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Simon Hindson
Development and Infrastructure Service
Highland Council
Council Headquarters
Glenurquhart Road
Inverness
IV3 5NX

Simon.Hindson@highland.gov.uk

VIA EMAIL

SECTION 36 APPLICATION FOR THE PROPOSED KIRKAN WIND FARM

Dear Simon,

Thank you for your time via Skype recently (17/03/2020) to discuss your current thoughts regarding the Kirkan wind farm proposal. You raised a small number of key issues where we consider it to be crucial for the Council and Committee Members to be fully appraised of our position, and particularly of the substantial efforts that have gone into mitigating in these areas to arrive at a scheme that should, on balance in the weighing of its benefits in context of the most up-to-date and emerging policy, material considerations and precedent environment, be able to earn the Council's approval.

Strengthened weight for onshore wind

Firstly, it is important to highlight that since the Planning Statement Update was submitted in October 2019 there have been a number of further important developments in terms of the renewable energy policy framework and indeed in terms of new legislative provisions related to targets.

In short, the advice from the Committee on Climate Change (CCC) to the UK and Scottish Governments has now resulted, in Scotland, with the **The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019** – which received Royal Assent in 2019 and has introduced legally binding greenhouse gas (GHG) reduction targets of 75% by 2030 and net zero by 2045. The Planning Statement Update only referred to the proposed Bill.

A point made by the CCC was that renewables without Government backed contracts will not be deployed at scale sufficient to meet the expected generation gap in 2030. In this regard the recent (March 2020) **consultation paper** published by the Department of Business, Energy & Industrial Strategy (BEIS) entitled '*Contracts for Difference for Local Carbon Electricity Generation – consultation on proposed amendments to the scheme*' is of relevance.

The Secretary of State confirmed on 02 March that onshore wind and solar developments would be able to bid in the 2021 CfD round and the current consultation is on how best to facilitate this change to the CfD scheme.

The important point for you to take into account in our view is that document is informative in setting out the UK latest policy position in relation to renewables and 'net zero'. Key points arising with regard to the policy position within the consultation document include the following (emphasis added):

- The document states on page 10 that the changes to the CfD scheme have been made to support the increase in ambition needed to achieve the Government's 2050 net zero target.
- It states that decarbonising the power sector is a vital part of the UK's effort to meet its world leading net zero target. It states whilst we cannot predict today exactly what the generating mix will look like in 2050, we can be confident that "renewables will play a key role, alongside firm or flexible low carbon generating capacity".
- It adds that the UK was the first major economy to set a legally binding target to cut emissions to net zero by 2050 and end its contribution to global warming. It states, "*the target, which came into force on 27 June 2019, will require the UK to reduce all greenhouse gas emissions to net zero by 2050, compared with the previous target of an 80% reduction from 1990 levels. This is a landmark decision for the UK and one which demonstrates that we are continuing to lead the international effort to bring an end to climate change*".
- It further adds that this is "*..... an important step towards decarbonising the UK's energy system. The UK's new 2050 net zero emissions target means that we will continue to require substantial amounts of new, low carbon power sources to be built before 2050. In the report on net zero the Committee on Climate Change (CCC) states that the UK could require four times the amount of renewable generation from today's levels, requiring sustained and increased deployment between now and 2050*".
- Page 11 also adds that "*the transition to a net zero greenhouse gas economy will require change across the whole of society, and in this context the Government has considered how to ensure that CfD allocation rounds can best support an increase in the pace of renewable deployment needed to achieve its net zero ambitions.....*".

The aims of the consultation (set out page 11) are described as supporting the following themes, *inter alia*:

- Delivering net zero - by supporting the increased ambition required by the Government's economy wide legislative target to reach net zero greenhouse gas emissions by 2050; and
- Maintaining energy security - by supporting deployment of new power sources needed to achieve a low cost and secure low carbon power system.

At page 15 of the document 'delivering net zero' is addressed and the Government sets out that "*on 27 June 2019, a new legally binding target to reach net zero greenhouse gas emissions by 2050 came into law in the UK. By 2050, the UK will need an ultra-low carbon power sector to meet this economy wide net zero emissions target. In parallel, generation will need to increase to meet future demand and at the same time as aging plants are being decommissioned. The CCC believes almost complete decarbonisation in the power sector can be achieved, but that to achieve this, low carbon electricity*

generation will need to quadruple by 2050. The CfD scheme therefore needs to be able to support a substantial increase in low carbon generation capacity”.

The document continues by stating “*the UK’s new 2050 net zero target will require a substantial amount of new, low carbon power sources to be built before 2050 and to produce the majority of power with renewables if we are to decarbonise at low cost... In its report on net zero, the CCC advise that the UK could require up to a four-fold increase in renewable generation under their ‘further ambition’ scenario*”.

With regard to the established technologies for CfD, importantly the consultation document sets out that Government is aware of a number of projects (mainly solar PV and onshore wind) and have deployed or are planning to deploy on a merchant basis since the last ‘Pot 1’ auction was held under the CfD regime. It adds “however, there is a risk that if we were to rely on merchant deployment of these technologies alone at this point in time, we may not see the rate and scale of new projects needed in the near term to support decarbonisation of the power sector and meet the net zero commitment to low cost”.

The recent consultation document from BEIS is therefore very important in further strengthening the overall policy case for onshore wind.

In addition, very recently the **Court of Appeal Judgment on the third Heathrow runway** (dated 27 February 2020) is of relevance in that it firmly sets out that the UK Government’s commitment to the Paris Agreement (2015) is part of Government policy. The UK Government’s commitment under the Paris Agreement links through to the CCC’s advice to both the UK and Scottish Governments on net zero targets which have now, at both the UK and Scottish levels been translated into new legislative provisions and targets for both 2045 and 2050.

Against this backdrop, it is considered the renewable energy policy framework has even further strengthened. It is of course not an overriding matter. A key point is that the events that have taken place since the Planning Statement Update described above do not need formal policy articulation in order to be given weight by a decision maker. Very significant weight in our view should be given to the recent new law and net zero related pronouncements.

Such weight, in addition to that granted by the full gamut of other policy, material considerations and precedents addressed within both the Planning Statement (March 2019) and Planning Statement Update (October 2019), is also importantly to be applied in the context of the “*tilted balance*” (Caplich s.36 decision) that applies in favour of the project. This leads – as planning case law confirm (ie Grahams Dairy case) in relation to the material matters addressed within this letter - to the conclusion that for any of the issues that you are currently grappling with to be deemed “*significantly detrimental overall*” (in terms of Policy 67, HwLDP 2012) these would effectively require to be significantly and demonstrably greater than the benefits that would arise, and particularly unique in relation to the other approved schemes, as to justify the balance falling against the Kirkan Wind Farm scheme.

Key Issues

At the conclusion of our discussion you agreed the following summary for the key issues in your deliberations:

- (1) Effects on transition experience from the A835
- (2) Effects on character and amenity in views from Ben Wyvis
- (3) General topographic/ visual containment of the scheme and potential undermining of mitigation of Lochluichart and Corriemoillie wind farms.

We conveyed our views on each of the above, reiterating the analysis contained within both the EIA-R and Planning Statements. However, for sake of ease we consider it worthwhile to restate and clarify these positions in writing for your reference.

Issue 1

It is our understanding from recent telecommunications and previous consultations that the Council's concerns with regard to the A835 relate to:

- receptors travelling west where the road rounds the bulk of Carn an t-Sneachda; and
- receptors travelling eastwards along the side of Loch Glascarnoch.

In THC's Pre-Application Advice Pack (Ref. 18/00618/PREAPP) issued on the 1st May 2018 the Council stated that the "A835 has important gateway qualities for travellers" and drew attention to the stretch of road travelling west where the road rounds the bulk of Carn an t-Sneachda which THC considered to represent "a significant transitional experience in the journey", however didn't elucidate on what constitutes the transitional experience of this particular section of the route. The Advice Pack also stated that "framed views towards the Wyvis massif from the A835 along Loch Glascarnoch have similar [transitional and Gateway] qualities for eastward travel and it is likely that the proposed [Kirkan] development would extend the current cluster, interposing turbines between the receptor and **the face of Ben Wyvis** in this composition." (emphasis added)

We note, however, that the OWESG does not contain a relative sensitivity study for the area in which the Kirkan development is located and therefore does not therefore identify the A835 beyond Loch Garve (which forms the western extent of the Black Isle, Surrounding Hills and Moray Firth Coast Landscape Character Area) as Gateway. Indeed, and the nearest Gateways mentioned by the OWESG are:

- at the A835's junction with A832: "The approximate point at which the gradually revealed view towards Achilty Tor and the Fannichs etc is finally unobscured." This location also marks the transition between the "richer farming lands of the east and the landscapes dominated by forestry, moorland and rough grazing to the west."
- A835 at Leanaig junction: "Travelling north, at this point the road emerges from cuttings which have restricted the view since the brow of the hill at Newton of Ferintosh, and reveals first views into Conon Valley/Cromarty Firth". This location is also noted for views of the of Wyvis Massif which is described as "dominant landscape feature."

Consequently, it is difficult to understand the basis for the Council's position in this particular regard without further evidence. In the light of this, the relevance of any evaluation of the Kirkan scheme in respect of criterion 2 in Section 4, of the OWESG is debateable.

Nonetheless, it is firstly important to clarify the separation of two conceptual issues: that of, on the one hand, visual impacts and amenity generally, and on the other impacts on landscape transitions. In respect of the latter, specific transitions require to be identified, and the test is not one of visual impacts or amenity upon travelling receptors but of impacts on the appreciation of qualities of transitional landscape characteristics.

Both quantitative and qualitative descriptions of the potential effects of the Kirkan development were set out in paragraphs 4.7.53-60 and Technical Appendix 4.8 of the EIAR. The following description and observations are made in respect of the specific matter of the Key Route and Gateway qualities of the A835, identifying specifically where landscape transitions occur.

A835 Westbound, Between A835/A832 Junction and Loch Glascarnoch

At the A835/A832 junction the experience of receptors is one of a route within an incised landscape enclosed by topography and vegetation that serves to focus views towards Ben Wyvis to the north, the Ben Wyvis summit forming a prominent landmark feature. As the route progresses northwards, it is increasingly enclosed to the west and east by roadside forest and tree cover, thereby increasing the focus of views towards Ben Wyvis.

At the Black Water crossing, west of Strathgarve Forest, views of Ben Wyvis are restricted by intervening vegetation and the topography of Little Wyvis, which has a less distinctive and dramatic form than the Ben Wyvis massif.

Beyond the Black Water the A835 continues to be enclosed by topography, forest and tree cover, thereby obscuring Ben Wyvis. The upper slopes of Carn Gaineamhach form the skyline to the north and are framed by the roadside topography and vegetation.

As the route passes Achnaclerach the summit of Carn Mor, (located west of Loch Bealach Culaidh) forms a focal point and intermittent and restricted views of the top of Ben Wyvis are available to the north-east of the route.

As the route approaches Garbat, it turns northwards, away from Ben Wyvis and towards Carn Mor and Meall a' Baird, which are lower and less imposing summits.

Between Garbat and Inchbae Lodge, the route is characterised by a shallow incised topography and scrubby tree cover and moorland with rocky outcrops. This enclosure reduces as the route progresses northwards past Lubfearn from where the low summits adjoining Strath Vaich are apparent on the skyline to the north-west. Here, the topography is shallower, but a small number of distant summits are still evident in the direction of travel.

As the route approaches Black Bridge summits in Strathvaich and Inchbae Forests become more apparent, and the Lochluichart and Corriemoillie turbines are visible, occupying prominent positions across much of the skyline to the south-west of the route. This is where Kirkan turbines would also appear into view. Beyond this the route curves around the north-western base of Carn an t-Sneachda from where Lochluichart and Corriemoillie turbines continue to form prominent features in the skyline to the south-west, the mountains of Strathvaich and Inchbae Forests being visible to the north and north-west. Kirkan turbines disappear largely if not entirely from view, particularly in vicinity of the bridge itself, where the applicant was forced to drop a planned representative photo-visual viewpoint as a result of design mitigation measures. This outlook remains largely unaltered until after the Aultgish Inn is reached and from where the route is

increasingly subject to the influence of Loch Glascarnoch and the steep topography of adjoining low hills and views of distant hills in Wester Ross, to the west.

Based on the preceding analysis, it is apparent that this route is subject to a number of transitions from enclosed wooded landscapes where Ben Wyvis is a key focal point and landmark, to a more open moorland landscape, a landscape where wind farms are a characteristic of the landscape and views, to one where there is a gradually increase in the prominence an influence of the more remote summits and the dramatic mountains to the west.

Following screening by topography (Carn an t-Sneachda) at the bend in the road at Black Bridge, first Lochluichart and then Corriemoillie turbines would reappear directly ahead of road users becoming closer as the proposed development appears passing progressively obliquely to the passenger's side of vehicles, and would be contained beyond the intervening ridge and at lower elevation. The Kirkan turbines would be seen from less than 2 km of this section of the route, equating to a duration of just over a minutes¹

On the basis of the preceding analysis, the Kirkan turbines are not considered to represent a significant adverse effect on the transitional experience of this route.

A835 Eastbound, Between Braemore Junction and Black Bridge

For the purpose of describing the transitional experience of eastbound receptors the route has been divided into four sections:

- *Section 1:* Between Braemore Junction and Loch Droma;
- *Section 2:* Between Loch Droma and the northern end of Loch Glascarnoch
- *Section 3:* Loch Glascarnoch to the Glascarnoch Dam; and
- *Section 3:* From the Glascarnoch Dam to Black Bridge.

Section 1: Between Braemore Junction and Loch Droma

This initial part of this section of the route is incised and enclosed by a combination of topography and roadside coniferous and deciduous tree cover. Views from the route are therefore concentrated along the line of the carriageway, with fleeting oblique views of adjoining mountains also provided.

As the route passes the A835/A832 junction east of Corrieshalloch Gorge the outlook becomes more open, revealing a steeply graded valley which contains open moorland and the meandering watercourse of the Droma which is seen meandering through Dirrie More. The Braemore and Fannich hills are evident to the north and south of the route, respectively.

Approaching Loch Droma, the landscape broadens out, providing clear views up to the Fannichs and towards the Ben Wyvis massif, which is framed in the distance. The landscape contains an increased incidence of constructed elements (e.g. Droma Dam) as well as increased forest cover and associated

¹ Assuming the vehicle is travelling at 60 miles per hour, which is the maximum speed limit for an A Road.

fencing. It is at this section of the route that the proposed Kirkan turbines would first come into view, appearing as a small number of backclothed and partially screened turbines nearly 13 km to the south-east. The turbines would be set back from and below the summits of both Ben Wyvis and Little Wyvis. This was a specific aim of the iterative design process adopted by the developer (see paragraphs 2.6.1-22 of the EIA-R).

Section 2: Between Loch Droma and the northern end of Loch Glascarnoch

Travelling southwards, Ben Wyvis is partially obscured by intervening topography, only the top of the summit being evident. Kirkan wind farm would represent a barely discernible feature, appearing as a small number of backclothed blade tips around 11.5 km to the south-east and would appear below the level of the Ben Wyvis and Little Wyvis summits, set back from these landscape features and contained behind the ridgeline of Sidhean nan Cearc.

As the route approaches Loch Glascarnoch, the landscape broadens, the Fannichs and Strathvaich Forest hills form the backdrop, the top of Ben Wyvis and Little Wyvis evident on the skyline to the south-east. The landscape contains increased forestry, fencing, power infrastructure and tracks. Kirkan Wind Farm would appear as a small number of backclothed turbines, around 9.5 km to the south east, contained behind Sidhean nan Cearc. As in previous sections of the route, the turbines would be set back from and below the summits of both Ben Wyvis and Little Wyvis, and not interposed between receptors and Ben Wyvis.

Section 3: Loch Glascarnoch to the Glascarnoch Dam

The route alongside Loch Glascarnoch is characterised by:

- an incised landscape between the Kinlochluichart and Strathvaich Forests;
- the linear form of Loch Glascarnoch;
- an undulating skyline formed by the ridges and low hills in Strathvaich Forest to the north, and the more individuated hills in the Fannichs, to the south.
- numerous other man-made features including power and telecommunications infrastructure, roadside bollards and signage, snow poles, layby areas, as well as coniferous forests and hydro draw-down edges to Loch Glascarnoch.

Coupled with the strongly linear appearance of the road and loch, these features serve to lessen the perceived remoteness and naturalness of the landscape. Whilst Ben Wyvis and Little Wyvis are visible from much of this section of the route, the landmark form of Ben Wyvis is not clear until the route reaches midway down the loch. Thereafter it is clearly evident in the skyline. On this part of the route, Kirkan turbines would appear as a low-lying, variably screened array, around 6 km to the south-east and would be set back, away from the Ben Wyvis summit, and contained behind the ridgeline of Sidhean nan Cearc.

Further east, approaching the southern extents of the loch, the Glascarnoch dam and the exposed edges of the reservoir form prominent features in the landscape, while Corriemoillie and Lochluichart turbines also appear into view at closer range.

Section 4: From the Glascarnoch Dam to Black Bridge.

Passing the Glascarnoch Dam structure and approaching Aultguish Inn, Corriemoillie and Lochluichart turbines come fully into view in close proximity and the near-ground landscape has opened up to a simple moorland. Kirkan turbines would be visible but would be seen obliquely, appear contained behind the ridgeline of 'Sidhean nan Cearc', would form a lateral extension to the established developments, and would be seen fleetingly (for less than 1 minute) ² Beyond the Aultguish Inn, the experience of this route is one of travelling away from the Kirkan site and towards Ben Wyvis.

Based on the preceding analysis it is clear that a key aspect of the transitional experience of eastbound road users relates to changes to the character of the landscape along its length, from the enclosure and vegetated context of Braemore to the gradual transition into the more open moorland landscape east of Corrieshalloch Gorge, beyond which increased forest cover and the dam at Loch Droma come into view. Thereafter, the landscape is dominated by the strong linear form of Loch Glascarnoch and the undulating skyline formed by the Fannichs and Strathvaich hills and where increased power infrastructure and dam structures are evident.

Essentially, Kirkan turbines would first appear in small number in the vicinity of Loch Droma and thereafter emerge slowly, variably screened in number and degree and contained behind 'Sidhean nan Cearc' at significant distances along a broadly straight but occasionally winding road, within the context of an overall transition experience from the wilder, less-developed north-west Highlands moving into the settled, more-developed and in particular infrastructure hosting lowlands, and would consequently not appear at odds in principle with such an overall transition. Furthermore, visual impacts such as they are are limited over the full length of the route as a result of design choices, with no interposing between the receptor and the face of Ben Wyvis, and are substantially mitigated by the increasing influence of evidence for human settlement and development travelling along Glascarnoch.

To take a single comparative example, the OWESG identified 'Key Route' of the A9 travelling north between Latheron and Causeymire is impacted by full roadside visibility of the combined 57 total existing and approved turbines of Causeymire, Halsary, Bad a Cheo, and Achlachan. The impacts of Kirkan turbines on this short section of the eastward travelling A835 are in no way comparable, and in our view cannot be said to be "significantly detrimental overall".

Issue 2

Our understanding is that you had concerns particularly regarding "compounding" of the existing presence of wind turbines through the extension of the cluster.

We would first wish to draw attention to the unresolvable tension here – in that it is also our understanding of the Council's policy position (expressed in Criterion 7, as well as in several other paragraphs, within the OWESG) to prefer the "clustering" as opposed to dispersal of developments, but that it is logically difficult

² Assuming a speed of 60 mph, which is the national speed limit for this type of.

to conceive of “clustering” (i.e. extensions/ neighbouring) without inherently “compounding” or quantitatively/qualitatively intensifying the presence of turbines within such areas.

It is also now, as opposed to 2016 when the OWESG was adopted, the case that drastically different economics necessitate the need for newer larger, higher capacity machines and in generally greater numbers in order for projects to be viable. This case is set out in more detail within the Planning Statement, however it applies no less in respect of the Council’s preference for “clustering” of schemes. In terms of significantly differing scales of turbines adjacent to one another (notwithstanding the mitigating efforts of design integration – which in any event can only go so far as such effects will be inescapable), then only limited weight should be given to this matter in the current OWESG. The emphasis upon “Clusters” as opposed to greater separation/dispersal is met by the proposed development.

It is useful in fact to refer to the definition of a “Cluster” from the OWESG:

“One or more wind energy developments comprising more than one turbine that form a coherent strategic grouping within a landscape.”

It is indeed our contention that the Kirkan proposal is a coherent addition to this area which represents a strategic grouping for wind energy developments.

Nonetheless, (with reference to section 2.6 of the EIA-R ‘Development of preferred option’), the following considerations represented our approach in respect of designing for mitigation of views from Ben Wyvis:

- the proposed Kirkan Wind Farm has been located and designed to correspond with the low lying elevation and established development envelope of existing/consented wind farms in views from Wyvis, thereby avoiding introducing development into aspects that do not contain development;
- We have also remained setback to the west of the old drover’s road, marking the crest of the hill within Druim Donn woodlands, at closest some 9.1 km from the summit of Ben Wyvis;
- Despite market availability of turbines up to and in excess of 200 m, we have limited our machines to 175m so as not to exceed the average maximum amsl elevation of tip-heights from Lochluichart and Corriemoillie turbines. The existing operational turbines average a tip-height amsl elevation of 502m, whereas Kirkan turbines would average 498m;
- minimisation of stacking and overlapping of rotors in views from both Ben Wyvis and Little Wyvis summits, in accordance with SNH guidance on the siting and design of wind farms in the landscape, and as demonstrated in the relevant visualisation figures 4.13a-f and 4.25a-f.

In conclusion, the proposed Kirkan Wind Farm is considered to represent a lateral extension to an existing cluster of wind farms, thereby avoiding the potential for a more dispersed pattern of development and associated spreading of cumulative effects, including effects on the amenity and character of Ben Wyvis. It is a well considered scheme that, whilst adhering to much of the mitigation established by neighbouring schemes could achieve considerably higher energy outputs.

Issue 3

The Council have placed emphasis, throughout the consultation process, on the mitigation embodied in the Corriemoillie and Lochluichart wind farm developments by way of their being located within a “*subtle bowl*” thereby limiting the geographical extent of their viewsheds. The Kirkan Wind Farm’s extension particularly

to the east of 'Beinn nan Cabag' has been viewed as negating this mitigation, thereby making the scheme unacceptable in principle.

We would wish for the Council and Committee Members to understand that this is a message that we have taken on board, as demonstrated both through para's 2.6.6, 2.6.7, 2.6.13, 2.6.14 and 4.7.58 of the EIA-R our Design Iterations (see Figure 2.2 of the EIA-R) as well as in our Statement of Community Consultation ('SOCC'). Consequently, natural topographic containment has been sought and utilised behind, to the north, the ridgeline of 'Sidhean nan Cearc', and to the east, south and south-west by the summits and ridgelines of 'Carn Gaineamhach', 'Carn na Dubh Choille', 'Carn Bad Leadhraidh', and 'Beinn an Cabag'. From the only direction where no higher elevated ground provides containment (to the north-east), as detailed above from the key Gateway Location of Black Bridge Kirkan turbines are hidden from view as a result of design efforts and roadside-foreground topography.

Evidence for the success of this design mitigation strategy can be found in comparing the quantitative viewsheds for Kirkan and the existing Lochluichart/Corriemoillie turbines. Within 20 km of the Kirkan turbines, while Kirkan turbines would be visible in isolation from Lochluichart/Corriemoillie from 5,661 hectares, Lochluichart/Corriemoillie are visible in isolation from Kirkan from 8,960 hectares.

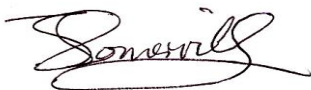
Summary

In view of these responses and clarifications, it is the Applicant's position that the information provided underlines and confirms the acceptability of the proposed development. Furthermore, it is trusted that the information will allow you to re-evaluate your stance on the application in respect of these issues.

If you have any queries, please contact me at the address given above or by email (jsomerville@rsk.co.uk).

Yours sincerely,

For RSK Environment Limited



Mr Joe Somerville
Associate Director



Input by
Mr Robert Bainsfair
Landscape Consultant



Reviewed by
Mr Mike Kelly
Technical Director



Input by
Mr David Bell
Director - David Bell Planning