 3.1: SPP para. 29 Principles

Policy Principle	Kirkan Development
1. Giving due weight to net economic benefit.	There would be net positive socio-economic effects, as summarised in Chapter 5 of this Planning Statement.
2. Respond to economic issues, challenges and opportunities, outlined in local economic strategies.	The proposal fits with the drive to encourage renewable energy development in the HwLDP and the WestPlan – the latter soon to be adopted.
3. Supporting good design and the six qualities of successful places.	Limited relevance - but a successful layout has been achieved that fits with landscape character and local context without unacceptable effects.
6. Supporting delivery of infrastructure, for example transport, education, energy, digital and water.	The proposal would deliver energy infrastructure.
7. Supporting climate change mitigation and adaptation including taking account of flood risk.	The proposal would help to support climate change mitigation by replacing fossil fuel energy generation with renewable energy, thereby reducing emissions of climate changing gases.
8. Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation.	The proposal would provide opportunities for walking and biking on access tracks. In addition, reference has been made to possible replacement bothy provision as part of a range of local access enhancement projects, that could result, should consent for the proposed development be forthcoming.
9. Having regard to the principles for sustainable land use set out in the Land Use Strategy.	The Land Use Strategy (2016-21) is a key commitment in the Climate Change (Scotland) Act 2009. The Strategy cross refers to development plans and their policies such as landscape protection, biodiversity, and renewable energy development which, through planning decision making will help deliver the Strategy and the principles for sustainable land use. The proposal would contribute positively to climate change action, secure biodiversity interests and demonstrate care for the landscape by being mostly in what can be considered as a 'Group 3' location given peat and carbon rich soil matters have been satisfactorily addressed.
10. Protecting, enhancing and promoting access to cultural heritage, including the historic environment.	Some benefits would arise in relation to this principle, such as local access enhancements by way of increased accessibility, more assured access and awareness of resources (e.g. through appropriately sited interpretation and information boards and related signage) such as the old Drovers Road and access to on-site non-designated but interesting cultural heritage assets.
11. Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.	Whilst there would be some significant landscape effects, the landscape has the capacity for the development at the scale proposed.
13. Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.	There would be no conflict with this policy principle. The policy principle in relation to 'over-development' is much more applicable to more standard forms of urban development rather than wind farms.

3.3.27 The fourth, fifth and twelfth principles in SPP relate to town centre and regeneration priorities and specifically housing, business, retail uses, and waste management and resource recovery etc. and are of no relevance to the proposed development.

SPP & National Outcomes

3.3.28 Paragraph 9 of SPP refers to 'Outcomes' as they relate to the Scottish Government's 'Purpose' "*of creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth...*".

3.3.29 Paragraph 10 adds that "*The Scottish Government's 16 national outcomes articulate in more detail on how the Purpose is to be achieved*". It adds that "*The pursuit of these outcomes provides the impetus for other national plans, policies and strategies and many of the principles and policies set out in them are reflected in both SPP and NPF3*".

3.3.30 Paragraph 13 of SPP introduces four planning outcomes which explain "*how planning should support the vision*" for the planning system in Scotland. Three of these outcomes are particularly relevant namely:

- Outcome 1: a successful sustainable place – supporting sustainable economic growth and regeneration, and the creation of well designed, sustainable places;
- Outcome 2: a low carbon place – reducing our carbon emissions and adapting to climate change; and
- Outcome 3: a natural, resilient place – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use.

3.3.31 In particular, the proposed development would assist in delivering sustainable economic growth in line with Outcome 1. The socio-economic benefits that would result from the proposed development have been referenced in Chapter 5 below.

3.3.32 The proposed development, given its nature and use would clearly assist in achieving Outcome 2 'a low carbon place'. Indeed, as set out in the Carbon Balance Assessment contained within Chapter 13 of the EIA Report, the proposed development would pay back the carbon emissions associated with its construction, operation and subsequent decommissioning in a 1.4 year period.

3.3.33 The proposed development would also assist in achieving Outcome 3 'a natural, resilient place', by reference to paragraph 21 in particular, which deals with the concept of a natural, resilient place in a wider context than merely visual amenity or landscape character. The proposed development would contribute to a natural, resilient place through the part it plays in mitigating the effects of climate change. As explained, the application site can be regarded as a Group 3 location meaning that it is free of national level designations and many other types of constraints and is in a location in which wind farms are likely to be acceptable.

3.3.34 It also needs to be noted that very few developments would be able to contribute to all four outcomes – that the proposed development contributes positively to three (and the fourth one is not relevant) is to its credit and reinforces the engagement of the presumption⁷.

⁷ The Reporter in the Caplich case also made the point (paragraph 8.32 of the IR) that with regard to the four planning outcomes and policy principles in SPP "*the objective of any analysis of compliance...should be to see whether there is a 'broad fit' with the themes and objectives of the various outcomes and principles, rather than to test the proposal against each issue as though it were a specific policy test.*" This approach is consistent with Suffolk Coastal UKSC with regard to the interpretation of policies in the NPPF (the equivalent of SPP in England) – i.e. they should be approached in the same way as outlined in Tesco – namely statements should not be construed as if they were statutory or contractual provisions (i.e. should not be too literal).

Conclusion on the SPP Presumption in Favour

3.3.35 As set out above, the proposed development satisfies the principles set out at paragraph 29 of SPP and it would assist in delivering Outcomes 1, 2 and 3 – indicating that overall the proposed development is consistent with sustainable development. SPP sets out a clear presumption in favour of proposals that contributes to sustainable development. Furthermore, the proposed development is considered to be acceptable when considered against the development management considerations in relation to renewable energy developments as set out at paragraph 169 of SPP.

3.3.36 The proposed development would contribute to sustainable development and as a result, it benefits from the presumption, and the planning balance should be ‘tilted’ in its favour. From the overall planning appraisal undertaken the significant impacts that would arise would not significantly and demonstrably outweigh the benefits.

SPP: Development Management for Energy Infrastructure Developments

3.3.37 Paragraph 169 of SPP states that proposals for wind farms should always take into account Spatial Frameworks for wind energy developments. It adds that considerations will vary relative to the scale of a proposal and area characteristics, but are likely to include:

- *net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;*
- *the scale of contribution to renewable energy generation targets;*
- *effect on greenhouse gas emissions;*
- *cumulative impacts – planning authorities should be clear about the likely cumulative impacts arising from all of the considerations below ...;*
- *impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;*
- *landscape and visual impacts, including effects on wild land;*
- *effects on the natural heritage, including birds;*
- *impacts on carbon rich soils, using the carbon calculator;*
- *public access, including impact on long distance walking and cycling routes and scenic routes identified in the NPF;*
- *impacts on the historic environment, including scheduled monuments, listed buildings and their settings;*
- *impacts on tourism and recreation;*
- *impacts on aviation and defence interests and seismological recording;*
- *impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*
- *impacts on road traffic;*
- *impacts on adjacent trunk roads;*
- *effects on hydrology, the water environment and flood risk;*
- *the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration;*
- *opportunities for energy storage;*

- *the need for a robust planning obligation to ensure that operators achieve site restoration."*

3.3.38 Given the findings of the EIA Report and in light of the policy appraisal set out in this Planning Statement, the proposed development is considered to be acceptable in terms of the above considerations.

SPP Subject Policies – A Low Carbon Place

3.3.39 SPP addresses 'A Low Carbon Place' as a 'subject policy' on page 36 and refers to 'delivering electricity'. Paragraph 152 refers to the NPF context and states that NPF3 is clear that planning must facilitate the transition to a low carbon economy and help to deliver the aims of the Scottish Government. It is stated that Scotland has significant renewable energy resources, both onshore and offshore.

3.3.40 Paragraph 153 states that terrestrial planning "*facilitates*" development of renewable energy technologies, and guides new infrastructure to appropriate locations. It adds that "*efficient supply of low carbon and generation of electricity from renewable energy sources are vital to reducing greenhouse gas emissions...*". It explains that renewable energy also presents a significant opportunity for associated development, investment and growth of the related supply chain.

3.3.41 In terms of 'Policy Principles', Paragraph 154 states that the planning system should:

- Support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving:
 - 30% of overall energy demand from renewable sources by 2020;
 - The equivalent of 100% of electricity demand from renewable sources by 2020.
- Support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity;
- Guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

3.3.42 SPP also cross refers to "*key documents*" and those of relevance include:

- The Electricity Generation Policy Statement (EGPS);
- The 2020 Routemap for Renewable Energy in Scotland; and
- Low Carbon Scotland: Meeting Our Emissions Reductions Targets 2013 – 2027.

3.3.43 The proposed development would be consistent with the 'low carbon place' subject policy and would contribute to its attainment. These renewable energy policy documents are referred to in Chapter 4 below together with more recent publications.

Onshore Wind

3.3.44 Onshore wind is specifically addressed at Paragraph 161 *et seq* of SPP. Detailed guidance is provided for Planning Authorities with regard to the preparation of Spatial Frameworks for onshore wind development, and it makes it clear that proposals for onshore wind turbine development should continue to be determined whilst Spatial Frameworks and local policies are being prepared and updated.

SPP: Spatial Framework Approach

3.3.45 With reference to the Spatial Framework approach set out in Table 1 of SPP, the application site does not lie within any 'Group 1' areas, or within any national and international designations for ecology, ornithology, cultural heritage or wild land (Group 2 areas). The site contains a mix of Group 2 and Group 3 coverage – the former category relates to peatland. As explained in EIA Report, the design approach

and site specific surveys have sought to identify and avoid areas of deep peat and priority peatland habitat. Accordingly, the site is considered to have the properties of a site within Group 3: 'Areas with potential for wind farm development'.

Table 1: Spatial Frameworks

<p>Group 1: Areas where wind farms will not be acceptable:</p> <p>National Parks and National Scenic Areas.</p>		
<p>Group 2: Areas of significant protection:</p> <p>Recognising the need for significant protection, in these areas wind farms may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.</p>		
<p>National and international designations:</p> <ul style="list-style-type: none"> • World Heritage Sites; • Natura 2000 and Ramsar sites; • Sites of Special Scientific Interest; • National Nature Reserves; • Sites identified in the Inventory of Gardens and Designed Landscapes; • Sites identified in the Inventory of Historic Battlefields. 	<p>Other nationally important mapped environmental interests:</p> <ul style="list-style-type: none"> • areas of wild land as shown on the 2014 SNH map of wild land areas; • carbon rich soils, deep peat and priority peatland habitat. 	<p>Community separation for consideration of visual impact:</p> <ul style="list-style-type: none"> • an area not exceeding 2km around cities, towns and villages identified on the local development plan with an identified settlement envelope or edge. The extent of the area will be determined by the planning authority based on landform and other features which restrict views out from the settlement.
<p>Group 3: Areas with potential for wind farm development:</p> <p>Beyond groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.</p>		

3.3.46 In terms of development management, paragraph 169 of SPP sets out considerations for energy infrastructure and these have been referred to above.

3.3.47 Paragraph 170 of SPP states that areas identified for wind farms should be suitable for use in perpetuity. It further adds that consents may be time limited, but nevertheless *"wind farms should ... be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities"*.

3.3.48 The provision of paragraph 170 is not a new matter. Circular 4/98 in relation to the use of conditions in planning permissions sets out paragraph 105 that *"the reason for granting a temporary permission can never be that a time limit is necessary because of the effect of the development on the amenity of the area"*.

3.3.49 The Applicant does not take the position that because the proposed development would have an operational lifetime of some 30 years that this is a factor that makes the development acceptable in amenity terms.

3.3.50 Furthermore, the provisions of paragraph 170 are different from the matter of reversibility. The proposed development would remain a reversible type of development and whether this occurs in 30 or 100 years, it remains reversible compared to most other conventional types of development.

3.3.51 Reversibility is an important issue. Were it otherwise, no conditions requiring decommissioning, restoration and aftercare should be imposed. Reversibility is a positive feature of wind energy development and some weight should be given to reversibility as an inherent positive attribute of this type of development (but not to the temporary nature of the consent).

3.3.52 Another important point to note with regard to paragraph 170 of SPP is that it further supports the Government's position that wind energy developments can play an important role in the long term renewable generation platform of the country, thereby sustaining carbon savings and renewable energy generation targets. As explained below, and set out in the recent Government publications (the Climate Change Plan and Energy Strategy): there are now further very challenging carbon saving and renewable energy targets set for the long term that go beyond those referenced in NPF3 and SPP. Wind farms operating on a long term basis will clearly sustain and uphold those targets.

Wild Land Policy References in SPP

3.3.53 In terms of policy on wild land, paragraph 200 of SPP states:

"Wild land character is displayed in some of Scotland's remoter uplands, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. Plans should identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas."

3.3.54 The second sentence of paragraph 200 relates to forward planning and the need for Development Plans to identify and safeguard the character and areas of wild land. The first sentence of paragraph 200 does not rule out development within WLAs but highlights matters of sensitivity and potentially limited capacity.

3.3.55 Paragraph 215 of SPP provides a specific development management policy test for wild land and states:-

"In areas of wild land (see paragraph 200), development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation".

3.3.56 This policy applies to development proposals that are located within the identified WLAs. The policy is not therefore applicable in this case given all of the proposed turbines are located outwith WLAs. The Reporters in the Limekiln 1 s.36 decision took this approach and made it clear that in such circumstances it is paragraph 169 of SPP that contains guidance on development management decisions with regard to wild land. Paragraph 169 highlights the need to consider the effects on wild land and that it is one of a number of considerations. It should also be noted that the policy approach relates to all types of development, not just onshore wind.

3.3.57 The effects of the proposed development on WLAs are examined in detail in Chapter 7 below, and in Chapter 4 of the EIA Report (supported by Technical Appendix 4.6), alongside the various other environmental effects of the proposed development.

3.4 Scottish Government Advice Notes and Renewables Guidance

Online Renewables Guidance

3.4.1 The Scottish Government's online renewables guidance is dated May 2014 and is currently under review to bring it in line with SPP. No conflict is identified with the national online guidance.

SPP – Some Questions Answered

3.4.2 On 5 December 2014, the Scottish Government released a document answering questions in relation to the SPP and Onshore Wind. The answers provided relate to the following topics: landscape capacity assessment; Spatial Frameworks; separation distances; areas of strategic capacity; cumulative impacts; the life span of wind farms; wild land; scenic routes; and the carbon calculator. The proposed development is considered to be consistent with the guidance with regard to all of these topics.

- 3.4.3 The Government's 'Some Questions Answered' document on SPP also provides guidance in relation to the life span of operational wind farms and refers to the matter of sustaining targets in the long term. In relation to paragraph 170 of SPP and specifically to 'use in perpetuity', the document states:

"Even where an individual wind farm proposal may have an operational life span specified by condition the site should be suitable for use as a wind farm in other respects. The identification of an operational lifespan, commonly spanning 25 years for wind turbines, should not be used as a mitigation for negative impacts arising from the operation of the wind turbine. This is to ensure that developments which will be in place for an inter-generational length of time are appropriately sited and designed to have acceptable impacts.

The permanent suitability of a site for wind farm use is important as it has a relationship to the potential repowering of a site and the expectation that a wind farm in use today will in principle be acceptable in the long term if reconfigured.

Identifying sites that are suitable for permanent use is important to ensure that we not only meet our targets for renewable electricity generation but can sustain them in the future."

Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations – Guidance

- 3.4.4 SNH published a policy document on the topic of spatial planning in June 2015 entitled 'Spatial Planning for onshore Wind Turbines – Natural Heritage Considerations – Guidance'. The document replaces the SNH 'Strategic Locational Guidance' for onshore wind farms. The guidance also makes the links between the SPP section on onshore wind (paras 161-172) and other parts of the policy which relate to natural heritage. The guidance states in the introduction on page 3:

"SPP identifies a clear need for wind energy development to be accommodated in appropriate locations across Scotland to meet energy generation targets and mitigate climate change. Most planning authorities should therefore assume that there will be a future level of landscape change within some of their areas from wind turbines; obvious exclusions will include the National Park Authorities and the most densely populated areas. This guidance seeks to help planning authorities plan for this change and is focused on helping to guide development to the right locations (SPP para 39)".

3.5 Conclusions on National Planning Policy & Guidance

- 3.5.1 NPF3 and SPP set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource provided by onshore wind. This is clearly not at any cost and development continues to be guided to appropriate locations and environmental effects need to be judged to be acceptable.
- 3.5.2 It is considered that the proposed development would satisfy the principles set out at paragraph 29 of SPP and it would assist in delivering Outcomes 2 and 3 – indicating that the proposal is consistent with sustainable development.
- 3.5.3 The presumption is an important matter which should lend significant support in favour of a positive determination of the application – i.e. the presumption is in favour of giving consent. This is a relatively new provision of national planning policy (but not an unfamiliar concept in the planning system) and it must mean that positive support should be given in favour of the proposed development, driving to the matter of giving consent unless rebutted by factors sufficient to negate the presumption.
- 3.5.4 The application site is located within what is, in effect, a Group 3 location in which wind farms are likely to be acceptable subject to consideration of the criteria at paragraph 169 of SPP with regard to specific site and design approach circumstances.
- 3.5.5 It is considered that the proposed development can claim the presumption in favour of development that contributes to sustainable development, not only because it is the right development in the right place

(paragraph 28 of SPP) and not only because the proposed development is in accordance with the guiding principles relevant to this type of development set out in paragraph 29 of SPP, but also because what is proposed has a strong consistency with the declared desirable planning Outcomes within SPP.

4 The Renewable Energy Policy Framework

4.1 Introduction

4.1.1 **Appendix 2** sets out a detailed consideration of the renewable energy policy framework which is summarised below.

4.2 Summary

4.2.1 The International and EU commitments and UK and Scottish Government renewable energy policy objectives and associated renewable energy, electricity and climate change targets all provide considerable support in favour of renewable energy development. Such commitments, policies and targets provide the basis of the need case for the proposed development.

4.2.2 The proposed development would aid the realisation of such policy objectives and would make a significant contribution to the respective unmet EU, UK and the Scottish 2020 and 2030 renewable energy and electricity targets, and to longer term carbon reduction targets.

4.2.3 Therefore, there is a strong policy drive at the International, UK and Scottish levels to continue to develop renewable energy and to combat the effects of climate change and to achieve greater security in the domestic supply of energy.

4.2.4 The proposed development, with an installed capacity of approximately 82 MW, would make a significant contribution to Government policy objectives and unmet targets thereby implementing Government policy which encourages more electricity generation from renewable sources. As the Scottish Government makes clear in the recent SES, "*our energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland's future*".

4.2.5 A helpful position on energy policy was concisely summed up by the Reporter in the Corlic Hill Wind Farm Appeal Decision (17 May 2016) where in setting out overall conclusions he stated at paragraph 195 of the Decision Notice:

"the most significant positive aspect of Appeal proposal is the contribution it would make to the delivery of low carbon energy. The output of the proposed wind farm is estimated at between 16 and 24 megawatts, which represents a valuable contribution to Scottish, UK and international targets for greenhouse gas emission reduction and the use of renewable energy. It would also potentially assist in providing greater of security of supply in the Scottish energy market by potentially displacing imported energy. These benefits are clearly recognised in SPP. Indeed, one of its four planning outcomes, which set out how the planning system should support the Government's vision, is a reduction in carbon emissions. I have given this benefit of the scheme significant weight" (underlining added).

4.2.6 The **Scottish Energy Strategy** (2017) sets out that onshore wind is recognised as a key contributor to the delivery of renewable energy targets - specifically the new 2030 50% energy from renewable sources target – which could see renewable electricity rise to over 140% of Scottish electricity consumption. The Government has set out that this may require in the region of 17GW of installed renewables capacity by 2030 (SES, page 34). Furthermore, the Government's 2020 renewable electricity target remains unmet (including by projects in the pipeline) and has been supplemented by these new stretching targets.

4.2.7 Onshore wind is expected to make a very valuable and important contribution to both of the scenarios set for 2050 as set out in the SES.

4.2.8 In addition, the SES recognises the economic potential of the energy sector. The Ministerial Foreword states that "*energy represents an enormous economic and industrial opportunity for Scotland*" (page2) and Chapter 4 of the SES is entitled 'Scotland's Economic Opportunity'.

- 4.2.9 Chapter 4 sets out the value that the energy sector, particularly renewables and low carbon technologies, brings to the Scottish Economy and page 43 states that the sector supports an estimated 7,500 jobs and generated more than £3bn in turnover in 2015.
- 4.2.10 One of the key messages in the **Onshore Wind Policy Statement** (2017) is the recognition that onshore wind is to play a “vital role” in meeting Scotland’s energy needs and a “material” role in growing the economy and that the technology remains “crucial” in terms of Scotland’s goals for an overall decarbonised energy system and to attain the ambitious renewable targets – these have been updated by the Scottish Government as expressed in the new SES and remain in place for 2020, 2030 and 2050.
- 4.2.11 This language on the role of onshore wind is demonstrably stronger than that in the current NPF and SPP. Even if a view is taken that the language is no different, the context within which the NPF / SPP policy statements were given is demonstrably different by way of more stretching targets and no subsidy or certainty on route to market. Considering targets have increased, there is a need for further development. Therefore, logically, the weight afforded to contributions to meeting such targets should also increase. The importance of the contribution that onshore wind is expected to make to targets and meeting future energy needs should be afforded substantial weight.
- 4.2.12 The OWPS also makes specific reference to the move “*towards larger and more powerful (i.e. higher capacity) turbines and that these by necessity – will mean taller towers and blade tip heights*”. Notice is therefore given of market reality and the benefits larger turbines can bring in terms of energy yield and consequent larger contribution to targets. Furthermore, the development could be progressed in a non-support context– this is a key challenge the Scottish Government has set for the industry, namely for wind farms to be developed in Scotland, taking advantage of effective sites with good wind resources.
- 4.2.13 Overall, both documents represent the leading edge of Government policy for the technology and land use proposed. Whilst the SES and the OWPS are yet more evidence of a continuum of ever stronger positive advice on onshore wind development as part of the Scottish Government’s renewables strategy, the latest documents go further.
- 4.2.14 The new target to procure 50% of Scottish energy requirements from renewables by 2030 is important, implying as it does that renewable electricity may need to generate 140% of Scotland’s electricity needs in order for the energy target to be met. This statement by the Scottish Government has implications for the approach to be taken to schemes such as that proposed in this application.
- 4.2.15 In short, when the SES, OWPS, Climate Change Plan and all related updated challenging targets are taken into account, and when these policy statements are considered in the round, with the language used, read always in their proper context, it is considered that the need case has been materially strengthened.
- 4.2.16 It is helpful to examine the position of Reporters in the most recent s.36 and Appeal Decision Notices. In the Pencloe Decision (December 2018) the Reporter addressed national energy policy in his overall conclusions (Chapter 9 of the Inquiry Report) and set out at paragraph 9.7 the following position:
“I see no sign that the Scottish Government is slackening the pace; rather, the latest policy statements on energy and onshore wind indicate that the effort is being intensified. The latest target of generating 50% of energy from renewable sources by 2030 is a deliberately challenging one, which may require around 17GW of installed capacity by that date. The newly adopted Scottish Energy Strategy and the accompanying Onshore Wind Policy Statement are explicit that onshore wind will continue to play a vital role in that regard”. (underlining added)
- 4.2.17 Furthermore, Scottish renewable energy and electricity targets for 2020 and 2030 have now been updated as set out in the SES published in December 2017.

4.2.18 The Climate Change Scotland Act 2009 set world leading greenhouse gas emissions reduction targets, including a target to reduce emissions by 80% by 2050.

4.2.19 The Government published a final Climate Change Plan in February 2018 and a new Climate Change Bill in May 2018 setting out even more ambitious targets - this includes increasing the 2050 target to 90% emissions reduction and making provisions for a net / zero greenhouse gas emissions target to be set on a credible and costed pathway.

4.2.20 A summary of the new Scottish energy, electricity and climate change targets is provided in Table 8.1, below.

4.3 Conclusion

4.3.1 In conclusion, both the SES and OWPS are material considerations in the determination of the application and are the most recent expressions of Scottish Government policy on renewable energy and the associated economic opportunities the energy industry presents. The proposed development is uniquely placed to assist the Scottish Government in realising the industrial opportunity presented by the growing onshore wind sector. These documents and the new targets set out in the new Climate Change Plan and Climate Change Bill should be afforded substantial weight.

Table 4.1: Summary of Scottish Energy, Electricity & Climate Change Targets

New targets introduced from December 2017

Target	Target Year	Current Position	Source / Notes
Renewable Energy			
30% of total energy use from renewable sources	2020	17.8% (2015)	Scottish Energy Strategy (SES) (2017)
50% of total energy use from renewable sources	2030	17.8% (2015)	SES (2017)
Renewable Electricity			
Meet 100% of electricity demand from renewables	2020	69% (2017)	2020 Routemap for Renewable Energy in Scotland (2011) Scottish Energy Statistics (June 2018)
100% Target is circa 16-17 GW	2020	11.9GW	Scottish Energy Statistics (June 2018)
Renewable energy may need to generate 140% of Scotland's electricity needs	2030	11.9 GW	Would require c.17GW installed renewable electricity capacity by 2030 SES (2017)
Climate Change			
Interim reduction of greenhouse gas emissions by at least 42% from 1990 baseline.	2020	-37.6% (2015)	Climate Change (Scotland) Act 2009
Reduction of greenhouse gases by 80%.	2050	-37.6% (2015)	Climate Change (Scotland) Act 2009
Reduce carbon emissions by 66% against 1990 levels	2032	-37.6%	Climate Change Plan (2018)
Reduce carbon emissions by 90% against 1990 levels	2050	-37.6%	Climate Change (Emissions Reduction Targets) (Scotland) Bill (2018)
Reduce Scotland's electricity grid intensity below 50gCO ₂ / KWh by 2020	2020	150g CO ₂ /KWh (2015)	Climate Change Plan (2018)
Shared Ownership			
Achieve 1 GW of community and locally owned renewable energy	2020	716 MW (June 2017)	SES (2017)
Achieve 2 GW of community and locally owned renewable energy	2030	716 MW (June 2017)	SES (2017)

5 The Benefits of the Development

5.1 Introduction

5.1.1 The proposed development would result in a number of benefits as described below.

5.2 Generation of Renewable Energy and Electricity & Contribution to attainment of National Policies and Targets

- With an installed capacity of approximately 82 MW, the proposed development would make a very substantial contribution to the attainment of the UK and Scottish Government policies of encouraging renewable energy developments, and in turn contribute to the achievement of UK and Scottish Government currently unmet targets for renewable electricity generation. The Government has confirmed its long term commitment to the decarbonisation of electricity generation and the proposal would help advance this policy objective.
- Furthermore, the UK legally binding target of 15% of energy to come from renewables by 2020 (and the Scottish Government target of 50% by 2030) remain major challenges. At the end of 2017, renewable energy accounted for only 10.2% of energy consumption in the UK and 20% in Scotland against these respective targets. Energy policy is an important material consideration in this case and should be afforded significant weight in favour of the proposed development.
- The potential electricity generation is anticipated to be in the range of 70 GigaWatt Hours ("GWh") to 85GWh per annum. The wind farm would make an important contribution to Scotland's 2017-2032 Climate Change Plan's renewable energy target of "*wholly decarbonised electricity supply*" by 2030 without Government subsidies due to its good wind resource. Given the wind resource, an above average capacity factor is expected.
- The EIA Report states that total carbon emissions savings over the proposed development's lifetime of circa 3,057,990 tCO₂eq are expected.
- A positive and valuable contribution towards the UK and Scottish Government's climate change objectives. Use of the carbon calculator with best estimate values, based on available information, indicates that the proposed development would 'pay back' the carbon emissions associated with its construction, operation and decommissioning in a 1.4-year period.
- An Outline Habitat Management Plan has been prepared and would be agreed ultimately in consultation with SNH seeking to provide net biodiversity gains for bird interests, fisheries, water vole and general moorland biodiversity through targeted species management measures and best practice moorland management. Furthermore, and relatedly, measures for peatland restoration have been presented within an Outline Peat Management Plan which would be agreed in consultation with SNH and SEPA, seeking to reinstate and restore peatland and related habitat.

5.3 Economic and Community Benefits

- Capital expenditure of approximately £82 million (excluding potential for battery storage).
- During the development and construction phase, the proposed development is expected to generate employment, in particular during the construction stage.
- In addition, further employment would be created during the operation and maintenance period for the proposed development.
- The developer is committed to maximising the local economic impact from the proposed development, having established a Local Suppliers Database on the project's website, and would

work with Highlands and Islands Enterprise and the local Chamber of Commerce to ensure that local enterprise have an opportunity to bid for contracts.

- A community benefit fund worth £5,000 per MW per annum, to be shared between local communities.
- The prospect of community shared ownership, via a mode to be further discussed and agreed with local communities.
- In addition, should consent be forthcoming for the proposed development, the landowner has made a commitment to fund and deliver a range of local projects, which include the following:
 - local access enhancement including a new bothy to replace the Glenbeag hut (in the vicinity of Gleann Beag/ Gleann Mor) which was previously destroyed by fire, and was formerly managed by the Mountain Bothies Association. This would be a benefit: one of a range of access enhancements that could be secured in an Access Management Plan.
 - Increased accessibility, more assured access and awareness of resources (e.g. through appropriately sited interpretation and information boards and related signage) such as the old Drovers Road and access to on-site non designated but interesting cultural heritage assets, such as the location of the “illicit whisky still” identified through the project EIA process.
 - Strathrannoch Cottage – renovation for holiday lettings to provide local employment⁸;
 - Lubfearn – renovate and extend the dwelling, drystone wall (alongside the A835) repaired;
 - Lubachlaggan – make watertight and consolidate structure, tidy up ruined buildings;
 - Strathvaich Lodge – repair of drystone walling;
 - Repairs and tidying up of traditional range of buildings at Strathrannoch and at Lubfearn;
 - Restoration of the ruins at Kirkan croft; and
 - Restoration of old field systems and croft above Lubfearn/ within Drum Buidhe woodland – including the possible creation of a circa 2km circular path.

⁸ With regard to the various proposed property refurbishment and regeneration projects, it should be noted that the Reporter in the Dorenell 177MW s.36 Inquiry Report (Decision of 22 December 2011), the Reporter took into account the socio-economic benefits that would result from the proposed refurbishment of residential properties in that case (Inquiry Report, Chapter 7 ‘Reasoned Conclusions and Recommendations’ Chapter 7, page74).

6 The Development Plan - Summary

6.1 Introduction

6.1.1 The statutory Development Plan covering the application site comprises the following:

- The Highland-wide Local Development Plan ("HwLDP") (adopted 5th April 2012);
- The Ross and Cromarty East Local Plan (as continued in force, April 2012) ("RACELP"); and
- relevant Supplementary Guidance, particularly the Onshore Wind Energy Supplementary Guidance (November 2016).

6.1.2 The Inner Moray Firth Local Development Plan ("IMFLDP") (adopted July 2015) area is located to the south east of the application site, but does not cover the site.

6.1.3 The Council progressed with reviewing the HwLDP by publishing a Main Issues Report ("MIR") for consultation in 2016. The MIR included a series of questions on the main issues affecting people across Highland. However, in light of the possible changes to the Scottish planning system as a result of the current Planning Bill, it is understood that the Council has decided to postpone the review of the HwLDP until the implications of the Planning Bill are more clearly understood.

6.1.4 In terms of the emerging Development Plan, the West Highlands and Islands Local Development Plan ("WestPlan") was submitted for Examination in July 2018, with a target date for Examination completion of 7th May 2019. Upon adoption, WestPlan will replace the Ross and Cromarty East Local Plan (as continued in force, 2012).

6.2 HwLDP Relevant Policies

6.2.1 The HwLDP contains a number of relevant policies. A Planning Policy Schedule (see **Appendix 1**) sets out relevant policies in full. The following HwLDP policies are of most relevance to the proposed development:

- Policy 67 – Renewable Energy Developments;
- Policy 57 – Natural, Built, and Cultural Heritage;
- Policy 61 – Landscape;
- Policy 55 – Peat and Soils;
- Policy 58 – Protected Species;
- Policy 59 – Other Important Species; and
- Policy 60 – Other Important Habitats and Article 10 Features

6.2.2 The following HwLDP policies should also be taken into consideration when assessing the proposed development:

- Policy 28 – Sustainable Design;
- Policy 30 – Physical Constraints;
- Policy 36 – Development in the Wider Countryside;
- Policy 51 – Trees and Development;
- Policy 52 – Principle of Development in Woodland;
- Policy 56 – Travel;

- Policy 62 – Geodiversity;
- Policy 63 – Water Environment;
- Policy 64 – Flood Risk;
- Policy 66 – Surface Water Drainage;
- Policy 69 – Electricity Transmission Infrastructure; and
- Policy 77 – Public Access.

6.2.3 Policy 67 has been specifically formulated to deal with renewable energy developments and is the 'lead' policy, supported by statutory Supplementary Guidance. Accordingly, the proposed development is assessed against Policy 67 and the associated Supplementary Guidance. This is presented in Chapter 7, and the remaining policies are assessed in Chapter 8 of this Planning Statement respectively.

7 The Development Plan - Policy 67

7.1 Introduction

7.1.1 As set out above, Policy 67 is the key HwLDP policy for the assessment of onshore wind farm developments. The policy contains a number of criteria which generally address the environmental topics that are referred to in other policies within the Plan. The proposed development has been assessed against Policy 67 and the associated statutory Supplementary Guidance ("SG") and this is reported below.

7.2 Policy 67

7.2.1 Firstly, Policy 67 refers to the need for renewable energy development proposals to be *"well related to the source of the primary renewable resources that are needed for their operation"*. The proposed development meets this requirement as the *"primary renewable resource"* for its operation is wind and the application site enjoys a good wind resource.

7.2.2 Secondly, Policy 67 states the Council will consider a proposed development's contribution *"towards meeting renewable energy generation targets"*. The proposed development would provide approximately up to 82 MW of installed renewable electricity generating capacity and would therefore make a valuable contribution to unmet EU, UK and Scottish Government climate change and renewable electricity and energy generation targets. Such targets have been referred to in Chapter 4 above.

7.2.3 Thirdly, Policy 67 states the Council will consider *"any positive or negative effects [the proposed development] is likely to have on the local and national economy"*. The proposed development would contribute to the attainment of economic development objectives at local and national levels. Employment and economic benefits that would arise from the proposed development are set out in Chapter 5 of this Planning Statement.

7.2.4 Fourthly, a proposed development is to be assessed against other policies of the Development Plan, the Highland Renewable Energy Strategy and Planning Guidelines ("HRES") and must have regard to any other material considerations. As noted, this Planning Statement assesses the proposed development against other relevant Development Plan policies. HRES is however, no longer used by the Council as a guidance document and is therefore of no relevance.

7.2.5 Fifthly, the Council will have regard to proposals able to *"demonstrate significant benefits including by making effective use of existing and proposed infrastructure or facilities"*. The proposed development will realise a range of benefits, as summarised in Chapter 5. Furthermore, site access from the public highway makes effective use of the existing junction via a car parking and former borrow pit area towards a newly constructed road leading to telecommunications infrastructure, therefore sharing some existing infrastructure.

7.2.6 Finally, Policy 67 requires a proposed development to be assessed against 11 factors with regard to predicted significant effects, and a judgement has to be reached as to whether or not such effects would be *"significantly detrimental overall"* taking into account the various benefits presented by a proposed development and having regard to any material considerations. These factors are considered below.

1. Natural, Built and Cultural Heritage Features

7.2.7 The Council's former Interim Supplementary Guidance of 2012, which is referred to in Policy 67, made it clear that this part of Policy 67 requires a cross reference to Policy 57 of the HwLDP. The proposed development is therefore also assessed against Policy 57 below with regard to natural, built and cultural heritage features.

2. Species and Habitats

- 7.2.8 The EIA Report addresses ecology and ornithology in Chapters 6 and 7 respectively, and details the results of the surveys carried out in relation to species and habitats.
- 7.2.9 The majority of habitats within the project area comprise large areas of wet dwarf shrub heath and blanket bog, together with pockets of stunted coniferous and broad-leaved plantation woodland, establishing upon the underlying heath and bog habitats. Small areas of mire are also present, in the wetter parts of the project area, along watercourses.
- 7.2.10 An Outline Habitat Management Plan⁹ (“HMP”) has been prepared and would be agreed ultimately in consultation with SNH seeking to provide net biodiversity gains for bird interests, fisheries, water vole and general moorland biodiversity through targeted species management measures and best practice moorland management. Furthermore, and relatedly, measures for peatland restoration have been presented within an Outline Peat Management Plan¹⁰ (“PMP”) which would be agreed in consultation with SNH and SEPA, seeking to reinstate and restore peatland and related habitat.
- 7.2.11 No residual adverse significant effects are predicted in relation to species and habitats.
- 7.2.12 The EIA Report also makes reference to proposed enhancement measures with regard to ornithology. Riparian planting is proposed within the HMP, an objective of which will be to enhance terrestrial biodiversity, with woodland and edge habitat suitable for species including black grouse.
- 7.2.13 Planting is proposed to include both continuous and discontinuous shrub and tree dominated planting. Discontinuous areas of planting would ensure that extensive shading of existing food plants (e.g. grasses and blueberry, where present) for black grouse does not occur, with tree and shrub species planted selected for their preference by black grouse such as (amongst others) birch, and willow species together with Scots pine, rowan and juniper.
- 7.2.14 Such species would provide additional food sources for black grouse in the spring and winter, together with suitable cover from predation for both adults and broods.
- 7.2.15 Riparian planting proposed is therefore considered to provide habitat enhancement for black grouse at least at a Local level and would deliver new and enhanced foraging and nesting opportunities for additional species including passerines.
- 7.2.16 In summary, it is considered that the proposed development would not have a significant adverse impact upon species and habitats. Policies 58, 59 and 60 are also considered below with regard to nature conservation interests, taking into account these findings.

3. Visual Impact and Impact on the Landscape Character

- 7.2.17 The third factor in Policy 67 relates to visual impact and impact on the landscape character of the surrounding area. This includes reference to not just landscape character, but landscape designations such as Special Landscape Areas (“SLAs”), National Scenic Areas (“NSAs”) and important public views. The appropriate approach is to determine whether a development would result in effects that are “*significantly detrimental*” overall.

Design Approach

- 7.2.18 Before summarising the impact on visual amenity and landscape character effects of the proposed development, it is necessary to recognise that a carefully considered design approach has been followed by the Applicant in order to minimise significant effects on views and the landscape.

⁹ The Outline HMP is presented in the EIA Report Technical Appendix 6.6.

¹⁰ The Outline PMP is presented in the EIA Report Technical Appendix 9.4.

7.2.19 This involved the application of a number of design 'priorities' which are explained in Chapter 4 (section 4.5) of the EIA Report. The siting and design priorities can be summarised as follows:

- Location of proposed development outwith areas subject to landscape designations or classifications such as Wild Land;
- Positioning of the proposed development in larger scale upland moorland location, thereby avoiding smaller scale landscapes and distinctive topographical and landscape features;
- Positioning of turbines in a slight bowl that is enclosed on three sides by elevated summits and ridgelines that reduce both the visibility and prominence of the proposed development from key receptor locations to the west south and east, including settled straths and glens and the key transportation and tourist/scenic routes;
- Avoidance of skylining turbines wherever possible;
- The adoption of a layout that reflects the underlying topography of the site and surrounding area;
- Positioning of the proposed development so that it appears in close association with the adjacent cluster of existing Lochluichart and Corriemoillie wind turbines, thereby adding to an existing cluster of wind farms rather than to a more dispersed pattern of development that would have a greater and wider geographical spread;
- Minimisation of extent to which the proposed development would be seen without the context of the Corriemoillie and Lochluichart wind farms;
- Preferential use of existing tracks on site to minimise effects associated with this aspect of the proposed development;
- Minimisation of the amount of site infrastructure and ancillary elements required, and careful positioning and design to ensure that such elements are screened from the majority of external receptor locations; and
- Careful siting and design of proposed substation and control room and potential battery energy storage facility to minimise visibility from external receptor locations.

7.2.20 The careful placement of the proposed turbines within the site boundary and the reduction in the number of turbines through design iterations, has facilitated effective mitigation, with potentially significant effects avoided or minimised as far as reasonably practicable through the design approach. The efficacy of the siting and design measures is evident in the Zone of Theoretical Visibility ("ZTV") in the EIA Report Volume 3: Figure 4.5a, the visualisations for viewpoints and assessment in EIA Report Volume 4: Technical Appendix 4.7: Viewpoint Analysis

Visual Amenity

7.2.21 The Landscape and Visual Impact Assessment ("LVIA") contains an assessment of the proposed development on visual amenity, particularly in relation to settlements (considered below), transportation routes, recreational routes and summits.

7.2.22 In terms of effects on the amenity of transportation routes within the study area, limitations to views would result due to the screening effect of intervening topography, woodland and forestry or the turbines being viewed at a distance. The EIA Report sets out that of the various transport routes assessed, significant visual effects would only arise in relation to the A835(T).

7.2.23 Of the 78.76 km of this route within the study area, views of the proposed development would be provided from a total of 21.8 km.

7.2.24 The effects of the proposed development upon the amenity of this route for eastbound road users would range from none (in locations where no visibility would occur) to moderate by Loch Droma and

substantial in the vicinity of Aultguish Inn. Travelling east there are other focal points in the view, such as the head of Glascarnoch Dam and the longer distance offset views of Ben Wyvis.

7.2.25 Westbound road users would be largely unaffected by the proposed development, with the exception of slight effects as receptors approach Loch Garve and substantial between Inchbae and Aultguish. Consequently, intermittent significant effects would occur between Inchbae and Aultguish.

7.2.26 There are several recreational routes and rights of way within the surrounding area and the LVIA has assessed the proposed development in terms of the individual and cumulative impact upon the visual amenity of such routes, including Core Paths.

7.2.27 The EIA Report should be referred to for its detail, but in summary, significant effects would arise in relation to sections of the following routes:

- Scotways Heritage Path - Croick to Black Bridge;
- Scotways Heritage Path - Old Drovers Road (The Fish Track, which crosses part of the application site);
- Walk Highland Paths - Am Faochagach;
- Walk Highland Path - Beinn Liath Mhor a' Ghiubhais Li, Loch Glascarnoch;
- Walk Highland Path - Beinn a' Chaisteil, via Strath Vaich; and
- Walk Highland Path - Little Wyvis, Near Garve.

7.2.28 In addition to the above routes, the study area contains substantial opportunities for access to the wider countryside. A key part of this access is mountain walking and the LVIA study area contains numerous notable summits, including Munros (i.e. selected summits with an elevation exceeding 3,000 feet, or 914 m AOD) and Corbetts (which have summits between 760 m AOD and 914 m AOD), and Grahams (which have elevations of between 609 m AOD and 760 m AOD).

7.2.29 The study area contains 47 Munros, 27 Corbetts, and 30 Grahams. Of these, 21 Munros, 11 Corbetts, and 11 Grahams would have theoretical visibility of the proposed development.

7.2.30 For the purposes of the LVIA, a number of summits have been included in the LVIA Viewpoint Assessment, and in the assessment of effects on recreational routes. Whilst not comprehensive, these summits are considered to provide a reasonable and proportionate coverage with which to assess effects on the amenity of hill walkers and the character of the hills.

Local Landscape Character

7.2.31 With regard to the operation of the proposed development, significant effects on the following Landscape Character Types (LCT) are anticipated:

- RCY2: Undulating Moorland, Glascarnoch Unit and Strath Bran Unit;
- RCY4: Rocky Moorland, Loch Luichart Unit;
- RCY7: Rounded Hills, Dornoch Firth/Loch Fannich Unit.

7.2.32 The design and location of the proposed development is considered to reflect the scale and character of the landscape and has sought to minimise the landscape and visual impact.

Landscape Designations

7.2.33 The proposed development is located outwith designated areas and would therefore have no direct effect on designated landscapes. Indirect construction effects are likely however such effects would be localised and of a short duration. Accordingly, such effects are not considered to represent significant residual effects on adjacent designated landscapes.

7.2.34 In terms of operational effects, none of the designated landscapes within the LVIA study area would be subject to direct effects. The EIA Report (Chapter 4, section 4.7) addresses the predicted effects on designated landscapes. The findings are summarised below:

Wester Ross National Scenic Area (NSA)

7.2.35 Of the five NSAs within the LVIA study area, it is only from the Wester Ross NSA where there would be potential visibility of the proposed development. The EIA Report sets out that the proposed development would affect a limited geographical extent of the NSA, and where it is visible, would be seen distantly and would be partially screened by intervening topography. The proposed development would also appear behind and overlapping with the existing/consented Corriemoillie and Lochluichart wind farms and represent a barely discernible change to existing long-range panoramic views from this designated landscape. Consequently, the influence and prominence of the proposed development would be negligible and would not constitute a significant effect on the scenic quality or wildness of the NSA or its key characteristic related to the dominance of spectacular and magnificent mountains; large sweeps of open, expansive moorland superb coast and coastal views, or the many layered landscape, with visual continuity of coastal, moorland and mountain.

Special Landscape Areas (SLA)

7.2.36 Of the five SLAs assessed, there would only be potential visibility from three of the designations.

7.2.37 In terms of the Ben Wyvis SLA, generally, no significant indirect effects are anticipated as, viewed from elevated summits of Ben Wyvis and Little Wyvis, the proposed development would only occupy a small proportion of what are vast panoramic views, would occupy a low-lying position, and would overlap with the existing developed context of the Corriemoillie and Lochluichart developments.

7.2.38 Viewed from the footpath that descends from Ben Wyvis, to the A835, the proposed development would be closer and more prominent, but would be subject to increased screening as a result of the intervening topography of Carn na Dubh Choille and Carn Gaineamhach which encloses the application site on its eastern side. It is also the case that the key special qualities of the SLA are not evident from the lower sections of this route where views reduce in scale and there is increased influence of human activities and artefacts. Views from this route when ascending the side of Ben Wyvis are oriented away from the proposed development

7.2.39 Significant effects on the landmark quality ("locally prominent") of Little Wyvis are predicted, but would only be experienced from outwith the SLA where the proposed development would be situated close to or interposed with Little Wyvis, as in views from the A835 between Loch Droma and the Aultguish Inn.

7.2.40 In terms of the Fannichs, Beinn Dearg and Glencalvie SLA, a large proportion of the designation would be subject to either no effect or non-significant levels of effect.

7.2.41 With regard to the Strathconon, Monar and Mullardoch SLA, the majority of this designated area would be subject to non-significant effects.

Wild Land Areas (WLA)

7.2.42 The proposed development is not located within any WLAs therefore the proposed development would have no direct effects on these mapped areas.

7.2.43 The Wild Land Impact Assessment¹¹ ("WLIA") contained in the EIA Report assesses the effect of the proposed development on the following Wild Land Areas (WLAs):

¹¹ The WLIA follows the methodology set out in SNH's 2017 consultation draft Assessing impacts on Wild Land Areas – technical guidance and utilises their published GIS mapping and Wild Land Area descriptions in determining the likely impact upon key aspect and characteristics of each WLA.

- Rhiddoroch, Beinn Dearg and Ben Wyvis (WLA No.29); and
- Fisherfield, Letterewe, Fannichs (WLA No.28).

7.2.44 The EIA Report Technical Appendix 4.6 contains the detailed assessment of the indirect residual effects on these WLAs.

Rhiddoroch, Beinn Dearg and Ben Wyvis Wild Land Area (WLA No.29)

7.2.45 The proposed development is not considered to result in a significant effect on the wild land characteristics of this WLA. However, significant effects are predicted at summits in the vicinity of Beinn Dearg and at elevated summits between Gleann Beag and the Freewater Forest where the increased where the proposed development would constitute a notable increase in the prominence and influence of wind energy development: and would appear to draw development closer to the southern parts of this WLA, affecting the perceived scale, sense of remoteness and awe of the WLA.

Fisherfield, Letterewe, Fannichs Wild Land Area (WLA No.28)

7.2.46 No significant effects on this WLA or any of its key characteristics are anticipated. Visibility would be relatively constrained, and where the proposed development is visible, it would be seen relatively distant and remote from the WLA, would occupy a relatively small proportion of what is an expansive outlook from summits, and would be seen behind, and overlapping with, the existing Corriemoillie and Lochluichart developments. Consequently, the proposed development would not represent a significant lateral extension to wind farm developments, the drawing of development closer to the WLA or increase in the influence of wind farms on the WLA.

7.2.47 Overall however, it is anticipated that, either individually or cumulatively, there will be no significant effects on the wild land qualities or attributes of either area.

Setting of Cultural Heritage Assets

7.2.48 As set out in Chapter 5 of the EIAR, no significant setting, nor cumulative setting effects have been identified and therefore no mitigation is required. Accordingly, there are no significant effects on the setting of cultural heritage assets. However, mitigation measures are proposed in particular to increase accessibility to and awareness of local non-designated cultural features.

4. Amenity at Sensitive Locations

7.2.49 The fourth criterion in Policy 67 deals with amenity at sensitive locations and has regard to residential properties, work places and recognised visitor sites. This primarily relates to visual considerations as noise and shadow flicker are considered under the next criterion.

7.2.50 The LVIA addresses the assessment of potential effects in relation to Inverness, Kirkhill, Muir of Ord and Garve. The closest settlement is Garve, some 5.8km to the south east of the proposed development. The proposed development would be largely screened from local settlements and so there would be no significant effects on the amenity of settlements.

7.2.51 Experience of many other wind energy projects in Highland and further afield in the UK shows that overbearing visual effects in relation to residential properties are not anticipated outwith 2km and usually would not occur even well within that range.

5. Safety and Amenity of Regularly Occupied Buildings

7.2.52 This criterion refers to visual intrusion, noise, ice throw, and shadow flicker / shadow throw. Visual effects have been addressed above.

Noise

- 7.2.53 As agreed with THC's Environmental Health Officer, operational noise limits have been calculated for the proposed development following the method proposed by ETSU-R-97 and other relevant guidance, and are reported in Chapter 10 of the EIA Report.
- 7.2.54 The adoption of the mitigation measures identified in the EIA Report would reduce potential noise and vibration effects during construction. The effects would be negligible and temporary, and not significant.
- 7.2.55 During the operational stage, depending on the levels of background noise, the satisfaction of the ETSU-R-97 derived limits could lead to a situation whereby, at some locations under some wind conditions and for a certain proportion of the time, the wind farm noise may be audible. However, noise levels at the properties in the vicinity of the proposed wind farm would still be within levels considered acceptable under the ETSU-R-97 assessment method.
- 7.2.56 Decommissioning is likely to result in less noise than during construction of the proposed development. The construction phase has been considered to have negligible noise effects, therefore decommissioning would, in the worst-case, also have negligible noise effects.
- 7.2.57 Accordingly, the impact of the proposed development on the amenity of all nearby residential properties is regarded as acceptable, on an individual and cumulative basis.

Ice Throw

- 7.2.58 The criterion refers to 'ice throw' in winter conditions. The Government's web-based guidance notes that the build-up of ice on turbine blades is unlikely to present problems on the majority of wind farm sites. Furthermore, when icing does occur, turbines have vibration sensors which can detect imbalances and inhibit the operation of the machines. In line with current guidance, a permanent warning sign at the site's entrance is proposed to alert the public to this potential issue.

Shadow Flicker / Throw

- 7.2.59 Shadow flicker is the effect caused when an operating turbine is located between the sun and a receptor, such as a dwelling or place of work. The potential effect is dependent upon a wide range of factors. It is unlikely to be a significant impact at distances greater than ten rotor diameters from a turbine. The wind farm has been designed to achieve the required 11 rotor diameter separation distance from residential receptors¹², with the closest property being some 2.3 km (over 16 rotor diameters) from the nearest turbine.
- 7.2.60 In the unlikely event that any adverse flicker effects were to occur, the relevant turbines could be fitted with flicker control packages as mitigation and this can be addressed by way of a standard planning condition. The conclusion is that there is no issue arising due to shadow flicker.
- 7.2.61 In summary, the proposed development would not result in significant effects on the safety and amenity of any regularly occupied buildings and their grounds in terms of visual intrusion or the likely effect of noise generation, ice throw, shadow flicker, or shadow throw.

6. Water Environment

- 7.2.62 Chapter 9 of the EIA Report details how impacts upon the water environment have been mitigated by design.
- 7.2.63 The proposed development incorporates good practice drainage design during construction and operation, using a sustainable drainage system ("SUDS") approach to control the rate, volume and quality of runoff from the proposed development.

¹² The Highland Council's Onshore Wind Energy Supplementary Guidance (November 2016).

7.2.64 Turbines and access tracks avoid sensitive habitats, including peat forming habitats and Groundwater Dependent Terrestrial Ecosystems (“GWDETs”), as far as possible based on both habitat mapping and peat probing surveys.

7.2.65 The proposed development is not predicted to have significant effects on the water environment.

7. Safety of Airport, Defence and Emergency Service Operation

7.2.66 There are no aviation, defence or emergency service operation issues in this case, as confirmed by the EIA Scoping responses of all relevant consultees (MoD, NATS, HIAL). This is a matter in favour of the proposed development given a significant number of wind energy projects in the UK, although consented, are constrained from progressing due to aviation issues.

8. Operation and Efficiency of Other Communications

7.2.67 There are no residual communication installations or radio / television issues arising as a result of the proposed development.

9. Amenity of Walker, Cyclists and Horse riders

7.2.68 Reference has been made above to the assessment of recreational routes undertaken as part of the LVIA. This considered long-distance walking routes, cycleways and core paths, as well as mountain summits within the 45km LVIA study area. It should be noted that should consent be forthcoming for the proposed development, the landowner has made a commitment to fund and deliver a range of local projects, which include local access enhancement including a new bothy to replace the Glenbeag hut (in the vicinity of Gleann Beag/ Gleann Mor) which was previously destroyed by fire, and was formerly managed by the Mountain Bothies Association. This would be a benefit: one of a range of access enhancements that could be secured in an Access Management Plan.

10. Tourism and Recreation Interests

7.2.69 Potential effects on tourism was scoped out of the EIA. Nevertheless the importance of tourism to the Highland economy is recognised.

7.2.70 It is inevitable that visitors to the immediate area would undoubtedly note the presence of the wind turbines, but there is no evidence to indicate 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.

7.2.71 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 in the area. The available research documents¹³ 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.

7.2.72 The publication ‘Wind Farms and Tourism Trends in Scotland’ (BiGGAR Economics, 2017) is the most recent study undertaken of the effects of constructed wind farms on tourism in Scotland and was completed by BiGGAR Economics in October 2017. The study looked at National, Regional and Local Areas, comparing employment change between 2009 and 2015, based on the location of wind farms constructed in the intervening years. This was an updated study of work previously published in 2016.

7.2.73 The analysis considered the effect on tourism employment at the National, Regional and Local level, noting that while the capacity of wind farms has more than doubled over the period under consideration, employment in tourism related sectors had increased by more than 15%.

¹³ In addition to the recent Biggar Economics research, the particularly relevant documents include: The Moffat Report ‘Economic Impact of Wind Farms on Scottish Tourism (2008)’, The Scottish Parliament ‘Economy, Energy and Tourism Committee’, 7th Report (2012); ‘Tourism Impacts of Wind Farms’ University of Edinburgh (2012).

- 7.2.74 The report also looked at tourism employment at the Local Authority level and found that this was not strongly correlated with growth in wind farms. Over the six-year period, almost all Local Authorities increased the number of wind farms, while employment in sustainable tourism also grew significantly. The analysis found no correlation between tourism employment and the number of turbines at the Local Authority level.
- 7.2.75 The study also considered the impact on employment at a much smaller, more granular level, in data zones up to 15km from developments. The sites considered were constructed between 2009 and 2015. As these sites did not exist in 2009, comparing employment in 2009 and 2015 was considered an effective measure of the effect of wind farms on local employment, while excluding construction impacts, such as wind farm related employees staying in local accommodation.
- 7.2.76 At the Local Authority level in these smaller areas, no link was found between the development of a wind farm and tourism related employment. In 21 out of the 28 areas considered, employment in this sector grew. In 22 of the areas, employment either grew faster or decreased less than the rate for the relevant Local Authority as a whole.
- 7.2.77 Overall, the conclusion of this study was that published national statistics on employment in sustainable tourism demonstrate that there is no relationship between the development of onshore wind farms and tourism employment at the level of the Scottish economy, at the Local Authority level, nor in the areas immediately surrounding wind farm development.
- 7.2.78 Furthermore, from the review of various s.36 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:
- There is no compelling evidence to support concerns about the tourist industry being undermined to a material degree by wind farm development.
 - Even in situations where wind farms are proposed in locations where tourism is a key sector in the local economy, Inspectors and Reporters have not been 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.
 - 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.
- 7.2.79 In the Limekiln s.36 decision in Highland (July 2015), the Reporters set out in Chapter 12 in terms of their overall conclusions (Inquiry Report, page 109, fifth last bullet) that *"there is no convincing evidence before us that appropriately sited wind farms result in detrimental impacts on tourism"*.
- 7.2.80 The Reporters in the South Kyle s.36 case (June 2017), for a Wind Farm in East Ayrshire concluded, taking all survey findings into account (Inquiry Report, paragraph 4.67) *"...that the balance of evidence does not support the view that wind farms have a significant effect on visitor behaviour"*.
- 7.2.81 The Druim Ba Wind Farm decision (June 2018) is a further informative example in the Highland area where the Reporter concluded that there is no compelling evidence to show that onshore wind farms have a significant impact on tourism. He stated in paras. 8.122 to 8.125 of the Decision Notice:
- "I find no compelling evidence to conclude that the construction of a well-designed wind farm would have any significant impact on the number of tourists or spend from tourists.*
- Wind farms are not new in Scotland or elsewhere. If wind farms systematically deterred the numbers and spend from tourists, then it is reasonable to assume evidence for this would be found by now.*

In any event, even if it were proved that wind farms deterred some visitors, it would still be appropriate for Scottish Ministers to consider that the policy objective to increase generation capacity from renewable resources was more important”.

7.2.82 The Reporter in the very recent Pencloe s.36 Decision (December 2018) stated with regard to potential tourism impact of the proposed Wind Farm in East Ayrshire (Inquiry Report, paragraph 6.49) *“recent research does not bear out the suggestion that the Pencloe development would have an adverse impact on tourism in the area. On the contrary, the findings of the BIGGAR study indicate that no loss of employment in tourism is likely to occur.”*

7.2.83 There is no evidence to demonstrate that the proposed development would have a significant adverse effect on tourism and recreational activity and those aspects of the economy in this part of Highland. The Applicant’s position is that the proposed wind farm is considered to be acceptable in terms of tourism and recreation matters.

11. Traffic and Transport Interests

7.2.84 Chapter 11 of the EIA Report considers the likely significant effects on traffic and transport associated with the construction, operation and decommissioning of the proposed development.

7.2.85 However, following the implementation of the proposed package of mitigation measures (Traffic Management Plan), the assessment of residual effects indicates that there would be no significant adverse effects associated with the construction of the proposed development. In addition, no significant operational or decommissioning effects are identified.

7.3 Onshore Wind Energy Supplementary Guidance (November 2016)

7.3.1 The Highland Council ‘Onshore Wind Energy SG was adopted by the Council in November 2016 and now forms part of the Development Plan. Policy 67 refers to the SG and its role in providing further criteria for the consideration of onshore wind energy proposals. Accordingly, as the SG supplements Policy 67 and assists with its application, it is considered below.

7.3.2 The statutory basis for SG is set out in:

- The Town and Country Planning (Scotland) Act 1997 – Section 22 with regard to Supplementary Guidance;
- The Town and Country Planning (Development) (Scotland) Regulations 2008 – specifically section 27 which deals with Supplementary Guidance; and
- Circular 6/2013 ‘Development Planning’.

7.3.3 Section 27(2) of the Regulations states *“supplementary guidance adopted and issued under section 22(1) of the Act in connection with a particular strategic development plan or local development plan may only deal with the provision of further information or detail in respect of the policies of proposals set out in that Plan and then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance”.*

The SG: Section 1 - Introduction

7.3.4 Paragraph 1.8 of the SG is helpful in understanding its role. It states: *“The advice that follows provides a fuller interpretation of HwLDP policies as they relate to onshore wind energy development. The Council will balance these considerations with wider strategic and environmental and economic objectives including sustainable economic growth in the Highlands, and our contribution to renewable energy targets and tacking climate change...”.*

The SG: Section 2 – Highland Spatial Framework

- 7.3.5 The SG contains a Spatial Framework ("SF") which accords with the provisions of Table 1: Spatial Frameworks in Scottish Planning Policy ("SPP"). The SF identifies those areas likely to be most appropriate for onshore wind farms. Paragraph 2.1 of the SG sets out that the SF is applicable to a proposal of the scale subject to the application as the proposal comprises more than one turbine with a height of 30m to blade tip.
- 7.3.6 The application site does not lie within any Group 1 areas, or within any national and international designations for ecology, ornithology, cultural heritage or wild land (Group 2 areas). Due to the presence of peat and carbon rich soil, the site is within Group 2.
- 7.3.7 The peat depth survey undertaken as part of the EIA confirms that peat is present in the area and has fairly extensive coverage. Much of the peat is shallow, although some areas of deeper peat are present.
- 7.3.8 As explained in EIA Report Chapter 9, in terms of peat, the areas of greatest sensitivity were identified and avoided wherever practicable. Turbine locations generally avoided areas of peat greater than 1 m in depth. This approach takes account of Scottish Government guidance on deep peat and peat slide risk assessment, which defines deep peat as >1 m depth. Therefore, the design approach and site specific surveys have sought to identify and avoid areas of deep peat and priority peatland habitat, thereby overcoming any significant effects in terms of peat.
- 7.3.9 Accordingly, as any issues in terms of peat have been overcome, the application site, in effect, can be regarded as Group 3: 'Areas with potential for wind farm development'. This approach was taken by the Reporter in the Cnoc an Eas decision in relation to a Wind Farm Appeal in Highland. The Reporter set out in paragraph 111 of the Decision Notice that:

"the Appeal site straddles an 'area of significant protection' (Group 2) and an 'area with potential for wind energy development' (Group 3). The Group 2 area is identified as such on the basis of SNH's Carbon and Peatland Map, which shows peat and carbon rich soils within the site boundary. However, there is no issue with this constraint at the Appeal site, so it can be reasonably regarded as Group 3 in terms of the Spatial Framework."

The SG: Section 4 – Key Development Plan Considerations

- 7.3.10 Section 4 of the SG sets out "*key development plan considerations*" and the topic headings broadly follow those as set out within Policy 67 of the HwLDP. The relevant topics are addressed below:

Siting and Design of Wind Turbines and Wind Farms

- 7.3.11 Paragraphs 4.3 to 4.9 highlight the importance of sensitive siting and design of wind energy developments. As explained in EIAR the particular landscape and environmental characteristics of the application site and its surrounding area have been thoroughly assessed and this has informed the siting and design of the proposed development.

Landscape and Visual Effects

- 7.3.12 Paragraph 4.11 of the SG lists various "*key aspects*" which may be relevant to the assessment of a proposal and helpfully it states that "*they are not tests, but rather highlight where there may be key issues to consider*". Included in this list and relevant to the consideration of the proposed development, are matters such as:

- National Parks, NSAs and mapped WLAs;
- SLAs;
- The capacity of the local landscape to accommodate a proposal;
- Important public views.

7.3.13 At paragraph 4.16, the SG sets out that “the following criteria set out key landscape and visual aspects that the Council will use as a framework and focus for assessing proposals, including discussions with applicants”.

7.3.14 Paragraph 4.17 adds that the criteria do not set absolute requirements, but rather seek to ensure developers are aware of key potential constraints to development. Following paragraph 4.17 there is then a list of 10 criteria, together with associated thresholds for development. Table 7.1, below, considers the proposed development against the 10 criteria. Overall, the proposed development would have a satisfactory and acceptable relationship with regard to the various physical considerations in the criteria.

Table 7.1: Landscape & Visual Criteria in Section 4 of the SG

Criteria 1 Relationship between Settlements/Key Locations and wider Landscape respected.	
Measure	Evaluation
<p>The proposed development should seek to achieve a threshold where:</p> <ul style="list-style-type: none"> • it would not contribute to perception of settlements or key locations being encircled by wind energy development. • proposed turbines would not be visually prominent in the majority of views within or from settlements/key locations or from the majority of settlement approach routes. 	<p>It is not clear from the SG as to the meaning of ‘key locations’. However, the LVIA in Chapter 4 of the EIA Report considers effects at key sensitive locations including summits and vantage points, as well as settlements.</p> <p>The proposed development would form a lateral extension to a cluster of existing wind farm development. For development to encircle locations it would need to be more dispersed. There is currently no prospect of encirclement of settlements or key locations due to the widely dispersed pattern of development.</p> <p>In respect of visual prominence in views from settlements/key locations, the proposed development would affect a small number of settlements, including:</p> <ul style="list-style-type: none"> - Inverness: from where the very tips of small number of proposed turbines visible in vicinity of Inverness and seen at distances in excess of over 38 km. - Kirkhill: up to six of the proposed turbines would be visible on the skyline around 26 km to the north-west and would occupy a small portion of the view. - Garve: The clearest views of the proposed development would be provided from sections of Stirling Drive where it is aligned in a northerly direction. In this location up to six of the proposed turbines would be visible on the skyline at a distance of around 6 kms, but would appear mainly as blade tips, and would be partially obscured by intervening vegetation within the village and Strath Garve. <p>The proposed development is considered to be consistent with Criteria 1.</p>
Criteria 2 Key gateway locations and routes are respected.	
Measure	Evaluation

<p>The proposed development should seek to achieve a threshold where it does not:</p> <ul style="list-style-type: none"> • reduce or detract from the transitional experience of key gateway locations and routes. • overwhelm or otherwise detract from landscape characteristics which contribute the distinctive transitional experience found at key gateway locations and routes. 	<p>The SG does not contain a detailed sensitivity study or identify key gateway locations for the Kirkan site and immediately adjoining landscape. However, it is recognised that both THC and SNH have expressed (in particular in THC’s Pre-App Advice Pack response 01/05/2018) a view that sections of the A835 to the north of the proposed development have important gateway qualities.</p> <p>In particular, THC identify the stretch of road travelling west where the round rounds the bulk of Carn an t-Sneachda as representing a significant transitional experience in the journey. The applicant had to drop a proposed visualisation viewpoint in this location (Black Bridge) owing to the fact that design iterations had led to the complete removal from view of Kirkan turbines. Continuing along the road round the bend, the existing northermost Lochluichart and Corriemoillie turbines would appear directly ahead of the travelling viewer, with the proposed turbines largely off perpendicular to the view. The proposed development is therefore considered to be consistent with Criteria 2.</p>
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Criteria 3 Valued natural and cultural landmarks are respected.

Measure	Evaluation
<p>The proposed development should seek to achieve a threshold where:</p> <ul style="list-style-type: none"> • the proposal would not significantly affect the fabric and setting of valued natural and cultural landmarks. • does not, by its presence, diminish the prominence of the landmark or disrupt its relationship to its setting. 	<p>The SG does not contain a detailed sensitivity study or define either the valued natural or cultural landmarks in the immediate vicinity of the proposed development. However, the “Black Isles, Surrounding Hills and Moray Firth Coast” sensitivity study does identify Ben Wyvis as a landmark with “key views” both from and to, thereby establishing it’s setting for areas to the south-east.</p> <p>The proposed development has been located to avoid interrupting views towards key summits/mountains, including Ben Wyvis, and would be positioned immediately east of an existing concentration of wind energy developments. This approach is considered to pose the greatest potential for accommodating development without affecting landmark features.</p> <p>The design of the proposed development has responded specifically to the requirement of protecting views towards Ben Wyvis by setting the scheme back from key views towards Ben Wyvis (e.g. from the A835) and positioning turbines behind existing wind farm developments in views towards the summit (e.g. Viewpoint 13 in the LVIA in Chapter 4 of the EIA Report).</p> <p>Consequently, the proposed development would not significantly affect the fabric or setting of local landmarks and is considered consistent with Criteria 3.</p>

Criteria 4 The amenity of key recreational routes and ways is respected.

Measure	Evaluation
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<p>The proposed development should seek to achieve a threshold where:</p> <ul style="list-style-type: none"> • it does not significantly affect the amenity of key recreational routes and ways (e.g. Core Paths, Munros and Corbetts, Long Distance Routes etc.). • proposed development's turbines or other infrastructure do not overwhelm or otherwise significantly detract from the visual appeal of key routes and ways. 	<p>All onshore wind energy developments in the Highlands are likely to result in some significant effects on the character and amenity of recreational routes and summits. The proposed development is no different in this respect. Whilst it is acknowledged that the proposed development would result in some significant effects on locally important footpaths and a relatively small number of hill summits, it is not considered to pose a significant effect on visual amenity of recreational receptors overall. Consequently, the proposed development is considered consistent with Criteria 4.</p>
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Criteria 5 The amenity of transport routes is respected.

Measure	Evaluation
<p>The proposed development should seek to achieve a threshold where:</p> <ul style="list-style-type: none"> • it would not significantly affect the amenity of transport routes (tourist routes as well as rail, ferry routes and local road access). • the proposed development's turbines or other infrastructure would not overwhelm or otherwise significantly detract from the visual appeal of transport routes. 	<p>Key transportation routes are located within incised landscapes and enclosed by a combination of topography and structural vegetation. Analysis of the theoretical visibility of the proposed development in Figure 4.5 in the EIA Report indicates that the visibility of the proposed development within such locations is substantially restricted, and, as in the case of the A832, existing forest cover adjoining the alignment of the route further restricts visibility.</p> <p>The key route of relevance to the proposed development is the A835 from where the proposed development would be visible intermittently to eastbound road users from sections of this route between Loch Droma and Glascarnoch Dam and the Aultguish Inn.</p> <p>From much of this section of this long-range route the proposed development would affect around 12 km of the route, but would generally appear as a small number of turbines occupying a relatively low position at the right-hand side of the view, away from the key focal point of the Ben Wyvis massif. At its closest, the proposed development would be seen obliquely and set back from the prominent scarp slope that encloses the route by the Inn, thereby reducing its prominence. On this basis, the proposed development is not considered to represent an overwhelming feature in views from this route, and is therefore considered consistent with Criteria 5.</p>

Criteria 6 The existing pattern of Wind Energy development is respected.

Measure	Evaluation
<p>Development should seek to achieve a threshold where the proposal fits with the existing pattern of nearby wind energy development. Considerations include:</p> <ul style="list-style-type: none"> • Turbine height and proportions 	<p><i>Turbine Height and Proportions</i></p> <p>Whilst the proposed turbines would be larger and have a different geometry to those of the Corriemoillie and Lochluichart schemes, this partly results from taking account of the relative ground elevations within the Kirkan, Corriemoillie and Lochluichart sites which would greatly even out maximum blade tip height elevations.</p>

<ul style="list-style-type: none"> • density and spacing of turbines within developments, density and spacing of developments, • typical relationship of development to the landscape. • previously instituted mitigation measures • Planning Authority stated aims for development of area. • The extent to which the proposed development contributes positively to existing pattern or objectives for development in the area. 	<p>Lochluichart (and extension) is based on ground levels of between 333 m AOD and 472 m AOD with maximum blade heights of 597 m AOD, whilst Corriemoillie is located at between 317 and 395 m AOD and its turbines have a maximum tip height of 520 m AOD.</p> <p>The proposed development would occupy a gently sloping landform between 291 m AOD and 392 m AOD and would have a maximum tip height of 567 m AOD, which is consistent with that of the existing turbines in the vicinity.</p> <p>The proposed development would be located at a similar distance to neighbouring incised landscapes such as Strath Bran and the A835 corridor.</p> <p><i>Density and Spacing</i></p> <p>The Lochluichart turbines are based on spacing of between 300 and 500 m. The Lochluichart array arranged in a series of parallel rows oriented broadly north-south along the southern flank of Meall Mhic Lomhair. In contrast, Corriemoillie turbines are arranged with spacings of between 430 and 600 m and are configured as a more irregular cluster of turbines, reflecting the more irregular form of the underlying topography in which it is located. The proposed development would adopt spacings broadly consistent with those of the existing wind farms adjacent and would occupy topography of generally 280 m and 500 m.</p> <p><i>Relationship to Landscape & Existing Pattern</i></p> <p>The proposed development can be regarded as being located in a 'Group 3' area (per SPP) and outwith areas that are designated or classified as especially sensitive.</p> <p>The development would be set within a relatively simple, large scale upland landscape which comprises open moorland and large-scale coniferous forests and which contains and is immediately adjacent to an existing concentration of wind farms. The proposed development would be located in a slight 'bowl' topographic feature and would be enclosed on three sides by elevated topography. It would be set back from prominent exposed upland edges and would avoid distinctive topographical forms or landscape elements.</p> <p>The scale and simplicity of the landscape, coupled with the extent and influence of existing wind energy development in the immediate vicinity, provides a suitable basis for the type of development proposed.</p> <p>Consequently, the proposed development is considered consistent with Criteria 6.</p>
<p>Criteria 7 The need for separation between developments and/ or clusters is respected.</p>	
<p>Measure</p>	<p>Evaluation</p>

<p>The proposed development should seek to achieve a threshold where the proposal maintains the spaces/separations between existing developments and/ or clusters.</p>	<p>There is an established pattern of development within the area, which includes a concentration of development at the Lochluichart and Corriemoillie wind farm sites. Other than this, development is sparsely arranged. In this context, the reinforcement of the existing concentration of development is considered most appropriate in order to avoid the dispersal of development and the consequent spreading of cumulative impacts associated with such an approach. To this end, the proposed development would be located immediately abutting the Corriemoillie scheme.</p> <p>Consequently, the proposed development is considered consistent with Criteria 7.</p>
<p>Criteria 8 The perception of landscape scale and distance is respected.</p>	
Measure	Evaluation
<p>The proposed development should seek to achieve a threshold where it maintains or affects receptors' existing perception of landscape scale and distance.</p>	<p>The proposed development is located in a large scale and expansive landscape that is considered suitable for such a development.</p> <p>Consequently, the proposed development is considered to be broadly consistent with Criteria 8.</p>
<p>Criteria 9 Landscape setting of nearby wind energy developments is respected.</p>	
Measure	Evaluation
<p>The proposed development should seek to achieve a threshold where:</p> <ul style="list-style-type: none"> • the landscape setting of nearby wind energy developments is not significantly affected by the proposal. • it relates well to the existing landscape setting and does not increase the perceived visual prominence of surrounding wind turbines. 	<p>It's not clear from the SG what is meant by the 'setting' of existing wind farms, despite the matter having been examined at a number of Wind Farm Appeal Hearings.</p> <p>The proposed development, with the exception of a section of the A835 and Strath Vaich, would be visible from the same receptor locations as those affording views of the existing Corriemoillie and Lochluichart turbines. Seen in conjunction with these existing schemes, the proposed development can appear more prominent from a number of viewpoints, but this is not considered to increase the perceived prominence of these existing schemes. It is also the case that the proposed development would often be 'overlapped' in views by these existing turbines and would, as a result, increase the intensity of development in parts of views. This is not considered to significantly increase the prominence of the existing wind farms. Consequently, the proposed development is considered consistent with Criteria 9.</p>
<p>Criteria 10 Distinctiveness of landscape character is respected.</p>	
Measure	Evaluation
<p>Development should seek to achieve a threshold where it would not significantly affect the integrity of the landscape or the distinction between neighbouring landscape character types, in areas where the variety of character is important to the appreciation of the landscape.</p>	<p>The proposed development is situated at the confluence of three landscape character types comprising:</p> <ul style="list-style-type: none"> - RCY2: Undulating Moorland - Glascarnoch Unit; - RCY4: Rocky Moorland – Lochluichart Unit; and - RCY7: Rounded Hills - Dornoch Firth/Loch Fannich unit.

	<p>It is apparent from the description of these landscapes in TA 4.2 of the EIA Report, that these units are not typical of their wider character type, being of a comparatively smaller scale than the vast uplands found elsewhere in these LCTs. It is also the case that the units listed are subject to greater influence of man-made artefacts, and forest cover in particular.</p> <p>The units are generally experienced from key receptor locations within incised glens and straths, including the A832/Strath Bran and the A835 corridor, from where only two of the LCTs are visible from any given location. RCY2 – Glascarnoch Unit, is only evident from the A835 corridor, whilst RCY4 – Lochluichart Unit is only evident from the A832.</p> <p>From much of the A835 route, the RCY7: Rounded Hills - Dornoch Firth/Loch Fannich unit is principal landscape context, RCY 2 and RCY4 being screened by intervening topography. As this route approaches the Glascarnoch Dam and Aultguish Inn, however, RCY2 emerges in oblique and perpendicular views from the road, its slacker slopes providing a sense of increased scale in respect of views from the road. RCY4 is not apparent in this view as it is obscured by intervening topography. The proposed development would appear almost entirely in the context of the RCY2 unit and cannot therefore be considered to affect the distinctiveness of the other two landscape types.</p> <p>Views of the proposed development from the A832 are substantially restricted by a combination of intervening topography and vegetation. Consequently, the effect of the proposed development on the distinctiveness of landscapes would not be significant.</p> <p>Viewed from a large proportion of remote elevated summits, the distinction between LCTs is less immediately evident, the site often being seen partially obscured by intervening receding ridgelines and summits. Where the interior of the site is more evident (e.g. from the Ben Wyvis summit – Viewpoint 6) distinctions in topographical form and landcover are less immediately evident: the existing Corriemoillie and Lochluichart developments provide an existing developed context. Key distinctions in landscape are associate with the more elevated and distinctive summits of the Rugged Mountain Massifs of the Fannichs, which are seen distantly to the west.</p> <p>Viewed from the site itself (e.g. on the Drovers Road at Viewpoint 2), views are largely contained to within the immediate confines of the site which is characteristic of the RCY4: Rocky Moorland – Lochluichart Unit. Views into the neighbouring RCY7: Rounded Hills - Dornoch Firth/Loch Fannich unit, to the west, are restricted by intervening topography: the LCT appearing largely as a series of more distant hills, thereby avoiding effects on the distinction between these two LCTs.</p>
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	<p>On the basis of the preceding analysis the proposed development is considered to not pose a significant effect on distinction between landscape character types and is therefore considered consistent with Criteria 10.</p>
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Other Considerations

7.3.15 Part 4 of the SG sets out the following considerations:

- Safety of Airport, Defence and Emergency Service Operations;
- Other Communications;
- The Natural and Historic Environment;
- The Water Environment;
- Peat;
- Trees and Woodland;
- Tourism and Recreation;
- Public Access;
- Traffic and Transport interests;
- Electricity and Gas Infrastructure;
- Noise Assessment;
- Borrow Pits;
- Mitigation;
- Construction and Environmental Management Plans; and
- Restoration Bonds.

7.3.16 These matters are addressed throughout this Planning Statement and the EIA Report.

The SG: Section 5 – Highland Strategic Capacity

7.3.17 Section 5 of the SG deals with strategic capacity. Paragraph 5.4 makes it clear that the section does not introduce additional constraints to those in the Spatial Framework. It adds that it is intended to provide "*additional strategic considerations that identify sensitivities and potential capacity*". It explains that "*the following serves as a guide*" and that "*assessment of specific proposals will take into account and site and proposal-specific factors*". These are important caveats.

7.3.18 Paragraph 5.4 adds that Applicants will be expected to "*demonstrate how their proposals align with the conclusions of the assessments, and if they do not, will be expected to demonstrate why they are still appropriate developments*". Paragraph 5.6 states that it provides "*general advice*" and 5.7 makes it clear that "*finding the balance between the benefits of a particular scheme and the impacts it may present will be the subject of careful consideration on a case by case basis at the development management stage*". Paragraph 5.8 adds that it is a "*strategic level assessment*".

7.3.19 Chapter 4 of the EIA Report has assessed the proposed development in terms of its impact upon Landscape Character Types. It is concluded that the scale of development proposed can be accommodated successfully in the receiving landscape.

Conclusions in relation to the SG

7.3.20 In terms of the role and function of the SG, it is supplementary to the 'lead' Policy 67 of the LDP which contains the applicable policy test. It is also helpful to note the Council's position in relation to the role and use of the SG as set out in their evidence to the Golticlay s.36 Inquiry (for a Wind Farm in Caithness). The Council stated the following at paragraph 4.4.9 of their Policy Hearing Statement for that Inquiry:

"the directly applicable parts of the SG does not contain any further tests beyond what is contained in the parent policy in the Highland Wide Local Development Plan, in this case Policy 67 – 'Renewable Energy' in respect of which to assess compliance. In such circumstances, there is little to be gained from separately assessing "accordance" with the SG".

7.3.21 The Reporter in the Culachy Appeal Decision Notice (dated 27 April 2018, Ref: PPA-270-2151) addressed the SG in some detail and was very clear in setting out his position that the SG was in his view consistent with Policy 67 of the LDP and he added:

"It follows that no policy within the OWSG will override Policy 67's main criterion that development proposals are supported if they are located, sited and designed such that, having taken account of a number of specified factors, they will not be significantly detrimental overall".

7.3.22 The same Reporter in the Druim Ba Appeal Decision Notice (28 June 2018, Ref: PPA-270-2147) addressed the SG and at paragraph 15 stated that:

"It should be interpreted as doing no more than providing further information or detail with the framework set out for written Policy 67".

7.3.23 Importantly, the Reporter at paragraph 19 of the Decision Notice stated with regard to Chapter 4 of the SG that:

"I do not understand Chapter 4 to contain policy tests. It is rather intended to make applicants aware of key constraints".

7.3.24 Therefore, the SG provides criteria against which to help assess a proposal with the application of Policy 67 but introduces no new or separate tests.

7.4 Overall Conclusion

7.4.1 In light of all the above, it is considered that the proposed development accords with Policy 67. No effects would arise that would be considered significantly detrimental overall, individually or cumulatively, with other developments having specific regard to the criteria contained within the policy.

8 The Development Plan - Other Policies

8.1 Introduction

8.1.1 This Chapter sets out an assessment of the proposed development against:

- the remaining HwLDP policies; and
- the emerging Development Plan, namely the West Highland and Islands Local Plan.

8.2 Policy 57 – Natural, Built, and Cultural Heritage

8.2.1 Policy 57 seeks to protect natural, built and cultural heritage of varying types and importance, and sets out criteria to be applied to the consideration of proposed development.

8.2.2 With reference to the findings in the EIA Report, the proposed development is not predicted to compromise the natural environment, amenity and heritage resource of any features of international, national or local importance. In addition, no significant adverse effects are predicted to occur on such features.

8.2.3 It is considered that the proposed development would not have an unacceptable impact on the natural environment, amenity and heritage resource and that it is in accordance with Policy 57, insofar as it is relevant.

8.2.4 Policy 57 is an important consideration in relation to wild land. Appendix 2 to the HwLDP 'Definition of Natural, Built and Cultural Heritage Features' lists 'wild areas' as a feature of *"local/regional importance"* and makes it clear that the policy framework for that category of feature derives from National Planning Framework 2 ("NPF2") (para 99) and SPP (2010) (para 128).

8.2.5 SPP (2014) refers to 'Areas of Wild Land' ("WLAs") as shown on the 2014 SNH Map of WLAs as a *"nationally important map of environmental interest"*. Therefore, there is inconsistency between the status of wild land in the HwLDP (local / regional importance) and SPP (national mapped interest). The inconsistency is also exhibited by way of the term 'wild areas' compared to 'WLAs' between the two documents. It is clear that the HwLDP (which dates from 2012) was informed by the national policy framework at that time, which was the previous SPP of 2010 and NPF2. It should also be noted that SNH was yet to finalise its review of wild land, which in turn led to the identification of what were termed 'core areas of wild land' and which were then subsequently termed WLAs - as referred to in the current SPP.

8.2.6 Therefore, it is clear that the evidence base and policy framework which informed the preparation of Policy 57, and how it should be interpreted and applied, deems Policy 57 as out of date in terms of its approach to WLAs.

8.3 Policy 61 – Landscape

8.3.1 The thrust of Policy 61 is to ensure that new development is compatible with landscape characteristics and that relevant Landscape Character Assessments have been taken into account in development design. As explained in the consideration of Policy 67 in the previous Chapter, the proposed development has been sited and designed to take account of existing landscape characteristics and overall it is concluded that the landscape has the capacity to accommodate the proposal successfully. The proposed development is considered to be in accordance with Policy 61.

8.4 Policy 55 – Peat and Soils

8.4.1 The EIA Report explains that an iterative design process has been followed to minimise the quantity of peat which would require to be excavated and indeed peat restoration is proposed as set out in the Outline PMP. Peat surveys have been completed and the results (EIA Report Technical Appendix 9.4)

have been used to design the proposed development to avoid peat >1m depth where feasible within other site constraints.

8.4.2 A Draft PMP has been included within EIA Report and deals with peat that is expected to be excavated during construction and proposed restoration measures. It has been specifically designed to minimise the excavation of peat.

8.4.3 The proposed development is considered to be in accordance with Policy 55 as it has been demonstrated through the design of the proposed development that unnecessary disturbance has been avoided. A PMP would be implemented to allow valid re-use of peat, including for positive restoration, and avoid, or minimise, the generation of waste peat.

8.5 Policy 58 – Protected Species

8.5.1 Policy 58 is a multi-criteria based policy which applies to development proposals that may affect protected species, including European protected species. The relevant environmental assessments on protected species are reported within Chapters 6 'Ecology' and 7 'Ornithology' of the EIA Report. With the implementation of relevant mitigation measures, the proposed development is unlikely to have an adverse effect, either individually and/or cumulatively, on European Protected Species. The proposed development is therefore considered to be in accordance with Policy 58.

8.6 Policy 59 – Other Important Species

8.6.1 Policy 59 states that the Council will take into consideration any adverse effects of development proposals on certain species identified in the policy. The EIA Report does not identify any significant effects with regard to other important species therefore the proposed development is considered to be in accordance with Policy 59.

8.7 Policy 60 – Other Important Habitats and Article 10 Features

8.7.1 The proposed development would not impact upon the integrity of other important habitats and Article 10 Features and is therefore considered to be in accordance with Policy 60.

8.8 Policy 28 – Sustainable Design

8.8.1 Policy 28 sets out the requirement for all development to be designed in the context of sustainable development and climate change. The Policy sets out criteria which proposed developments are to be assessed against.

8.8.2 Criteria 1, 2, 5, 11 and 12 are considered to be more relevant to urban development as opposed to onshore wind farms and are therefore not assessed.

8.8.3 The proposed development is in accordance with criterion 3 as the wind farm would generate, and has been designed to maximise, renewable energy.

8.8.4 Physical constraints (criterion 4) is assessed in relation to Policy 30, below.

8.8.5 In terms of criterion 6, appropriate waste management would be implemented as part of the construction process for the development.

8.8.6 Residential amenity (criterion 7) has been assessed in relation to Policy 67, above.

8.8.7 The proposed development would not impact upon non-renewable resources (criterion 8).

8.8.8 The impact of the proposed development on the resources listed in criterion 9 are considered throughout this Chapter and the EIA Report.

8.8.9 Criterion 10 requires sensitive siting and high quality design. As set out in the assessment of Policy 67 above, and the EIA Report, the development has been sensitively sited and the design has been well considered and is appropriate for the proposed use.

8.8.10 In terms of the last criterion, the proposed development would contribute positively to the economic and social development of the community through the various local and wider benefits that would result. These have been set out in Chapter 5.

8.8.11 Policy 28 states that development judged to be significantly detrimental will not accord with the Development Plan. However, Policy 28 and the HwLDP need to be read as a whole before judgement is made in terms of the proposed development's accordancy, or otherwise, with the Development Plan.

8.8.12 The policy is only of limited relevance in terms of undertaking a comprehensive policy appraisal against the terms of the Development Plan. It adds nothing further to the existing detailed provisions of Policy 67 which deals specifically with renewable energy developments. Therefore, the proposed development is considered to be in accordance with Policy 28 insofar as it is relevant.

8.9 Policy 30 – Physical Constraints

8.9.1 Policy 30 seeks to ensure that various physical and technical factors are assessed when considering development proposals. The Physical Constraints Supplementary Guidance sets out a range of physical constraints which need to be taken into account. The proposed development is considered to be in accordance with Policy 30 as all of the relevant physical constraints have been considered throughout the EIA Report and the proposed development would not adversely affect human health and safety or pose a risk to safeguarded sites.

8.10 Policy 36 – Development in the Wider Countryside

8.10.1 As set out in paragraph 19.9.3 of the HwLDP, renewable energy development proposals are to be assessed against the renewable energy policies (i.e. Policy 67), therefore Policy 36 is not relevant or considered further.

8.11 Policy 51 – Trees and Development; and Policy 52 Principle of Development in Woodland

8.11.1 Policy 51 seeks to protect existing trees and woodland on and around development sites and makes reference to the Council's Supplementary Guidance on the topic, including advice in relation to development requiring woodland removal and the need for compensatory planting, in line with relevant Regulations.

8.11.2 Seven of the proposed turbines are located within a woodland area. However, it is not planned to clear fell all the trees as part of the proposed development. Instead, it is proposed to carry out 'keyhole' felling, to fell the minimum area required to carry out the construction work and to maintain a clear area for the operation of the Wind Farm. The total area of Scots pine and birch that would be felled is 16.6 ha.

8.11.3 Furthermore, as discussed previously, there would be a HMP and related PMP put in place to reinstate peat forming habitats. As the proposed development involves the permanent removal of woodland for the purposes of conversion to another type of land use, the Scottish Government's Policy on Control of Woodland Removal (2009) has been fully considered

8.11.4 It is considered that there is substantially more than enough available land within the wider Strathvaitch Estate for compensatory planting of 16.6 ha.

8.12 Policy 56 – Travel

8.12.1 Policy 56 seeks to ensure development is sustainable in terms of travel. The Policy is more relevant to urban or public facing development as opposed to renewable energy projects. Nonetheless, the principle of the policy is relevant as the proposed development would involve travel generation, and a traffic and transport assessment has been included in Chapter 11 of the EIA Report to allow the Council to consider any likely on- and off-site transport implications of the development. No significant effects are predicted.

8.12.2 The proposed development is therefore considered to be in accordance with Policy 56 as mitigation measures would be put in place to ensure the proposed development would not have any significant adverse effects on transport.

8.13 Policy 62 – Geodiversity

8.13.1 Chapter 9 of the EIA Report details the geology of the site. As set out above, the iterative design process has sought to avoid geodiversity interests. The proposed development is considered to be in accordance with Policy 62.

8.14 Policy 63 – Water Environment

8.14.1 As set out in Chapter 9 of the EIA Report, the design of the proposed development incorporates a minimum 50 m buffer distance around all surface watercourses, avoiding direct effects on watercourses. In addition, all turbines and associated infrastructure is located a considerable distance away from private water supply abstractions. Measures for the protection and management of water quality and water quantity are considered in EIA Report.

8.14.2 The proposed development is considered to be in accordance with Policy 63.

8.15 Policy 64 – Flood Risk

8.15.1 Policy 64 seeks to direct development away from areas susceptible to flooding and promotes sustainable flood management.

8.15.2 The proposed development incorporates good practice drainage design during construction and operation, using a SUDS approach to control the rate, volume and quality of runoff from the proposed development. In addition, all watercourse crossings would be designed to accommodate a 1 in 200-year return period peak flow.

8.15.3 The proposed development is considered to be in accordance with Policy 64.

8.16 Policy 66 – Surface Water Drainage

8.16.1 The proposed development is considered to be in accordance with Policy 66 as it incorporates good practice drainage design during construction and operation, using a SUDS approach to control the rate, volume and quality of runoff from the proposed development.

8.17 Policy 69 – Electricity Transmission Infrastructure

8.17.1 The electricity transmission infrastructure does not form part of the proposed development therefore Policy 69 is not relevant.

8.18 Policy 77 – Public Access

8.18.1 The proposed development would not directly impact Core Paths. The amenity of some recreational routes would be affected and this has been addressed above with regard to policy 67.

8.18.2 The proposed development is considered to be in accordance with Policy 77.

8.19 The Ross and Cromarty East Local Plan (as continued in force, April 2012)

8.19.1 The Ross and Cromarty East Local Plan (as continued in force, April 2012) (“RACELP”) forms part of the statutory Development Plan, however it is now relatively out of date and a number of provisions have been replaced by the HwLDP.

8.19.2 The elements of the RACELP which remain in force set out a strategy and vision, and general and settlement-related policies. The proposed development is located outwith a Settlement Development Area and there are no general policies of relevance to the proposed development. Accordingly, the RACELP is not further considered as part of the Development Plan assessment.

8.20 Other Relevant SG

8.20.1 The following THC SG is also relevant to the proposed development:

- Flood Risk and Drainage Impact Assessment SG;
- Protected Species SG; and,
- Sustainable Design SG.

8.20.2 Each of the abovementioned SG documents have been taken into account in the design approach to the proposed development and the matters dealt with in each SG have been addressed throughout the EIA Report and this Planning Statement.

8.21 Emerging Development Plan

8.21.1 The Proposed West Highlands and Islands Local Development Plan (Proposed WestPlan) was submitted to the Planning and Environmental Appeals Division ("DPEA") of the Scottish Government for Examination in July 2018. A target date of 6th April 2019 has been set for completing the Examination process. Once adopted, (expected Summer 2019) the WestPlan will replace the RACELP. In the meantime, however, the Proposed WestPlan is a material consideration in the determination of the Application.

8.21.2 However, the Proposed WestPlan's focus is predominantly on settlements within the Plan area and there are no provisions or policies which are directly relevant to the proposed development, or which counter those contained within the HwLDP. Accordingly, the HwLDP still remains as the key Development Plan document.

8.22 Development Plan Policy Assessment Conclusions

8.22.1 The proposed development is consistent with the relevant policies of the Development Plan and with the plan when it is read as a whole, insofar that it is a relevant consideration in an Electricity Act case. Furthermore, for the reasons set out below, the Development Plan in this case needs to be viewed from the perspective of the operation of the presumption in favour of development that contributes to sustainable development which is engaged (as the Development Plan is more than five years old) as per paragraph 33 of SPP.

9 Conclusions

9.1 The Electricity Act 1989

- 9.1.1 Reference has been made to the statutory context for the application. The proposed development requires to be considered under the terms of the 1989 Act, in particular the Schedule 9 duties.
- 9.1.2 Paragraph 3(2) of Schedule 9 to the 1989 Act provides a specific statutory requirement on the Scottish Ministers to have regard to various matters when considering development proposals. The information that is contained within the individual topic sections of the EIA Report addresses these. It is acknowledged that the proposed development would give rise to significant landscape and visual effects, however it is considered the landscape is able to accommodate the predicted change. The significant effects that would arise are relatively limited and localised and this needs to be balanced against the various significant benefits that would arise. It is considered that the detailed work undertaken for the EIA confirms that the proposed development is environmentally acceptable. On this basis the Applicant has provided the detailed information which demonstrates how the duties under Schedule 9 of the Electricity Act in this regard.
- 9.1.3 These duties apply whatever the relevant local policy circumstances expressed through a Development Plan may be. Therefore, the approach required in this case is fundamentally different to the approach for planning decisions under s.25 of the 1997 Act. As has been explained, there is no primacy of the Development Plan in an Electricity Act case. Development Plan policies are relevant to understanding, in a local context, the generic duties under Schedule 9 to the Electricity Act.

9.2 The Renewable Energy Policy Framework

- 9.2.1 The proposed development would result in an installed electricity capacity of approximately 82 MW. The resultant environmental benefits that would flow from this in terms of carbon dioxide and other greenhouse gas emission savings have been set out.
- 9.2.2 It is very important to take into account the renewable energy policy considerations which have been outlined in some detail. Given the scale of the development, it would clearly make a valuable contribution to the attainment of renewable energy and electricity targets at both the Scottish and UK levels. The evidence clearly shows that there remains a considerable shortfall in terms of these targets.
- 9.2.3 Beyond the specific targets, it is important to remember that these are not capped, and as the Scottish Government set out in its Energy Generation Policy Statement "*it is as much about the value and importance of the journey as it is about the destination*". The Government's position is that Scotland "*can and must exploit its huge renewables potential to the fullest possible extent ...*". The proposed development achieves that objective, in a way that results in acceptable environmental effects. It thereby satisfies the national planning policy principle of being the right development in the right place, as set out in SPP.
- 9.2.4 Reference has been made to very recent Scottish Government publications, namely the Climate Change Plan, Energy Strategy and the Onshore Wind Policy Statement. These documents, amongst other relevant matters, make it very clear that "*securing a route to market for onshore wind of all scales is a priority of the Scottish Government*". The proposed development is one of increasingly few onshore wind energy projects that is viable on a support free basis – the Government is aiming to meet the challenge of delivering onshore wind without subsidy.

9.3 National Planning Policy & Guidance

- 9.3.1 NPF3 and SPP set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource that can be realised by onshore wind. This is clearly not at any cost and development continues to be guided to appropriate locations. As per SPP, the application site, having overcome Group 2 constraints, can be regarded as a Group 3 location i.e. an "area with potential for wind farm development" where "wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria" (SPP, page 39). The proposed development has been assessed against the relevant policy criteria and is deemed to be acceptable.
- 9.3.2 A further important point in terms of national planning policy is the presumption in favour of development that supports sustainable development: the proposed development draws support from that policy principle which applies with force in this case, including the application of the 'tilted balance'.
- 9.3.3 The proposed development can draw significant support from the provisions of both NPF3 and SPP and the Government's policy in relation to community ownership of renewable energy developments, in particular, onshore wind.

9.4 Development Plan

- 9.4.1 It has been considered appropriate to have regard to, so far as relevant, individual Development Plan policies in the evaluation of the proposed development, alongside other considerations. The conclusion reached from the policy assessment, is that the proposed development is consistent with relevant policies and with the Development Plan, particularly Policy 67 and the related SG and with the plan when it is read as a whole, insofar as it is a relevant consideration in this s.36 case.

9.5 Overall Conclusion

- 9.5.1 The UK Government's objective is to cut carbon emissions whilst also delivering electricity to consumers at the lowest cost. As such, it is large onshore wind sites with a good wind resource, readily available infrastructure and acceptable environmental impacts that are likely to be able to proceed to implementation in an increasingly competitive environment, and therefore contribute to the Scottish Government's and the UK Government's targets and policy objectives. The proposed development is located on such a site. Chapter 5 has set out a wide range of socio-economic and environmental benefits that would arise from the delivery of the project.
- 9.5.2 As set out in the introduction, the proposed development has been formulated through a carefully considered design and EIA approach and appropriate amendments to the development layout have taken place in response to matters raised by consultees, in accord with the Applicant's duties under Schedule 9 to the 1989 Act.
- 9.5.3 The overall conclusion reached is that the proposed development satisfies the terms of paragraph 3 of Schedule 9 of the 1989 Act, while also taking into account other policy considerations including those which are relevant in the Development Plan. On this basis, it is respectfully recommended that section 36 consent be given with a direction that deemed planning permission should be granted for the proposed development.

Appendix 1: Planning Policy Schedule

This Policy Schedule sets out relevant policies from the Highland wide Local Development Plan. The Supplementary Guidance documents are not included in this Schedule but they can be found on The Highland Council's Development Guidance webpages.

The following policies are referenced:

- Policy 67 'Renewable Energy Developments'
- Policy 57 'Natural, Built and Cultural Heritage'
- Policy 61 'Landscape'
- Policy 55 'Peat and Soils'
- Policy 58 'Protected Species'
- Policy 59 'Other Important Species'
- Policy 60 'Other Important Habitats and Article 10 Features'
- Policy 28 'Sustainable Design'
- Policy 30 'Physical Constraints'
- Policy 56 'Travel'
- Policy 62 'Geodiversity'
- Policy 63 'Water Environment'
- Policy 64 'Flood Risk'
- Policy 66 'Surface Water Drainage'
- Policy 77 'Public Access'

Policy 67 'Renewable Energy Developments' states:

"Renewable energy development proposals should be well related to the source of the primary renewable resources that are needed for their operation. The Council will also consider:

- the contribution of the proposed development towards meeting renewable energy generation targets; and
- any positive or negative effects it is likely to have on the local and national economy;
- and will assess proposals against other policies of the development plan, the Highland Renewable Energy Strategy and Planning Guidelines and have regard to any other material considerations, including proposals able to demonstrate significant benefits including by making effective use of existing and proposed infrastructure or facilities.

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 out with 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; and
- land and water based traffic and transport interests.

Proposals for the extension of existing renewable energy facilities will be assessed against the same criteria and material considerations as apply to proposals for new facilities.

In all cases, if consent is granted, the Council will approve appropriate conditions (along with a legal agreement/obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, where necessary), relating to the removal of the development and associated equipment and to the restoration of the site, whenever the consent expires, other than in circumstances where fresh consent has been secured to extend the life of the project, or the project ceases to operate for a specific period.

The Onshore Wind Energy Supplementary Guidance will replace parts of the Highland Renewable Energy Strategy. It will identify: areas to be afforded protection from wind farms; other areas with constraints; and broad areas of search for wind farms. It will set out criteria for the consideration of proposals. It will ensure that developers are aware of the key constraints to such development and encourage them to take those constraints into account at the outset of the preparation of proposals. It will seek to steer proposals, especially those for larger wind farms, away from the most constrained areas and ideally towards the least constrained areas and areas of particular opportunity. It will also set out criteria which will apply to the consideration of proposals irrespective of size and where they are located, enabling proposals to be considered on their merits. It will seek submission as part of the planning application of key information required for the assessment of proposals and provide certainty for all concerned about how applications will be considered by the Council."

Policy 57 'Natural, Built and Cultural Heritage'

"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. The following criteria will also apply:

1. For features of local/regional importance we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.

2. 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.

3. For features of international importance developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, we will only allow development if there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers).

Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the development plan within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997.

Note: Whilst Appendix 2 groups features under the headings international, national and local/regional importance, this does not suggest that the relevant policy framework will be any less rigorously applied. This policy should also be read in conjunction with the Proposal Map.

The Council intends to adopt the Supplementary Guidance on Wild Areas in due course. The main principles of this guidance will be:

- to provide mapping of wild areas;
- to give advice on how best to accommodate change within wild areas whilst safeguarding their qualities;
- to give advice on what an unacceptable impact is; and
- to give guidance on how wild areas could be adversely affected by development close to but not within the wild area itself.

In due course the Council also intends to adopt the Supplementary Guidance on the Highland Historic Environment Strategy. The main principles of this guidance will ensure that:

- Future developments take account of the historic environment and that they are of a design and quality to enhance the historic environment bringing both economic and social benefits;
- It sets a proactive, consistent approach to the protection of the historic environment".

Policy 61 'Landscape'

"New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. This will

include consideration of the appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue. The Council would wish to encourage those undertaking development to include measures to enhance the landscape characteristics of the area. This will apply particularly where the condition of the landscape characteristics has deteriorated to such an extent that there has been a loss of landscape quality or distinctive sense of place. In the assessment of new developments, the Council will take account of Landscape Character Assessments, Landscape Capacity Studies and its supplementary guidance on Siting and Design and Sustainable Design, together with any other relevant design guidance.

Note: The principles and justification underpinning the Council's approach to sustainable developments are contained in the supplementary guidance: "Sustainable Design". The key principles underlying this guidance are set out in Policy 28: Sustainable Design".

Policy 55 'Peat and Soils'

"Development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils.

Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal.

Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated.

New areas of commercial peat extraction will not be supported unless it can be shown that it is an area of degraded peatland which is clearly demonstrated to have been significantly damaged by human activity and has low conservation value and as a result restoration is not possible.

Proposals must also demonstrate to the Council's satisfaction that extraction would not adversely affect the integrity of nearby Natura sites containing areas of peatland".

Policy 58 'Protected Species'

"Where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, we will require a survey to be carried out to establish any such presence and if necessary a mitigation plan to avoid or minimise any impacts on the species, before determining the application.

Development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species (see Glossary) will only be permitted where:

- There is no satisfactory alternative;
- The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and
- The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Development that is likely to have an adverse effect, individually and/or cumulatively, on protected bird species (see Glossary) will only be permitted where:

- There is no other satisfactory solution; and
- The development is required in the interests of public health or public safety.

This will include but is not limited to avoiding adverse effects, individually and/or cumulatively, on the populations of the following priority protected bird species:

- Species listed in Annex 1 of the EC Birds Directive;
- Regularly occurring migratory species listed in Annex II of the Birds Directive;
- Species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended;
- Birds of conservation concern.

Development that is likely to have an adverse effect, individually and/or cumulatively (see glossary), on other protected animals and plants (see Glossary) will only be permitted where the development is required for preserving public health or public safety.

Development proposals should avoid adverse disturbance, including cumulatively, to badgers and badger setts, protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004".

Policy 59 'Other Important Species'

"The Council will have regard to the presence of and any adverse effects of development proposals, either individually and/or cumulatively, on the Other Important Species which are included in the lists below, if these are not already protected by other legislation or by nature conservation site designations:

- Species listed in Annexes II and V of the EC Habitats Directive;
- Priority species listed in the UK and Local Biodiversity Action Plans;
- Species included on the Scottish Biodiversity List.

We will use conditions and agreements to ensure detrimental effect on these species is avoided".

Policy 60 'Other Important Habitats and Article 10 Features'

"The Council will seek to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat "stepping stones" for the movement of wild fauna and flora. (Article 10 Features). The Council will also seek to create new habitats which are supportive of this concept.

The Council will have regard to the value of the following Other Important Habitats, where not protected by nature conservation site designations (such as natural water courses), in the assessment of any development proposals which may affect them either individually and/or cumulatively:

- Habitats listed in Annex I of the EC Habitats Directive;
- Habitats of priority and protected bird species (see Glossary);
- Priority habitats listed in the UK and Local Biodiversity Action Plans;
- Habitats included on the Scottish Biodiversity List.

The Council will use conditions and agreements to ensure that significant harm to the ecological function and integrity of Article 10 Features and Other Important Habitats is avoided. Where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the Council will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation”.

Policy 28 ‘Sustainable Design’

“The Council will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland.

Proposed developments will be assessed on the extent to which they:

- are compatible with public service provision (water and sewerage, drainage, roads, schools, electricity);
- are accessible by public transport, cycling and walking as well as car;
- maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy and heat;
- are affected by physical constraints described in Physical Constraints on Development: Supplementary Guidance;
- make use of brownfield sites, existing buildings and recycled materials;
- demonstrate that they have sought to minimise the generation of waste during the construction and operational phases. (This can be submitted through a Site Waste Management Plan);
- impact on individual and community residential amenity;
- impact on non-renewable resources such as mineral deposits of potential commercial value, prime quality agricultural land, or approved routes for road and rail links;
- impact on the following resources, including pollution and discharges, particularly within designated areas:
 - habitats
 - freshwater systems
 - species
 - marine systems
 - landscape
 - cultural heritage
 - scenery
 - air quality;

- demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials;
- promote varied, lively and well-used environments which will enhance community safety and security and reduce any fear of crime;
- accommodate the needs of all sectors of the community, including people with disabilities or other special needs and disadvantaged groups; and
- contribute to the economic and social development of the community.

Developments which are judged to be significantly detrimental in terms of the above criteria will not accord with this Local Development Plan. All development proposals must demonstrate compatibility with the Sustainable Design Guide: Supplementary Guidance, which requires that all developments should:

- conserve and enhance the character of the Highland area;
- use resources efficiently;
- minimise the environmental impact of development;
- enhance the viability of Highland communities.

Compatibility should be demonstrated through the submission of a Sustainable Design Statement where required to do so by the Guidance.

All developments must comply with the greenhouse gas emissions requirements of the Sustainable Design Guide.

In the relatively rare situation of assessing development proposals where the potential impacts are uncertain, but where there are scientific grounds for believing that severe damage could occur either to the environment or the wellbeing of communities, the Council will apply the precautionary principle.

Where environmental and/or socio-economic impacts of a proposed development are likely to be significant by virtue of nature, size or location, The Council will require the preparation by developers of appropriate impact assessments. Developments that will have significant adverse effects will only be supported if no reasonable alternatives exist, if there is demonstrable over-riding strategic benefit or if satisfactory overall mitigating measures are incorporated".

Policy 30 'Physical Constraints'

"Developers must consider whether their proposals would be located within areas of constraints as set out in Physical Constraints: Supplementary Guidance. The main principles of the guidance are:

- to provide developers with up to date information regarding physical constraints to development in Highland; and
- to ensure proposed developments do not adversely affect human health and safety or pose risk to safeguarded sites.

Where a proposed development is affected by any of the constraints detailed within the guidance, developers must demonstrate compatibility with the constraint or outline appropriate mitigation measures to be provided".

Policy 36 'Development in the Wider Countryside'

"Outwith Settlement Development Areas, development proposals will be assessed for the extent to which they:

- are acceptable in terms of siting and design;
- are sympathetic to existing patterns of development in the area;

- are compatible with landscape character and capacity;
- avoid incremental expansion of one particular development type within a landscape whose distinct character relies on an intrinsic mix/distribution of a range of characteristics
- avoid, where possible, the loss of locally important croft land; and
- would address drainage constraints and can otherwise be adequately serviced, particularly in terms of foul drainage, road access and water supply, without involving undue public expenditure or infrastructure that would be out of keeping with the rural character of the area.

Development proposals may be supported if they are judged to be not significantly detrimental under the terms of this policy. In considering proposals, regard will also be had to the extent to which they would help, if at all, to support communities in Fragile Areas (as defined by Highlands & Islands Enterprise) in maintaining their population and services by helping to re-populate communities and strengthen services ...”.

Policy 51 ‘Trees and Development’

“The Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. The acceptable developable area of a site is influenced by tree impact, and adequate separation distances will be required between established trees and any new development. Where appropriate a woodland management plan will be required to secure management of an existing resource.

The Council will secure additional tree/hedge planting within a tree planting or landscape plan to compensate removal and to enhance the setting of any new development. In communal areas a factoring agreement will be necessary.

The Council’s Trees, Woodland and Development Supplementary Guidance will be adopted as statutory supplementary guidance. The guidance will identify the main principles for the protection and management of trees and woodland in relation to new development. It will:

- identify key relevant legislation and regulation;
- establish the key factors for assessment of development sites in relation to the presence of trees;
- give guidance on preparation of tree protection, management, planting and landscape plans;
- for developments involving a significant element of woodland, give advice on the need for a woodland management plan;
- provide advice for development within existing woodland on the potential for woodland removal and need for compensatory planting;
- generally support well planned developments which are designed to create and coexist with significant areas of new woodland”.

Policy 52 ‘Principle of Development in Woodland’

“The applicant is expected to demonstrate the need to develop a wooded site and to show that the site has capacity to accommodate the development. The Council will maintain a strong presumption in favour of protecting woodland resources. Development proposals will only be supported where they offer clear and significant public benefit. Where this involves woodland removal, compensatory planting will usually be required.

The Council will consider major development proposals against their socio economic impact on the forestry industry within the locality, the economic maturity of the woodland, and the opportunity for the proposals to coexist with forestry operations.

For housing proposals within existing woodland, applicants must pay due regard to its integrity and longer term management.

In all cases there will be a stronger presumption against development where it affects inventoried woodland, designated woodland or other important features (as defined in Trees, Woodland and Development Supplementary Guidance).

All proposals affecting woodland will be assessed against conformity with the Scottish Government's Policy on Control of Woodland Removal.

The current Highland Forest and Woodland Strategy will be considered as a material consideration. It is the intention that future reviews of the strategy will be adopted as supplementary guidance.

The Highland Forest and Woodland Strategy reflects the strategic directions of the Scottish Forest Strategy developing its priorities for action at the regional level and through its key principles seeks to:

- ensure sustainability;
- increase the community benefit from forestry and woodlands;
- identify opportunities for forest and woodland expansion compatible with other interests;
- improve existing forests and woodland to enhance forestry's contribution to the economy and environment of Highland;
- work with partners to address economic and infrastructure issues;
- retain and enhance the level of funding for forestry in Highland".

Policy 56 'Travel'

"Development proposals that involve travel generation must include sufficient information with the application to enable the Council to consider any likely on- and off- site transport implications of the development and should:

- be well served by the most sustainable modes of travel available in the locality from the outset, providing opportunity for modal shift from private car to more sustainable transport modes wherever possible, having regard to key travel desire lines;
- in particular, the Council will seek to ensure that opportunities for encouraging walking and cycling are maximised;
- be designed for the safety and convenience of all potential users;
- incorporate appropriate mitigation on site and/or off site, provided through developer contributions where necessary, which might include improvements and enhancements to the walking/cycling network and
- public transport services, road improvements and new roads; and
- incorporate an appropriate level of parking provision, having regard to the travel modes and services which will be available and key travel desire lines and to the maximum parking standards laid out in Scottish Planning Policy or those set by the Council.

When development proposals are under consideration, the Council's Local Development Strategy will be treated as a material consideration.

The Council will seek to ensure that locations with potential for introducing bus priority measures are protected from development.

The Council will seek the implementation and monitoring of Green Travel Plans in support of significant travel generating developments. Development proposals that are likely to affect the operation of any level crossing will be considered in accordance with the relevant part of the supplementary guidance associated with Policy 30: Physical Constraints.

Where site masterplans are prepared, they should include consideration of the impact of proposals on the local and strategic transport network. In assessing development proposals, the Council will also have regard to any implications arising from the relevant Core Paths Plan and will apply the terms of Policy 77: Public Access”.

Policy 62 ‘Geodiversity’

“Development proposals that include measures to protect and enhance geodiversity interests of international, national and regional/local importance in the wider countryside, will be supported. The Council will also support improvement of accessibility and interpretation as an educational or geo-tourism resource, where it is possible to integrate sympathetically development, geodiversity and other existing interests”.

Policy 63 ‘Water Environment’

“The Council will support proposals for development that do not compromise the objectives of the Water Framework Directive (2000/60/EC), aimed at the protection and improvement of Scotland’s water environment. In assessing proposals, the Council will take into account the River Basin Management Plan for the Scotland

River Basin District and associated Area Management Plans and supporting information on opportunities for improvements and constraints (see Figure 8)”.

Policy 64 ‘Flood Risk’

“Development proposals should avoid areas susceptible to flooding and promote sustainable flood management.

Development proposals within or bordering medium to high flood risk areas, will need to demonstrate compliance with Scottish Planning Policy (SPP) through the submission of suitable information which may take the form of a Flood Risk Assessment.

Development proposals outwith indicative medium to high flood risk areas may be acceptable. However, where:

- better local flood risk information is available and suggests a higher risk;
- a sensitive land use (as specified in the risk framework of Scottish Planning Policy) is proposed, and/or;
- the development borders the coast and therefore may be at risk from climate change;

A Flood Risk Assessment or other suitable information which demonstrates compliance with SPP will be required.

Developments may also be possible where they are in accord with the flood prevention or management measures as specified within a local (development) plan allocation or a development brief. Any developments, particularly those on the flood plain, should not compromise the objectives of the EU Water Framework Directive.

Where flood management measures are required, natural methods such as restoration of floodplains, wetlands and water bodies should be incorporated, or adequate justification should be provided as to why they are impracticable”.

Policy 66 ‘Surface Water Drainage’

“All proposed development must be drained by Sustainable Drainage Systems (SuDS) designed in accordance with The SuDS Manual (CIRIA C697) and, where appropriate, the Sewers for Scotland Manual 2nd Edition. Planning applications should be submitted with information in accordance with Planning Advice Note 69:

Planning and Building Standards Advice on Flooding paragraphs 23 and 24. Each drainage scheme design must be accompanied by particulars of proposals for ensuring long-term maintenance of the scheme”.

Policy 69 ‘Electricity Transmission Infrastructure’

“Proposals for overground, underground or sub-sea electricity transmission infrastructure (including lines and cables, pylons/ poles and vaults, transformers, switches and other plant) will be considered having regard to their level of strategic significance in transmitting electricity from areas of generation to areas of consumption. Subject to balancing with this consideration, and taking into account any proposed mitigation measures, the Council will support proposals which are assessed as not having an unacceptable significant impact on the environment, including natural, built and cultural heritage features. In locations that are sensitive, mitigation may help to address concerns and should be considered as part of the preparation of proposals. This may include, where appropriate, underground or sub-sea alternatives to overground route proposals. Where new infrastructure provision will result in existing infrastructure becoming redundant, the Council will seek the removal of the redundant infrastructure as a requirement of the development”.

Policy 77 ‘Public Access’

“Where a proposal affects a route included in a Core Paths Plan or an access point to water, or significantly affects wider access rights, then The Council will require it to either:

- retain the existing path or water access point while maintaining or enhancing its amenity value; or
- ensure alternative access provision that is no less attractive, is safe and convenient for public use, and does not damage or disturb species or habitats.

For a proposal classified as a Major Development, the Council will require the developer to submit an Access Plan. This should show the existing public, non-motorised public access footpaths, bridleways and cycleways on the site, together with proposed public access provision, both during construction and

after completion of the development (including links to existing path networks and to the surrounding area, and access point to water)".

Appendix 2: The Renewable Energy Framework

1.1 Introduction

1.1.1 This Appendix explains the need case for the proposed development in terms of international, UK and Scottish Government renewable energy policy. This element of the policy framework constitutes an important material consideration. Reference is made below to:

- International and European climate change and energy policy;
- UK energy policy; and
- Scottish Government energy policy associated targets.

1.2 International Policy Considerations

International Agreements and Obligations – The COP21 UN Paris Agreement

1.2.1 The Paris Agreement (12 December 2015) sets out (page 2) that it "*emphasises with serious concern*" the need to hold the increase in global average temperature to "*well below 2°C*" above pre-industrial levels and to pursue "*efforts to limit the temperature increase to 1.5°C*". In order to achieve this long term temperature target, the text states "*parties aim to reach global peaking of greenhouse gas emissions as soon as possible*". The document also includes a ratcheting mechanism on climate action, with countries having to communicate nationally determined contributions to reducing global emissions. The first global "stocktake" is to take place in 2023 and will follow every five years thereafter.

1.2.2 It is clear that moving to a low carbon economy is now a globally shared goal and will require absolute emission reduction targets. For the first time, some 195 countries, including the world's largest emitters have now committed to act together to address climate change and to be held equally accountable. Countries will also be legally obliged to make new post-2030 commitments to reduce emissions every five years.

EU Policy Targets

1.2.3 In January 2008 the European Commission (EC) published a '20-20-20' targets package. This included proposals for:

- A reduction in the EU's greenhouse gas emissions of at least 20% below 1990 levels;
- Increasing the proportion of final EU energy consumption from renewable sources to 20%; and
- A 20% reduction in primary energy use compared with projected levels, to be achieved by improving energy efficiency.

1.2.4 These targets are to be achieved by 2020, as set out in the EU Renewable Energy Directive (March 2009¹⁴). The 20% is split between Member States. For the UK, the EC's obligations include 16% reduction in UK greenhouse gas emissions by 2020 and for 15% of all energy consumed in the UK to come from renewable sources by 2020.

¹⁴ Following Brexit the UK may or may not be released from its renewable energy targets under the EU Renewable Energy Directive, depending on the terms of withdrawal and a future relationship. The availability of funding from EU institutions may impact the deployment of capital-intensive projects such as offshore wind. However, given that the UK would still be bound by national and international de-carbonisation obligations (see above), it is anticipated that renewable and low carbon energy development would continue to form part of UK Government climate change policy. However, for present purposes the above legal obligations related to the 2020 and related targets are considered to remain fully in place.

1.2.5 The position as of the end of 2017 (the last full year for which figures are available) was that renewable energy only accounted for approximately 10.2% of energy consumption in the UK, well short of the 15% target¹⁵.

1.3 United Kingdom Energy Policy

1.3.1 Energy policy is a matter reserved to the Westminster Parliament. The UK Government therefore retains control of the overall direction of energy policy including the attainment of UK national targets on renewable energy generation.

1.3.2 Although the overarching position in the UK is that energy policy is not a devolved matter, major policy documents such as the UK Renewable Energy Roadmap have embraced actions across the UK as a whole. Such documents have also made clear that the Devolved Administrations play an important role in the attainment of overall UK and European targets for renewable electricity. While some of the devolved administrations do not have the core competencies over energy policy, it has not prevented them issuing a range of policy statements and 'Routemaps' for renewable energy and the low carbon agenda for their own territory. The Scottish Government has been engaged in policy making over successive Governments on the topic of renewable energy and there is no evidence that they have been at all trammelled in this activity by Whitehall or Westminster.

1.3.3 In the recent Corlic Hill Wind Farm Appeal decision¹⁶ (17 May 2016) the Reporter examined the position of the UK with regard to European renewable energy targets in some detail. In summary, the Reporter stated that it was necessary to take into account UK Government energy policy in his planning determination. In terms of whether or not the UK was likely to miss its binding European renewable energy and greenhouse gas emission targets for 2020 the Reporter stated at paragraph 24:-

"however, as the Planning Authority accepts, these targets are not caps. There would clearly be public benefit in avoiding the potentially very significant fines that could be levied against the UK in the event that binding targets were not met. However, of much greater public benefit, in my view, is the proposal's potential 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 effective renewable energy infrastructure. The proposal would contribute to such benefits regardless of whether it is required in order to achieve the UK 2020 targets".

The UK Renewable Energy Strategy (2009)

1.3.4 The UK Renewable Energy Strategy ("UKRES") sets out the means by which the UK can meet the legally binding target of 15% of energy consumption from renewable sources by 2020¹⁷. It presents a 'lead scenario' that more than 30% of electricity should be generated from renewables by 2020¹⁸.

1.3.5 The Strategy was published by the UK Government: however, the policies to meet the 2020 targets will be taken forward in England, Scotland and Wales, Great Britain or on a UK-wide basis as appropriate and in accordance with each devolution arrangement. The document makes it clear that each of the Devolved Administrations is setting out its own plan to increase renewable energy use and that *"the UK*

¹⁵ DECC, Digest of UK Energy Statistics (July 2018), Chapter 6. Onshore wind remains the leading technology in terms of UK renewable capacity, at 31.7% recorded for 2017.

¹⁶ Corlic Hill Wind Farm Appeal Decision – An 8 turbine scheme by Greenock, Inverclyde. Decision dated 17 May 2016. DPEA ref: PPA-280-2022. The paragraphs of relevance in this Decision Letter are 20 through to 25.

¹⁷ Renewable energy accounted for 10.2% of UK energy consumption in 2017 (Source: DECC, Digest of UK Energy Statistics (DUKES) July 2018).

¹⁸ The contribution of all renewables to UK electricity generation was 29.3% in 2017, (*Ibid*).

Government and the Devolved Administrations are working together to ensure that our plans are aligned".

The UK Renewable Energy Roadmap: Updates (2012 & 2013)

- 1.3.6 The UK Renewable Energy Roadmap Update of 2012 emphasised that there was an urgent need for new large scale renewable energy projects to ensure the 2020 targets were met, as well as wider decarbonisation and ambitions (para 2.5). It also made it clear that the central ranges of renewable deployment as set out in the Roadmap of 2011 *"did not represent technology specific targets or the level of our ambition"*. Specifically (para 2.10) it made clear that the reference in the Roadmap 2011 of potentially having in place 13 Giga Watts ("GW") of onshore wind capacity by 2020 did not represent a technology specific target.
- 1.3.7 On 6 November 2013 the former Coalition Government published an update to the UK Renewable Energy Roadmap following publication of the original document in 2011. Onshore wind is referred to on page 44. Paragraph 114 states that *"onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a responsible and balanced UK energy policy"*.

The UK Clean Growth Strategy (2017)

- 1.3.8 The UK Government published the Clean Growth Strategy 'Leading the Way to a Low Carbon Future' in October 2017. The Clean Growth Strategy (CGS) strategy defines 'clean growth' as *"growing our national income while cutting greenhouse gas emissions. Achieving clean growth, while ensuring an affordable energy supply for businesses and consumers, is at the heart of the UK's Industrial Strategy"*.
- 1.3.9 The introduction refers to the 2015 Paris Agreement and states that the actions and investments that will be needed to meet the Paris commitments will ensure the shift to clean growth will be at the forefront of policy decisions made by Government in coming decades.
- 1.3.10 Background reference is made to the 2008 Climate Change Act which committed the UK to reducing greenhouse gas emissions by at least 80% by 2050 when compared to 1990 levels and the associated carbon budgets. The Government states that in order to meet the 4th and 5th carbon budgets (covering the periods 2023 – 2027 and 2028-2032) *"we will need to drive a significant acceleration in the pace of decarbonisation and in this strategy we have set out stretching domestic policies that keep us on track to meet our carbon budgets"*.
- 1.3.11 The CGS sets out a comprehensive set of policies and proposals that aim to accelerate the pace of clean growth i.e. to deliver increased economic growth and decreased emissions. It adds *"in order to meet these objectives the UK will need to nurture low carbon technologies, processes and systems that are as cheap as possible"*.

The UK Industrial Strategy (2017)

- 1.3.12 The Industrial Strategy White Paper entitled 'Building a Britain fit for the Future' was published by the UK Government in November 2017. The Strategy's overall aim is to create an economy that boosts productivity and earning power throughout the UK. What is termed 'grand challenges' are set to put the UK at the forefront of the industry of the future and one of these is entitled 'clean growth'. The Government states that *"we will maximise the advantages for UK industry from the global shift to clean growth"*.
- 1.3.13 The 'key policies' in the strategy relate to ideas, people, the business environment, places and infrastructure. Clean growth is addressed at page 42 *et seq* and it is set out that *"we will maximise the advantages for UK industry – through leading the world in the development, manufacture and use of low carbon technologies, systems and services which cost less than high carbon alternatives"*.

Conclusions on UK Energy Policy

1.3.14 UK energy policy, as summarised above is a reserved matter and remains the responsibility of the UK Government. At a UK level there are clear renewable energy, electricity and carbon emission saving targets for 2020, but also stretching in the long term to 2050 and beyond.

1.3.15 It is relevant to take UK energy policy into account and as the Reporter in the recent Corlic Hill Wind Farm Appeal decision set out, wind farm proposals will contribute to the wider public benefit in terms of renewable energy and electricity generation regardless of whether or not they are required in order to achieve UK targets by 2020. The Reporter in the Corlic Hill decision also made clear at paragraph 25 of the decision letter for that scheme that:

"it is clear that the UK Government is less willing to provide financial support to onshore wind energy than before. However, that shift in policy does not amount to an instruction that such proposals should no longer be permitted. In any event, although energy policy is a reserved matter, climate change and planning policy are not. My role in this proposal is to determine whether planning permission should be granted. Therefore while I have had regard to UK energy policy and to the evidence of performance against binding European targets, I have also had regard to Scottish climate change and planning policy and to Scottish targets...."

1.3.16 Furthermore, in the Whitelaw Brae section 36 decision (paragraph 2.2) references UK policy as *"an important factor to be taken into account"*.

1.3.17 The decision states energy is not a devolved matter and it is necessary therefore to take account of UK policy. The Inquiry Report (IR) adds that such policies are influenced by binding EU targets and by other international agreements *"with which it [the UK] must comply"*.

1.3.18 Paragraphs 2.68 and 2.69 of the Whitelaw Brae IR are also helpful, particularly the latter with regard to the changes in UK Government policy. The Reporter said the following at para 2.69.

"there have been changes in the UK Government policy towards energy, with an increase in desire for the industry to be market – rather than subsidy driven. This has led to the withdrawal from onshore wind energy schemes, although we have seen no evidence that this amounts to a formal change in policy towards the implementation of that technology, merely towards how it is funded" (underlining added).

1.4 Scottish Government Policy and Renewable Energy Generation Targets

1.4.1 In recent years there has been a large number of Scottish Government policy documents (as well as statute) on the topic of climate change and renewable energy. In this section the following documents are referred to, with key policy objectives and targets highlighted:

- The Climate Change (Scotland) Act 2009;
- The 2020 Routemap for Renewable Energy in Scotland (2011);
- The Electricity Generation Policy Statement (2013);
- The 2020 Routemap for Renewable Energy in Scotland – Updates (2013 & 2015);
- The Scottish Energy Strategy (2017);
- The Onshore Wind Policy Statement (2017);
- The Climate Change Plan (2018); and
- The Climate Change (Emissions Reduction Targets) (Scotland) Bill 2018.

The Climate Change (Scotland) Act 2009

- 1.4.2 The 2009 Act is the key legislation in Scotland dealing with climate change and carbon targets. Part 1 of the Act creates the statutory framework for greenhouse gas house emission reductions by setting an interim 42% reduction target for 2020 and an 80% reduction target for 2050. To help ensure the delivery of these targets, the Act also requires that the Scottish Ministers set annual targets in secondary legislation, for Scottish emissions from 2010 to 2050. Part 4 of the Act also places climate change duties on Scottish public bodies.
- 1.4.3 The Scottish Government has now published its third Climate Change Plan (2018), setting out proposals and policies to drive emissions down by 66% by 2032.
- 1.4.4 The Scottish Government in 2017 set out proposals for a Climate Change Bill to contain more ambitious targets for the reduction of greenhouse gas emissions and ensure that obligations set under the Paris Agreement are met. The draft Bill was published in June 2017.
- 1.4.5 The Climate Change Plan sits alongside the Scottish Government's new Energy Strategy which was published in December 2017. Together these documents provide the Government's national level strategic framework to guide the transition for a low carbon Scotland. These more recent documents are referred to below.

The 2020 Routemap for Renewable Energy in Scotland (2011)

- 1.4.6 The Scottish Government published the 2020 Routemap in July 2011. The Executive Summary states that the Government is aiming to make Scotland "*the renewables powerhouse of Europe*".
- 1.4.7 Chapter 1 states that the renewables target of 100% equates to the equivalent of c.16 GW of installed capacity and to meet the target will "*demand a significant and sustained improvement over the deployment levels seen historically*" (page 26).
- 1.4.8 The Routemap also provided an increase in the Scottish Government's overall renewable energy target to 30% by 2020.
- 1.4.9 Chapter 3 of the Routemap provides a specific routemap for 'Onshore Wind' and is entitled 'Sectoral Routers'. The introduction notes that:
- 1.4.10 "*The Government is committed to the continued expansion of portfolio of onshore wind farms to help meet renewables targets ... Onshore wind turbines can make a very large contribution to the progress to Scotland's renewable electricity target, and help establish Scotland's reputation as rapidly becoming the green powerhouse of Europe thanks to its underlying political commitment to make it happen*" (page 66).

The Electricity Generation Policy Statement (2013)

- 1.4.11 The Scottish Government published the Electricity Generation Policy Statement ("EGPS") on 28 June 2013. The EGPS examines the way Scotland generates electricity and considers the changes necessary to meet the various targets in the sector set by Government. Paragraph 2 states that the report is built upon a sustainable, low carbon vision of Scotland's energy future and it states "*the need for a rapid expansion of renewable electricity across Scotland...*".
- 1.4.12 Paragraph 8 states that the report will assist the Scottish Government to comply with further statutory requirements under the Climate Change Scotland Act 2009. It also reiterates in paragraph 9 that the Government is committed to securing the transition to a low carbon economy, which is one of the six 'strategic priorities' laid out in the Government's Economic Strategy.
- 1.4.13 The report summarises the Scottish Government's targets and these are set out as inter alia:-
- Delivering the equivalent of at least 100% of gross electricity consumption from renewables by 2020 as part of a wider, balanced electricity mix;

- Enabling local and community ownership of at least 500 MW of renewable energy by 2020;
- Seeking increased interconnection and transmission upgrades capable of supporting projected growth and renewable capacity.

1.4.14 The report highlights that these targets underpin the Government's vision of a stable and desirable future generation mix for Scotland, built around the following key principles (paragraph 4):

- a secure source of electricity supply;
- at an affordable cost to consumers;
- which can be largely de-carbonised by 2030; and
- which achieves the greatest possible economic benefit and competitive advantage for Scotland including opportunities for community ownership and community benefits.

1.4.15 Paragraph 14 states that the 2020 target:

"is a challenge – to the energy supply sector, to our renewable industry and innovators and to Scotland's communities; it is both a statement of intent and a rallying call, embodying our firm belief that Scotland can and must exploit its huge renewables potential to the fullest possible extent – to help meet demand here and in Europe. It is as much about the value and importance of the journey as it is about the destination".

1.4.16 Paragraph 17 states that the Government estimates that the 100% target will require around 14-16GW of installed capacity to be deployed.

1.4.17 Page 11 of the report explains that the UK target is to produce 15% of all energy from renewable sources and an estimated 30% of electricity from renewable sources by 2020 and that this:

"will require connection to Scotland's vast energy resource and we will continue to work to connect Scotland to an ever more integrated UK and EU market".

1.4.18 The report cross refers to the 2020 Routemap for renewable energy in Scotland. Paragraph 32 reiterates the EU context and states that Scotland has the potential to make a "major contribution to the EU's overall renewables target".

The 2020 Routemap for Renewable Energy in Scotland – Updates (2013 & 2015)

1.4.19 The Routemap Update was published in December 2013. The Ministerial Forward states that *"Renewable energy is a central element of a strategy for a successful Scotland. Scotland's vast renewable energy resources create major job and investment opportunities and – as part of wider common balanced energy mix – will deliver secure, low carbon and cost effective energy supplies"* (page 3)

1.4.20 A further Routemap Update was published on 17 September 2015. The report provides statistics on deployment of renewables and provides sectoral updates. Page 13 states that *"onshore wind has a pivotal role in delivering our 2020 renewables targets..."*.

The Chief Planner Letter to All Heads of Planning (November 2015)

1.4.21 A letter from the Scottish Government Planning and Architecture Division to all Heads of Planning entitled 'Energy Targets and Scottish Planning Policy' was published on 11 November 2015.

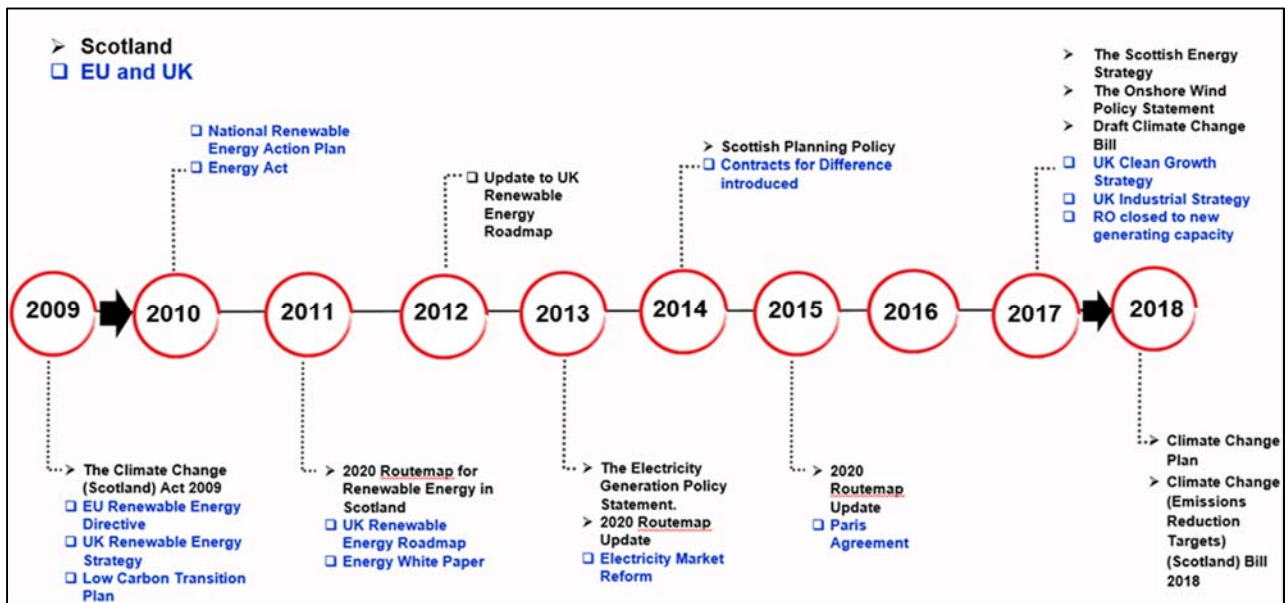
1.4.22 It sets out that despite some changes to UK policy, the Scottish Government's policy remains unchanged and that it *"supports new onshore renewable energy developments, including onshore wind farms and particularly community owned and shared ownership schemes"*. Importantly, it adds that *"this policy support continues in the situation where renewable energy targets have been reached"*.

- 1.4.23 In the letter, the Chief Planner re-emphasises that the Scottish Government's SPP (2014) and Electricity Generation Policy Statement (2013) set out the Scottish Government's current position on onshore wind farms. With regard to the 100% of gross electricity consumption from renewables target by 2020, it adds that the target is a statement of intent and that it is known that Scotland has the potential resource to deliver and exceed it. The letter adds that there is no cap on the support for renewable energy development, including onshore wind once the target has been reached.
- 1.4.24 Chapter 5 of the Planning Statement made reference to shared ownership as a potential benefit of the proposed development. The Heads of Planning Letter emphasises the importance of the opportunity presented by shared ownership. Whilst it highlights that ownership *per se* of any development is not a 'material consideration', paragraph 169 of SPP makes it clear that socio economic benefits *"are relevant material considerations in the determination of planning applications for renewable energy applications"*. The Heads of Planning Letter makes it clear that *"it is our expectation that such considerations are addressed in the determination of applications for renewable energy technologies"*.
- 1.4.25 The letter makes specific reference to the Government's related guidance on 'Good Practice Principles for Shared Ownership' and states that the guidance is designed to assist Planning Authorities communities and developers *"in considering a shared ownership renewable energy project within the planning system"*.

1.5 Recent Scottish Government Energy Documents

- 1.5.1 In December 2017 the Scottish Government published two energy policy documents with new targets and policy objectives, namely:
- the Scottish Energy Strategy 'The Future of Energy in Scotland' (SES); and
 - the Onshore Wind Policy Statement (OWPS).
- 1.5.2 The finalised Climate Change Plan was published in early 2018 and the Climate Change (Emissions Reduction Targets) (Scotland) Bill was introduced to Parliament in May 2018.
- 1.5.3 Figure 1.1 below illustrates a 'timeline' of key Scottish and UK Government renewable energy policy documents.
- 1.5.4 The SES and OWPS have materially strengthened the need case for onshore wind and the updated policy position has important implications for the approach to be taken when determining schemes such as the proposed development.
- 1.5.5 Whilst the SES and the OWPS provide yet more evidence of a continuum of ever stronger positive advice on onshore wind development as part of the Scottish Government's renewables strategy and are relevant for that reason alone, importantly they go further. They introduce new targets, including 50% of all energy use in 2030 should be from renewables. As a result, renewable electricity may need to generate 140% of Scotland's electricity needs. Schemes such as the proposed development are needed to contribute thereto.

Figure 1.1: Key Scottish and UK Renewable Energy Policy Documents and Milestone



The Scottish Energy Strategy (2017)

1.5.6 The SES sets a 2050 vision for energy in Scotland as *"a flourishing, competitive local and national energy sector, delivering secure, affordable, clean energy for Scotland's households, communities and businesses"*. The vision is guided by three core principles namely:

- A whole system view;
- An inclusive energy transition; and
- A smarter local energy model.

1.5.7 The 2050 vision is expressed around six priorities including:

"Renewable and low carbon solutions – we will continue to champion and explore the potential of Scotland's huge renewable energy resource, and its ability to meet our local and national heat, transport and electricity needs – helping to achieve our ambitious emissions reduction targets."

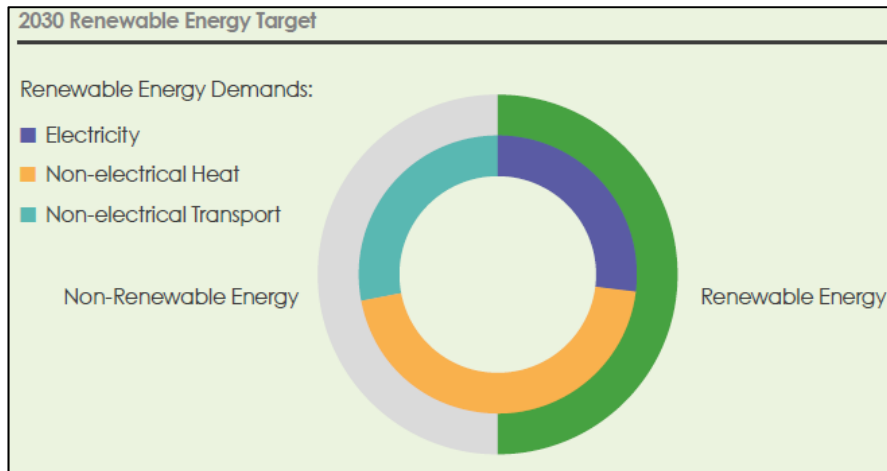
1.5.8 The strategy also contains new whole system targets for 2030 as follows:-

- The equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources;
- An increase by 30% in the productivity of energy use across the Scottish economy.

1.5.9 The longer-term target is further articulated on page 34 where it is stated: *"Scotland's long term climate change targets will require the near complete decarbonisation of our energy system by 2050, with renewable energy meeting a significant share of our needs."*

1.5.10 The new 50% target is illustrated in Figure 1.2 below.

Figure 1.2: The Make Up of the new 2030 Scottish Renewable Energy Target



Source: Scottish Energy Strategy (2017), page 35

1.5.11 The text supporting Figure 1.2 states: “*Scottish Government analysis underpinning this target, shows that renewable electricity – which has already outperformed our interim 2015 target of 50% – could rise to over 140% of Scottish electricity consumption, ensuring its contribution to the wider renewable energy target for 2030. This assumes a considerably higher market penetration of renewable electricity than today – requiring in the region of 17 GW of installed capacity in 2030 (compared to 9.5 GW in June 2017)* (underlining added).*”

1.5.12 This increase in renewable generation will require an almost doubling of current capacity.

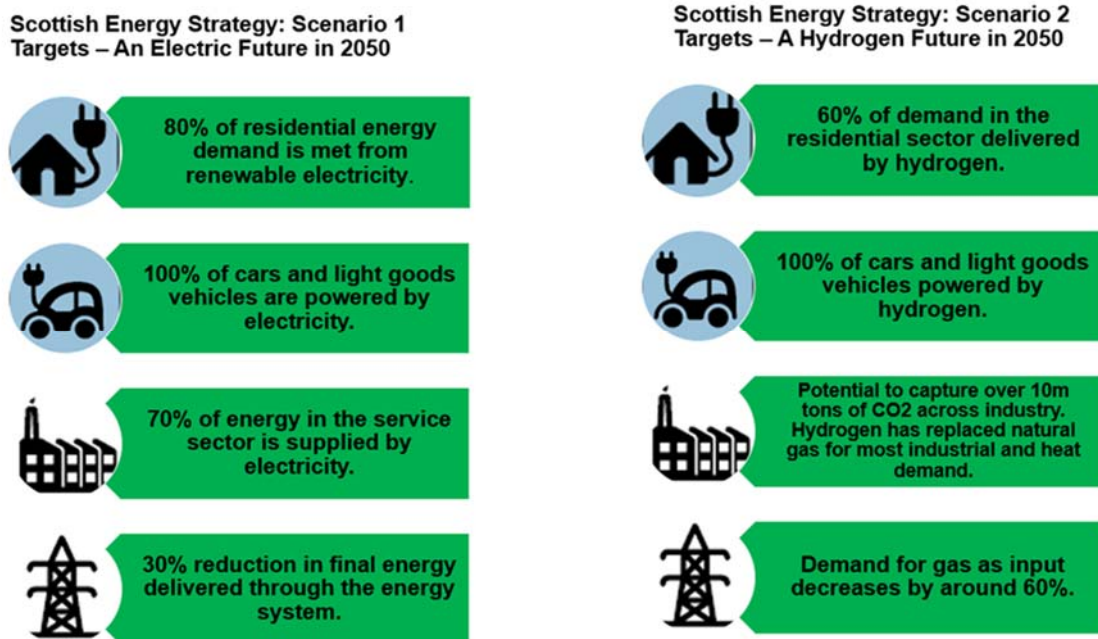
Scotland in 2050 – Two Energy System Scenarios

1.5.13 The SES sets out two illustrative scenarios for the whole energy system in 2050 consistent with the Government’s climate change targets (page 24-25). These illustrate how low carbon electricity and hydrogen could be used to meet demand across the industry, services, residential and transport sectors. The SES stresses that these are illustrative and designed to assist understanding of what infrastructure and behaviours might be required under different future scenarios.

1.5.14 It is set out that the energy system in 2050 will probably include aspects of both scenarios and it is recognised that given the likely pace of technological change across the energy sector over the next three decades, that this will have a huge bearing on the energy system. Both scenarios represent radical changes to the energy system and would require sustained investment, high levels of public acceptance and support across wider society.

1.5.15 Given the strength of the renewable sector in Scotland it is not surprising that the SES sets out that renewable and low carbon energy will provide the foundation of the future energy system and it is also recognised that this sector and approach offers a huge opportunity for economic and industrial growth.

Figure 1.3: Scenarios for 2050 in the Scottish Energy Strategy



Source: JLL, with targets taken from Scottish Energy Strategy (2017), pages 26-29

1.5.16 Renewable electricity will play a fundamental role for the primary energy generation under all scenarios. In the ‘Hydrogen’ scenario the currently demonstrated viable hydrogen source is through electrolysis using (renewable) electricity. The proposed development would make a valuable contribution to both scenarios and a hybrid approach.

Scottish Energy Strategy – Onshore Wind

1.5.17 The SES refers to “Renewable and Low Carbon Solutions” as a strategic priority (page 41) and states “we will continue to champion and explore the potential of Scotland’s huge renewable energy resource, its ability to meet our local and national heat, transport and electricity needs – helping to achieve our ambitious emissions reduction targets”.

1.5.18 Onshore wind is identified as a key technology and the SES states “we will push for UK wide policy support for onshore wind, and take action of our own to prioritise and deliver a route to market – combined with a land use planning approach which continues to support development while protecting our landscapes”.

1.5.19 The Government has highlighted the importance of the need for onshore wind to have a route to market and the importance of this consideration is clearly emphasised in the final SES.

1.5.20 The SES goes on to set out what is termed the “Opportunity” for onshore wind and there is explicit recognition that onshore wind is amongst the lowest cost forms of power generation of any kind which will allow it to contribute to one of six priorities, which is “to protect consumers from excessive or avoidable costs” (Page 8). It is also recognised as “a vital component of the huge industrial opportunity that renewables creates for Scotland”. Reference is made to the employment levels and economic activity derived from onshore wind and the SES sets out that the Government is “determined to build on these strengths”.

1.5.21 The SES sets out the Government’s clear position on onshore wind namely:

"our energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland's future – helping to decarbonise our electricity, heat and transport systems, boosting our economy, and meeting local and national demand."

"That means continuing to support development in the right places, and – increasing the extension and replacement of existing sites with new and larger turbines, all based on an appropriate, case by case assessment of their effects and impacts and it means developers and communities working together and continuing to strike the right balance between environmental impacts, local support, benefits, and – where possible economic benefits driving from community ownership" (underlining added).

1.5.22 The SES adds:

"this can be done in a way which is compatible with Scotland's magnificent landscapes, including our areas of wild land. This means that the relevant planning and consenting processes will remain vitally important. A major review of the Scottish planning system is well underway, and will continue as now to fully reflect the important role of renewable energy and energy infrastructure, in the right places".

1.5.23 The SES goes on to cross refer to further detail in relation to onshore wind as contained within the Onshore Wind Policy Statement (OWPS) which has been published alongside the SES. The SES therefore, in addition to setting new stretching renewable energy and electricity targets, gives unequivocal strong policy support for the further development of onshore wind. In essence there is a renewed and enhanced impetus being imparted, rather than just a continuation of previous support.

1.5.24 Page 69 references "near term actions" for onshore wind including:

- *"Build on the positive and practical provision for onshore wind in our planning system under the next National Planning Framework and Scottish Planning Policy; and*
- *Implement the new Onshore Wind Policy Statement, which underlines the continued importance of this established low cost resource".*

1.5.25 On the basis of the near term actions for onshore wind in the SES (see above), it can be anticipated that these new national planning policy documents, with their enhanced status, will reflect this strong support for onshore wind now set out in the SES and OWPS.

The SES & Shared Ownership

1.5.26 The SES also addresses shared ownership in relation to renewable energy projects (page 42) and states that the Government wants *"to see a significant increase in shared ownership of renewable energy projects in Scotland – putting energy into the hands of local communities, and delivering a lasting economic asset to communities across Scotland".*

1.5.27 The Government's ambition remains to ensure that by 2020 at least half of newly consented renewable energy projects have an element of shared ownership.

1.5.28 Shared ownership is recognised as playing a key part in helping to meet the target of 1GW of community and locally owned energy by 2020 and 2GW by 2030. The SES adds that the Government expects *"community involvement in onshore wind developments to continue to play a vital role in reaching these targets".*

1.5.29 This policy support is highly relevant to the consideration of the proposed development and the Applicant's commitment to shared ownership. This is further addressed in Chapter 5, above.

The Onshore Wind Policy Statement (2017)

- 1.5.30 The OWPS sets out the up to date national policy position in relation to onshore wind. The Ministerial Foreword sets out that *"there is no question that onshore wind is a vital component of the huge industrial opportunity that renewables more generally create for Scotland"*.
- 1.5.31 It adds *"our energy and climate change goals mean that onshore wind will continue to play a vital role in Scotland's future – helping to substantively decarbonise our electricity supplies, heat and transport systems, thereby boosting our economy."*
- 1.5.32 Key relevant provisions of the statement are set out below.
- 1.5.33 Chapter 1 is entitled 'Route to Market' and it sets out (paragraph 2) that onshore wind, as a mature and established technology, is now amongst the lowest cost forms of generating electricity, renewable or otherwise. It adds *"we expect onshore wind to remain at the heart of a clean, reliable and low carbon energy future in Scotland"*.
- 1.5.34 Establishing a route to market is essential to enable wider deployment and an increased contribution from onshore wind. In a subsidy free context, it will be the larger scale developments that can capture a good wind resource which will make a valuable early contribution to targets.
- 1.5.35 Paragraph 3 continues:
- "In order for onshore wind to play its vital role in meeting Scotland's energy needs, and a material role in growing our economy, its contribution must continue to grow. Onshore wind generation will remain crucial in terms of our goals for a decarbonised energy system, helping to meet the greater demand from our heat and transport sectors, as well as making further progress towards the ambitious renewable targets which the Scottish Government has set"*.
- 1.5.36 The statement therefore makes it very clear that onshore wind is expected to make a significant contribution to Scotland's energy needs including renewable targets into the long term. A number of parties opposed to onshore wind farms have in recent years continued to advance an argument that because Scotland's 2020 target in relation to the generation of renewable electricity could be within reach, that less weight should be placed on the contribution and benefits that could arise from onshore wind energy. The Chief Planner Letter on energy targets of November 2015 rejected such an approach. Now the Government's OWPS very clearly demonstrates that it does not support such a position being taken whatsoever – onshore wind is viewed as having a vital role in terms of the attainments of the Government's environmental and economic goals.
- 1.5.37 Paragraph 4 of Chapter 1 states that given the recognised contribution that onshore wind is expected to make to Scotland's future energy and renewable targets *"this means that Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated"*. This statement not surprisingly therefore continues the current approach as set out in Scottish Planning Policy (SPP) that, whilst there is a very strong need case for further onshore wind development, environmental considerations are factors to be taken into account in the operation of the planning system. This principle is reflected throughout the OWPS.
- 1.5.38 Paragraph 8 of Chapter 1 emphasises the industrial opportunity presented by a growing onshore wind sector and it states that *"the extent to which we can continue to capture these benefits, remains a top priority for Scottish Ministers"*.
- 1.5.39 The document makes a number of references to the industrial operations (tower manufacture) of CS Wind in Campbeltown which it states *"serves as a reminder of Scotland's ability to serve these markets – we are determined to build upon that, and to continue to attract investment in jobs to Scotland"*. The role of onshore wind in sustaining and further growing the supply chain for the sector is therefore a very important consideration and this is recognised in SPP at paragraph 169.

- 1.5.40 Importantly and given the recognition that onshore wind is amongst the lowest cost forms of generating electricity, paragraph 13 makes it clear that the Government's position is that they wish to *"ensure that consumers are able to benefit from the low cost contribution onshore wind can make to a decarbonised energy future – but at no additional cost to their energy bills"*.
- 1.5.41 One of the key questions posed in the draft OWPS was whether the matter of efficiency should be a material consideration in the section 36 application process. The Government decided not to pursue this matter but at paragraph 32 sets out *"they continue to invite applications to explain clearly how environmental impacts have been balanced against energy yield during design iteration, and reported as part of the information provided in support of applications"*.
- 1.5.42 The Applicant has demonstrated that their carefully considered design approach has sought to achieve a well-designed development with acceptable impacts whilst at the same time – is able to generate a valuable contribution to renewable energy and electricity targets. The site is anticipated to have a higher than average capacity factor¹⁹.
- 1.5.43 Paragraph 23 states that the Scottish Ministers *"acknowledge that onshore wind technology and equipment manufacturers in the market are moving towards larger and more powerful (i.e. higher capacity) turbines and that these by necessity – will mean taller towers and blade tip heights"*.
- 1.5.44 Chapter 3 of the OWPS addresses 'a strategic approach to development' and states that whilst this was a key matter posed in the draft OWPS in terms of whether a new strategic approach to wind farm site development should be taken in Scotland, Scottish Ministers have taken the view that the current system described in the consultation as "business as usual" continues to represent an effective and efficient process for considering applications for developments in excess of 50MW.
- 1.5.45 The business as usual approach encompasses the Table 1 Spatial Framework methodology which guides the location of acceptable development – again, the consistency of the proposed development to the Spatial Framework as set out in the Development Plan and in SPP has been fully explained – the application site is effectively a Group 3 location.

The Climate Change Plan (2018)

- 1.5.46 The Scottish Government published a draft Climate Change Plan ("CCP") – 'the draft Third Report on Policies and Proposals 2017 – 2032 (RPP3)' on 19 January 2017 under the provisions of the Climate Change (Scotland) Act 2009.
- 1.5.47 A final version of the CCP was published in early 2018 and is intended to be the last produced under the 2009 Act. Future CCPs are to be developed following the passage through the Scottish Parliament of the proposed Climate Change Bill (see below) and it will be at that stage Scottish Ministers will consider what policies and proposals are necessarily to deliver against the new targets.
- 1.5.48 The finalised Climate Change Plan (CCP) was published in late February 2018. Part One sets out the context for the Scottish Government's climate change proposals and policies. It illustrates the emissions reductions pathway to 2032 and the crucial roles that will be played by local authorities and the wider public sector (and the planning system) and communities to reduce emissions by 66% by 2032.
- 1.5.49 The CCP confirms the Scottish Government supports the Paris Agreement, which sets the standard for the international response to climate change.

¹⁹ Capacity or 'load factor' is the amount of electricity generated from a Wind Farm compared with the amount that such turbines would have generated had they been available for the whole of a year and running continually and at maximum output. The Scottish average capacity factor is circa 27% therefore the output and contribution to various targets that this particular development can make is an important consideration.

1.5.50 In terms of the electricity sector, the CCP states that:

- By 2032, Scotland's electricity system will supply a growing share of Scotland's energy needs and by 2030, 50% of all Scotland's energy needs will come from renewables (page 15).
- By 2032, Scotland's electricity system will be largely decarbonised and be increasingly important as a power source for heat and transport.
- Electricity will be increasingly important as a power source for heat and in transport to charge Scotland's growing fleet of ultra-low emission vehicles.

1.5.51 The CCP states "*Our decarbonisation pathway towards 2032 will be a challenging one, requiring collective efforts from all sectors of the society, but addressing climate change is both a moral and economic imperative, and the Scottish Government is determined to contribute to the global effort for the benefit of our own citizens, and humanity in general*" (page 19).

1.5.52 The 'vision' set out is that by 2032, Scotland will have reduced its emissions by 66% against 1990 levels. It adds that "*this will be an enormous transformational change*" (page 22) (underlining added).

1.5.53 The CCP states that later in 2018, the Scottish Government will introduce a new Climate Change Bill with even more ambitious targets than those prescribed by the 2009 Act and, in so doing, Scotland will become one of the first countries in the world to legislate to support the aims of the Paris Agreement (page 27).

1.5.54 Chapter 1 addresses electricity and states "*our ambition for the electricity sector, as set out in this chapter, is consistent with the Scottish Government's Energy Strategy published in December 2017. In 2032, Scotland's electricity system will be largely decarbonised. The system will be powered by a high penetration of renewables, with security of supply and system resilience aided by a range of flexible and responsive technologies*" (page 67).

1.5.55 Policy proposals include:

- Policy Outcome 1: "*From 2020 onwards, Scotland's electricity grid intensity will be below 50 grams of carbon dioxide per kilowatt hour. The system will be powered by a high penetration of renewables, aided by a range of flexible and responsive technologies*;" (page 69) (underlining added)
- Policy Outcome 2: "*Scotland's energy supply is secure and flexible, with a system robust against fluctuations and interruptions to supply*" (page 74).

1.5.56 As explained in Chapter 1 of this Planning Statement, it is the Applicant's intention to retain the construction compound located immediately adjacent to the substation for purpose of potentially hosting a permanent co-located energy storage facility. This is anticipated to comprise a lithium-ion battery technology solution, with modular elements comprising a number of battery housings.

1.5.57 Reference is made to the SES which the CCP states contains proposals that will increase the level of renewable electricity generation, including new targets and commitments to continue supporting the key renewable generation technologies. These include:

- A new renewable, all energy consumption target of 50% by 2030, covering electricity, heat and transport; and
- Renewed efforts to secure routes to market (page 74).

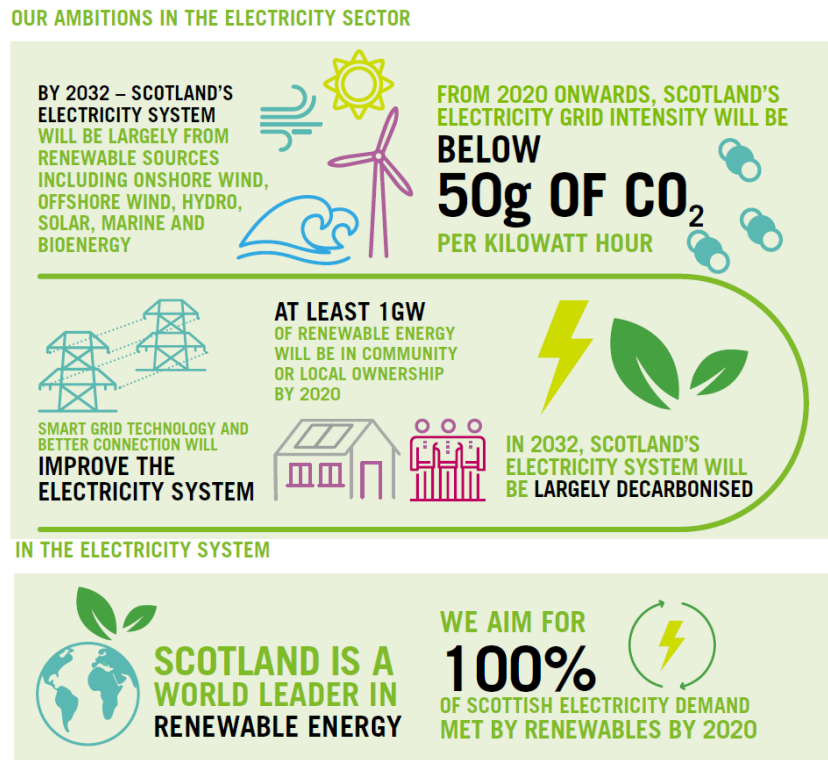
1.5.58 'Implementation indicators' for policy outcomes 1 and 2 include:

- Increase the amount of electricity generated from renewable sources in Scotland.
- Increase the installed capacity of sites generating electricity from renewable sources in Scotland. By 2030, it is expected that the installed capacity of renewable electricity generation sources will be between 12GW and 17GW.

- Increase total community and locally owned renewable energy capacity.
- Increase total renewable capacity in Scotland by planning stage.
- Increase the share of electricity generated from renewable sources, as a proportion of total electricity generated in Scotland.

1.5.59 Extract Illustration from the CCP of 'Ambitions in the Electricity Sector' are provided below.

Figure 1.4: Extract Illustration from the CCP of 'Ambitions in the Electricity Sector'



The Climate Change (Emissions Reduction Targets) (Scotland) Bill (2018)

1.5.60 On 23 May 2018 the Climate Change (Emissions Reduction Targets) (Scotland) Bill was introduced to Parliament.

1.5.61 The primary objective of the Bill is to raise the ambition of the greenhouse gas emissions reduction targets as set out in the Climate Change (Scotland) Act 2009 (The 2009 Act) and associated Regulations.

1.5.62 The Policy Memorandum for the Bill sets out at paragraph 4, that the 2009 Act established Scotland as a world leader in tackling climate change and in response to the United Nations Framework Convention and Climate Change Paris Agreement, the Bill re-affirms the Scottish Government's commitment to remain "at the forefront of global ambition".

1.5.63 The Bill increases the target levels for 2020 and 2050 and introduces interim targets for 2030 and 2040. The interim and 2050 target levels proposed are as follows:-

- A 56% reduction by 2020;
- A 66% reduction by 2030;
- A 75% reduction by 2040; and
- A 90% reduction by 2050.

1.5.64 The Memorandum sets out that *“these target levels are arguably the most ambitious legislative targets in the world ...”*.

1.5.65 The Memorandum also makes it clear that the Scottish Ministers are committed to achieving net – zero emissions as soon as possible, and putting a target year into effect as soon as there is sufficient evidence that doing so would be credible.

1.5.66 Paragraph 45 of the Memorandum adds that the 90% target is both ambitious and credible and achieving the annual targets that lead to it *“will require challenging actions across all sectors of the Scottish Economy to reduce emissions ...”*.

1.5.67 The latest addition to the large body of relevant legislative and policy documents with regard to renewable energy and climate change, namely the very recent Climate Change Bill, further demonstrates the Scottish Government’s scale of ambition and commitment to that overall policy objective. The proposed development would clearly contribute to the attainment of such goals.

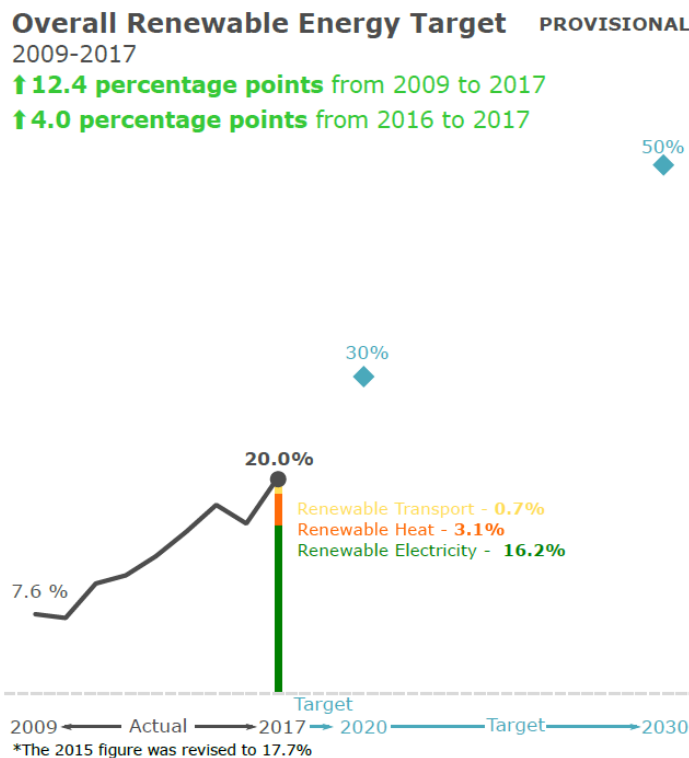
1.5.68 The proposed Bill is expected to become legislation in 2019.

1.6 Progress to the Scottish 2020 Renewable Energy & Electricity Targets

Renewable Energy

1.6.1 The Scottish Government’s target is to achieve 30% of total Scottish energy use from renewable sources by 2020. The Government’s recently published ‘Energy Statistics for Scotland’ (December 2018) show that in 2017, 20% of total Scottish energy consumption came from renewable sources. This is illustrated in Figure 1.5 below.

Figure 1.5: Performance against 2030 Renewable Energy Target: Period 2009-2017

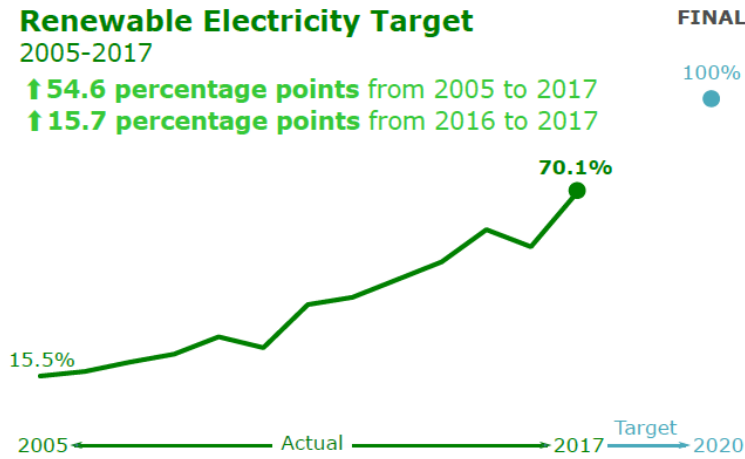


Renewable Electricity

1.6.2 As noted above, the ‘2020 Routemap for Renewable Energy in Scotland’ published in 2011 states that the 2020 target of delivering the equivalent of 100% of Scottish electricity consumption from renewables will demand a significant and sustained improvement over the deployment levels seen historically.

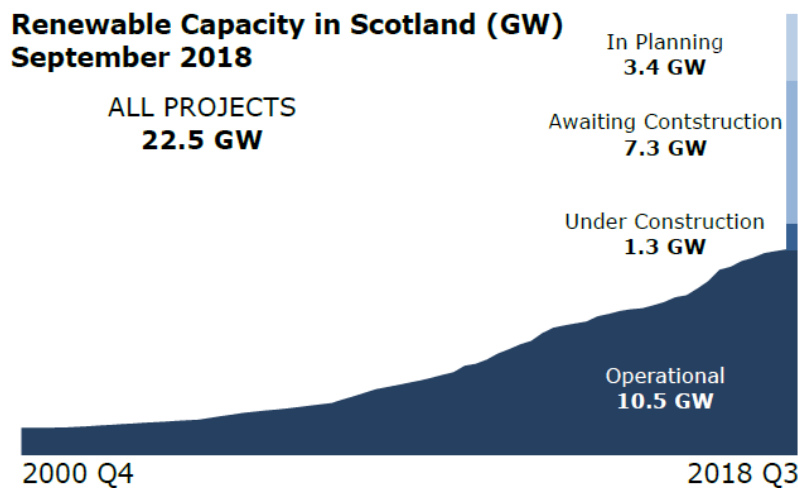
- 1.6.3 The 2020 100% electricity target equates to around 16GW of installed renewables capacity.
- 1.6.4 The Scottish Government estimates that in 2017, renewable sources generated the equivalent of approximately 70.1% gross electricity consumption²⁰. This is illustrated in Figure 1.6 below.

Figure 1.6: Performance against 2020 Renewable Electricity Target: 2005 - 2017



- 1.6.5 Figures released from the Scottish Government²¹ show that as of March 2018, Scotland had 10.5GW of installed (operational) renewable electricity generation capacity, with an additional 8.6 GW of capacity either under construction or consented. Figure 1.7 below illustrates Scotland’s renewable capacity by stage in the planning process.

Figure 1.7: Renewable Capacity in Scotland by Planning Stage, as of September 2018



- 1.6.6 Figure 1.7 illustrates that there remains a significant shortfall against the Scottish 2020 renewable electricity generation target as the ‘operational’ and ‘under construction’ figures together only amount to 11.8GW. The proposed development would make a valuable contribution to what remains an unmet and uncapped target for 2020 which is c.16GW.

²⁰ Scottish Government, Energy Statistics for Scotland, (December 2018).

²¹ *ibid.*

- 1.6.7 As explained above, there also remains a significant shortfall against the UK targets for 2020 in terms of renewable electricity and energy generation, to which the proposed development would contribute.
- 1.6.8 The Reporter in the Caplich s.36 decision, in addressing overall conclusions and recommendations, made reference to relevant International, UK and Scottish policy on renewable energy. A paragraph 8.5 he stated "*International Agreements on renewable energy delivery and greenhouse gas emissions to which the UK is a signatory, some of which will remain binding irrespective of European Union membership, will pose a significant challenge going forward*".
- 1.6.9 The Reporter went on to make reference to UK and Scottish Government targets and to the view that greater weight should be given to Scottish Government policy and stated at paragraph 8.7 "*that being the case, the contribution this proposal would make to these targets is a factor in its favour, to which significant weight should be attached*".
- 1.6.10 The Reporter added at paragraph 8.9 "*in any event, there can be no doubt that the targets are minimum levels to be achieved rather than caps that must not be exceeded. The Scottish Government has made it clear that it will continue to support the principle of onshore wind, even if or when current targets are met*".
- 1.6.11 The decision also confirms that national planning policy as set out in NPF3 and SPP confirms the commitment to making Scotland a low carbon place and a world leader in low carbon energy generation including in relation to onshore wind. Paragraph 8.10 of the decision states that "*the proposal's contribution to such commitments is a factor in its favour that must be taken into account*".



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