Planning Statement

Strathy South Wind Farm Highland
Application under Section 36C of the Electricity Act 1989

August 2020

Contents

1 Introduction

1.1 Background

JLL has been instructed by SSE Generation Limited ("the Applicant") to provide planning and development advice with regard to an application submitted under Section 36C (the "S36C application") of the Electricity Act 1989 ("the 1989 Act") to vary the Section 36 consent ("2018 Consent") granted by Scottish Ministers on 27 April 2018 for the construction and operation of Strathy South Wind Farm ("Consented Scheme") located 12 km south of the village of Strathy in Sutherland, Highland.

In addition, the Applicant is seeking direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 ('the 1997 Act') that planning permission would be deemed to be granted in respect of the varied description of the Proposed Varied Development ('the Proposed Varied Development').

The Consented Scheme comprises 39 wind turbines with a maximum tip height of up to 135 metres and associated infrastructure. However, due to the closure of Ofgem's Renewable Obligation Certificate (ROC) scheme to new onshore wind projects in March 2017, the Applicant has had to re-evaluate the Consented Scheme to ensure its viability without the benefit of a ROC. In addition, since the Consented Scheme was conceived technology has evolved and a significantly greater installed capacity can now be achieved from taller wind turbine generators on the site.

A request for a Scoping Opinion was submitted to the Scottish Ministers on 1st May 2019. The request was accompanied by a Scoping Report which set out a summary description of the Proposed Varied Development, identified the issues proposed to be included in the EIAR and proposed an approach to the assessment of effects in each case. The Scoping Report was simultaneously issued to a list of statutory and non-statutory consultees. A Scoping Opinion was provided by the Scottish Minsters on 18th July 2019 and a copy of the consultation responses are presented in EIAR Volume 4: Technical Appendices, Technical Appendix 1.1: Consultation Register.

The responses set out in the Scoping Opinion were taken into account and the Applicant is hereby applying to vary the 2018 Consent to increase the maximum tip height from 135 metres to 200 metres with the consented layout remaining unchanged. It is anticipated that the proposed turbines would significantly increase the installed capacity from 132.6 megawatts (MW) to 207 MW. Accordingly, the deployment of larger and more efficient turbines would ensure the project's viability and provide considerable carbon savings which weighs in favour of the Proposed Varied Development.

1.2 The Site

The application site remains unchanged to that of the Consented Scheme. It is located within a U-shaped commercial forestry block 12 kilometres (km) south of Strathy village and 35 km south west of Thurso.

The application site is not located within any landscape designations.

The following designations are within a 20 km radius of the site[1]:

- Bens Griam and Loch nan Clar Special Landscape Area (SLA) to the south; and,
- The western boundary of the East Halladale Flows Wild Land Area (WLA) 39 to the east.

The operational Strathy North Wind Farm (comprising 33 turbines at 110 metres high) is located 8 km to the north of the site, and Strathy Wood Wind Farm (comprising 13 turbines at 180 metres high) is proposed on land in between Strathy North Wind Farm and the Proposed Varied Development.

1.3 The Proposed Varied Development

The Proposed Varied Development is fully described within Environmental Impact Assessment Report (EIAR) Volume 2: Main Report, Chapter 2. In summary, it comprises the following:

- Up to 39 turbines, each with a tip height of up to 200 m and rotor diameter of up to 162 m, and associated crane pads[2];
- Turbine foundations and hardstandings;
- Access tracks;
- Watercourse crossings;
- Substation;
- Up to seven borrow pits;
- Temporary lay down areas;
- Temporary Construction compounds;
- Temporary Batching Plant; and
- Welfare building.

[1] Table 4.2.1 'Designated and Protected Landscapes within the Wider Study Area' in EIAR Volume 4: Technical Appendices, TA 4.2 sets out the designated and protected landscapes within a 45 km radius from the Proposed Varied Development site boundary.

[2] A final turbine for the Proposed Varied Development has not yet been chosen; however, suitable candidate machines which could be accommodated within the maximum tip height of 200 m are currently being considered. For the purposes of the environmental assessment, the Vestas EnVentus V162 5.6 MW model has been identified as a suitable candidate turbine.

For the avoidance of doubt the Applicant, application site, and consented layout in terms of coordinates remains the same as that for the Consented Scheme, as does the site access. The main changes are restricted to the following:

- an increase of up to 65 m in tip height;
- an increase of up to 58 m in rotor diameter;
- an increase of 36 m in hub height;
- a potential reduction of approx. 0.5 km of access track[3];
- a 'worst case' scenario of approx. 0.11 ha additional land take (temporary and permanent) per turbine for turbine foundations and hardstanding;
- up to three additional borrow pits;
- aviation lighting (precise requirements will be determined in consultation and agreement with the Civil Aviation Authority (CAA))[4];
- relocating the substation to the west of Turbine (T) 4, instead of to the south of the spur road to T9;
- relocating the laydown area from the east of T8 to the east of the track between T11 and T17;
- relocating the construction compounds to the north and east of the consented location;
- LiDAR equipment and locations would replace the consented anemometry masts;
- relocating the batching plant to between T11 and T17;
- one new watercourse crossing has been identified on the spur road to T9;
- upgrades to Yellow Bog Road will be contained within the non-qualifying habitat either side of the existing track.

1.3.1 Micrositing

The locations of the proposed turbines and associated infrastructure would be subject to micrositing to take account of more detailed topographical and geotechnical surveys which would take place prior to construction commencing. This application seeks to retain the consent condition 17 for turbine positions and track routes to be amended by up to 50 m with the approval of an Environmental Clerk of Works (ECoW), with input from site archaeologists, ecologists and any other relevant specialist supervising construction activities.

Through pre-application consultation with SEPA summarised in the consultation register presented in EIAR Volume 4: Technical Appendices, TA 1.1) it has been identified that micrositing would be welcome for the following turbines: T4, T9, T18, T19, T33, T42, T29, T52, T57 and T72. As per agreements made as part of the 2018 Consent, no turbine or associated development would be microsited into an area of deeper peat than currently proposed.

[3] Please note that this is for the Applicant's 'preferred route' the 'alternative route' would result in the same amount of track as the Consented Scheme i.e. 32km.

[4] For the purposes of the EIA a 'worst case' scenario has been assumed where all 39 turbines would be fitted with lighting to the standard requirement.

1.3.2 Grid Connection

The grid connection between the Proposed Varied Development and the existing substation at Strathy North Wind Farm would be via 132 kV underground cabling. The cable along the Strathy South access track would be laid within the same footprint as identified for the Consented Scheme. All cabling between the Proposed Varied Development and the substation at Strathy North would be subject to permitted development rights and do not form part of this application but has been considered within the EIA to align with previous information submitted in support of the Consented Scheme.

1.4 Planning Statement Format

- Chapter 2 describes the Electricity Act consenting regime and relevant determination considerations;
- Chapter 3 provides an assessment of the renewable energy policy framework that applies to the Proposed Varied Development and associated targets;
- Chapter 4 provides an assessment the national planning policy position that applies to the proposed development;
- Chapter 5 provides an assessment of Development Plan policy position;
- Chapter 6 provides a summary of the proposed developments benefits; and
- Chapter 7 provides overall conclusions.

2 The Consenting Regime

2.1 Introduction

This Chapter describes the consenting regime that applies to the determination of the S36C application, with reference to the status of THC Development Plan and other material considerations.

2.2 The S36C Application

As summarised in Chapter 1, above, and EIAR: Volume 2, Main Report, Chapter 2 'Development Description', the S36C application comprises of very similar development components as the Consented Scheme. The same number of turbines are proposed in the same locations but with an increase of up to 65 m in tip height and an increase of up to 2.2 MW in turbine capacity.

2.3 The Electricity Act

The principal decision in this case should be made under the 1989 Act. In the event that a decision is taken to grant a S36 consent, the Applicant expects that decision to be accompanied by a 'Deemed Planning Direction'.

Paragraph 3 of Schedule 9 to the Electricity Act 1989 is relevant. Paragraph 3 states:

(1) "In formulating any relevant proposals, a licence holder or a person authorised by an exemption to generate, distribute, supply or participate in the transmission of 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 archaeology 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 [Scottish Ministers] shall have regard to:

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

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

The matters set out in paragraph 3 have been taken into account in the accompanying EIAR and are considered throughout this Planning Statement.

2.4 The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (as amended)

The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (as amended) ("2013 Regulations") apply to applications made under the terms of S36C of the 1989 Act. The Regulations require variation applications to include (as set out in Section 3 of the 2013 Regulations):

- A description of the Proposed Varied Development and its location identified by map (see Application Letter and EIAR Volume 3a: Figure 1.1);
- An explanation as to why the S36 consent should be varied (see Application Letter);
- A draft of the proposed variations to the S36 consent (see Application Letter);
- Copies of any maps and plans not referred to in the S36 consent but required to be referred to in the S36 variation;
- Particulars of the S36 consent (see Application Letter);
- A copy of the section 57 ("S57) direction (see Application Letter);
- Explanation as to why the S57 direction should be varied (see Application Letter);
- A draft of the proposed S57 direction (see Application Letter); and,
- Copies of any maps or plans not referred to in the relevant S36 consent or any S57 Direction given on granting the relevant S36 consent.

2.5 The Role of the Development Plan

The principal planning statute in Scotland is the Town and Country Planning Act (Scotland) 1997 (as amended) ("the 1997 Act"). Section 57 of the 1997 Act addresses development with Government authorisation. Section 57(2) states that:

"On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for –

(a) so much of the operation or change of use to which the consent relates as constitutes development;

(b) any development ancillary to the operational change of use to which the consent relates".

Section 21 of the Growth and Infrastructure Act 2013 amended section 57 of the 1997 Act to provide that:

"On varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—

(a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;

(b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;

(c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a condition subject to which a new or varied planning permission is deemed to be granted".

As an application under the Electricity Act, the duty under Section 25 of the Planning Act, to determine the application in accordance with the provisions of the development plan unless material considerations indicate otherwise, does not apply. The development plan is however a relevant consideration.

This is supported in Chapter 2 of the Beauly Denny s.37 Inquiry Report[5] Volume 1 entitled 'Statutory Context', which sets out the Reporters' findings and related conclusions in relation to the 1989 and 1997 Acts. The Reporters make it clear at paragraph 2.6.8 of the Report that:

"it is our understanding that section 57(3) does not operate to extend section 25 to a decision to make a direction under section 57(2). The decision to make a direction under section 57(2) is separate from a decision to grant consent under section 37 of Electricity Act 1989. When making such a decision the Scottish Ministers would be expected to take into account all relevant matters. As with any planning decision the development plan will be a relevant matter, but it will be one of a number of important material considerations to be taken into account".

The Reporters went on to state at paragraph 2.6.9 that the determination of the Beauly Denny application under s.37 of the Electricity Act 1989 and any deemed permission under s.57(2) of the 1997 Act:

"will involve a range of considerations, including the terms of Schedule 9 of the 1989 Act and other relevant statutory provisions, national policies, the relevant provisions of the development plans, the technical and economic justification for the scheme, and its potential environmental effects".

Accordingly, the development plan, which is considered in Chapter 5 below, is one of several considerations in the determination of the S36C application.

2.6 The Requirement for EIA

Regulation 28(1) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") sets out that Scottish Ministers must not vary a S36 consent, or when varying a consent direct that planning permission is deemed to be granted, in respect of EIA development, unless an environmental impact assessment has been carried out.

The Proposed Varied Development has been assessed within an EIAR. The publicity requirements set out in the EIA Regulations and 2013 Regulations have been complied with and are detailed in EIAR Volume 2: Main Report, Chapter 1 'Introduction'.

2.7 Guidance Note: Applications for Variation of s.36 Consents (2019)

'Applications for Variation of s.36 Consents' was published by the Scottish Government in May 2019 and provides guidance on the process for varying consents which have been granted by Scottish Ministers under s.36 of the 1989 Act.

[5] Public Inquiry into the s.37 Applications for the proposed Beauly to Denny 400kV steel tower double circuit overhead electricity transmission line, DPEA Ref: IEC/1/36. http://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=qJ265

Guidance is provided on the scope of the variation process in terms of the type of changes that can be accommodated through the variation consenting route, as well as the requirement for an EIAR to accompany applications for consent. This guidance has been taken into account.

2.8 Conclusion

In summary, an EIA has been undertaken and an EIAR is submitted in support of the application. It can be concluded that the Proposed Varied Development and the revised turbine model would result in a significant increase in the generating capacity and associated CO_2 emissions savings without fundamental or substantial change to the Consented Scheme.

3 Renewable Energy Policy and Legislation

3.1 Introduction

This Chapter sets out the key renewable energy legislation and policy position which is an important material consideration to be weighed in the planning balance.

The following is considered:

- Climate Change (Scotland) Act 2009 (including the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019);
- Protecting Scotland's Future: The Government's Programme for Scotland 2019-2020;
- Scottish Government Declaration of a "Climate Emergency"; and,
- Scottish Energy Strategy and Onshore Wind Policy Statement.

Appendix 1 provides more comprehensive detail on the renewable energy policy framework with reference to international and UK policy.

In summary, the proposed increase in tip height and rotor diameter would significantly increase the installed capacity from 132.6 megawatts (MW) to 207 MW, save an additional c.158,000 tCO_2/yr of CO_2 emissions versus fossil fuel mix of electricity generation, and power 113,000 additional homes. Accordingly, the Proposed Varied Development would substantially increase the site's contribution towards meeting international, UK and Scottish Government's renewable energy targets.

3.2 Climate Change (Scotland) Act 2009

The Climate Change (Scotland) Act 2009 ("the 2009 Act") is the key legislation in Scotland dealing with climate change and carbon targets.

On 23 May 2018 the Climate Change (Emissions Reduction Targets) (Scotland) Bill was introduced to Parliament and received Royal Assent on 31 October 2019 ("2019 Act"). The 2019 Act amends the 2009 Act and sets targets for the reduction of greenhouse gas emissions.

The Policy Memorandum for the Bill set 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 (and thereby 2019 Act) re-affirms the Scottish Government's commitment to remain "*at the forefront of global ambition*".

The 2019 Act sets targets to reduce Scotland's emissions of all greenhouse gases to **net-zero by 2045** at the latest, with **interim targets for reductions of at least 56% by 2020, 75% by 2030, 90% by 2040**. To help ensure delivery of the long-term targets, the 2019 Act also includes annual targets for every year to net-zero.

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

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...".*

On 16 June 2020, the Scottish Government published 'Scottish Greenhouse Gas Emissions 2018' which updated statistics on greenhouse gas emissions in Scotland for the years 1990 to 2018. The statistics show that the actual emissions or removals in Scotland reduced by 50% between the baseline period and 2018. The 2019 Act specifies a 54% reduction over the same period therefore the target for 2018 was not met. The latest statistics also show that between 2017 and 2018, there was an increase of 1.5% in energy supply emissions driven almost entirely by increased emissions from power stations. These statistics show that the Scottish Government is already behind where it intended to be in terms of emission reduction targets.

The 2019 Act further demonstrates the Scottish Government's scale of ambition and commitment to that overall policy objective which is notably five years ahead of the UK, latest statistics show that the Government is behind where it intended to be. Accordingly, this puts even more pressure upon the need to reduce emissions and increase renewable energy production. In terms of the Proposed Varied Development, the increase in tip height and rotor diameter would substantially increase the energy output from the site and reduce associated carbon dioxide (CO_2) emissions, as shown in Table 3.1, and thereby significantly contribute towards the Scottish Government's attainment of the goals set out above.

Table 3.1 Energy Output / Carbon Dioxide Emissions Comparison

Expected Results	**Candidate Turbine 3.4 MW – Consented Scheme**	**Candidate Turbine 5.6 MW – Proposed Varied Development**
CO_2 emissions saving of the Consented Scheme/Proposed Varied Development versus fossil fuel mix of electricity generation (tCO_2/yr)	228,808	387,420
Energy output from the site over its operational lifetime (MWh)[6]	8,160,071	43,046,640
Carbon Payback Time (fossil fuel mix of electricity generation) (years)	1.1 (Min -0.5 to Max 4.6)	1.5 (Min 0.7 to Max 2.2)

3.3 Protecting Scotland's Future: The Government's Programme for Scotland 2019-2020

The Scottish Government published the Government Programme for 2019-20 entitled 'Protecting Scotland's Future' on 3 September 2019. In the Introduction from the First Minister, with reference to the 'Climate Emergency' (discussed below), it states "*this Programme for Government sets out some of the next steps in Scotland's journey to net zero emissions and raises our ambition in light of the emergency we face. We are leading the world in setting challenging targets, but we must also redouble our efforts to meet them".*

The Executive Summary (page 10) addresses 'ending Scotland's contribution to climate change' and states that "*Our response to the global climate emergency requires us to accelerate our good work"* and reference is made to the recently established Climate Emergency Response Group (CERG).

Chapter 1 of the Programme entitled 'Ending Contribution to Climate Change' makes it clear that Scotland is facing a climate emergency and key points include the following:

[6] This also reflects the increase in operational lifetime from 25 to 50 years.

- Reference is made to Scotland already having committed to some of the toughest emissions reductions in the world and adopting a net zero emissions target by 2045 and underlines the Government's ambition that Scotland will no longer contribute to global climate change.
- Scotland has a unique opportunity to be at the forefront of global action; and
- This Programme for Government commits to vital early action to accelerate Scotland's journey towards net zero.

With reference to the CERG, '12 specific asks' are set out and these include:

- *"Making regional land use plans for maximising the potential of every part of Scotland's land to contribute to the fight against climate change…*
- *Completion of plans for how Scotland generates the renewable electricity needed to reach net zero. In this regard reference is made to the next Energy Statement which is to set out the extent to which renewable and low carbon energy generation will need to combine in order to meet net zero and that this will then be monitored on an annual basis."*

Page 38 also states that the Scottish Government is making a number of other major commitments in response to the climate emergency and in terms of 'planning' this will include the fourth National Planning Framework (NPF 4) which will help to radically accelerate reduction of emissions.

Page 39 refers specifically to planning and key points referenced in this regard include:

- *"The global climate emergency means that the time is right for wide-ranging debate on more radical planning policy options.*
- *Innovation, infrastructure and investment will be needed to transform our cities, towns and rural areas into places that support lower emissions lifestyles and businesses. Planning is a vital tool in leveraging the changes we need to make to achieve our goals.*
- *We will begin engagement on the fourth National Planning Framework in autumn this year. Through it, we will explore planning options that radically accelerate reduction of emissions.*
- *By summer next year, we will publish a draft National Planning Framework which sets out how and where development should take place across Scotland for the period up to 2050 …".*

Therefore, although the radical planning policy options are still emerging, the direction of travel in terms of how planning will be used to tackle climate change is clear and this should not be ignored in the consideration of Proposed Varied Development.

3.4 Scottish Government Declaration of a "Climate Emergency"

Scottish First Minister Nicola Sturgeon declared a "Climate Emergency" in her speech at the SNP Conference in April 2019, stating: "As First Minister of Scotland, I am declaring that there is a climate emergency. And Scotland will live up to our responsibility to tackle it." Referring to UK Committee on Climate Change (CCC) advice published on 2nd May 2019, Ms Sturgeon added "if that advice says we can go further or go faster, we will do so".

Furthermore, Climate Change Secretary Roseanna Cunningham made a statement on 14 May 2019 to the Scottish Parliament on the 'Global Climate Emergency'. Again, with reference to the CCC Report, she stated:

"We acted immediately with amendments to our Climate Change Bill to set a 2045 target for net zero emissions - as we said we'd do. If agreed by Parliament, these will be the most stringent legislative targets anywhere in the world and Scotland's contribution to climate change will end, definitively, within a generation. The CCC was clear that this will be enormously challenging...."

The First Minister also highlighted the important role of the planning system stating:

"And subject to the passage of the Planning Bill at Stage 3, the next National Planning Framework and review of Scottish Planning Policy will include considerable focus on how the planning system can support our climate change goals".

The Scottish Government has therefore acted on the stark warnings issued by the IPCC who have stated that by 2030 it would be too late to limit global heating to 1.5 degrees. In light of the further report by the CCC the Scottish Government has stated unequivocally that there needs to be "transformative change" and that action has to be quick and decisive. An emergency requires action and as set out in the conclusions below, the planning system must be responsive to that.

The current climate change emergency must therefore go to the matter of weight to be attributed to the climate change benefits that would result from the Proposed Varied Development. As set out in Table 3.1 above, the Proposed Varied Development would significantly increase the benefits of the Consented Scheme and thereby contribute to national objectives of reducing greenhouse gas emissions and meeting the 'net zero' carbon targets by 2045.

3.5 The Scottish Energy Strategy (SES)

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.

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".

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.

The longer-term target is further articulated on page 34 where it states: *"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".* However, these targets may need to be revisited in light of the recent legislated climate change targets.

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".*

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".*

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.

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*".

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".

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".

These statements are very relevant to the Proposed Varied Development as the principle of development of a wind farm on the site has already been accepted and supported, and the EIAR concludes that the proposed increase in tip height can be accommodated.

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

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".*

3.6 Onshore Wind Policy Statement (OWPS)

The Ministerial Foreword of the OWPS 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".*

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".*

Chapter 1 is entitled 'Route to Market' and it sets out at para. 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".*

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 such as the Proposed Varied Development that can capture a good wind resource and which have cost effective grid connection arrangements which will make a valuable early contribution to targets. By increasing the height of the turbines, the Proposed Varied Development is one of increasingly few onshore wind energy projects that is viable on a support free basis.

Para. 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".*

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. Put simply, this argument does not have standing, particularly in light of the recent legislated climate change targets that will require a green energy generation response to address the decarbonising the grid, heat and transport.

Para. 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".*

3.7 Progress to the Scottish 2020 Renewable Energy & Electricity Targets

It is useful to consider how much progress has been made towards achieving the Scottish Government targets set out in Table 3.2, below.

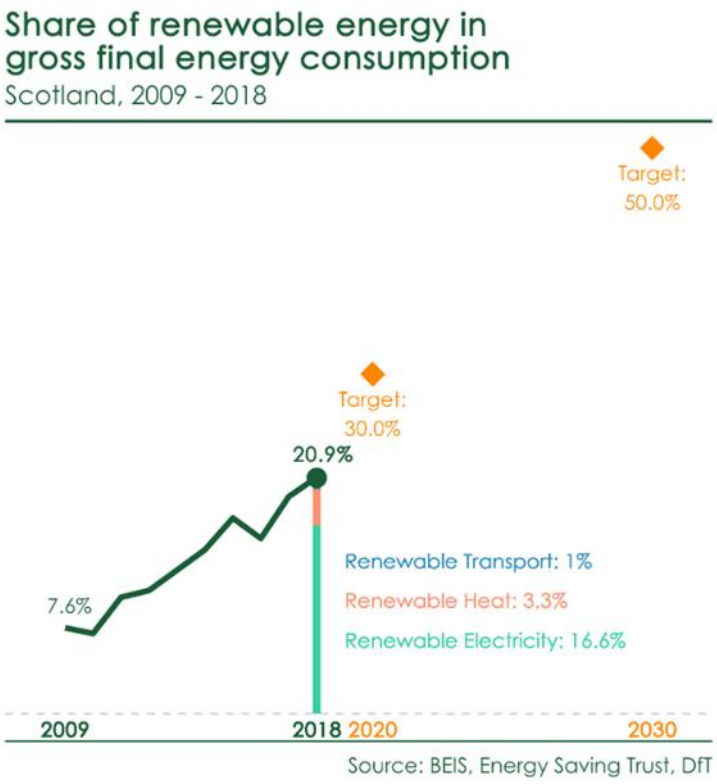
Table 3.2 Summary of Targets

Target	Target Year	Current Position	Source / Notes
Renewable Energy			
30% of total energy use from renewable sources	2020	21.1% (2018)	Scottish Energy Strategy (SES) (2017)
50% of total energy use from renewable sources	2030	21.1% (2018)	SES (2017)
Renewable Electricity			
Meet 100% of electricity demand from renewables	2020	90.1% (2019)	2020 Routemap for Renewable Energy in Scotland (2011) Scottish Energy Statistics (June 2018)
100% Target is circa 16GW	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			
Reduce carbon emissions by 66% against 1990 levels	2032	37.6%	Climate Change Plan (2018)
Reduce emissions by 56% against 1990 levels Reduce emissions by 75% against 1990 levels Reduce emissions by 90% against 1990 levels Reduce emissions to Net Zero	2020 2030 2040 2045	-46.8%	Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
Reduce Scotland's electricity grid intensity below 50g CO_2 / KWh by 2020	2020	150g CO_2/ KWh (2015)	Climate Change Plan (2018)

3.7.1 Renewable Energy

The Scottish Government's targets are to achieve 30% of total Scottish energy use from renewable sources by 2020 and 50% by 2030. The Government's Scottish Energy Statistics Hub contains the most up to date energy statistics and shows that in 2018, 20.9% of total Scottish energy consumption came from renewable sources. This is illustrated in Figure 3.3 below.

Figure 3.3: Performance against the 2020 & 2030 Renewable Energy Targets

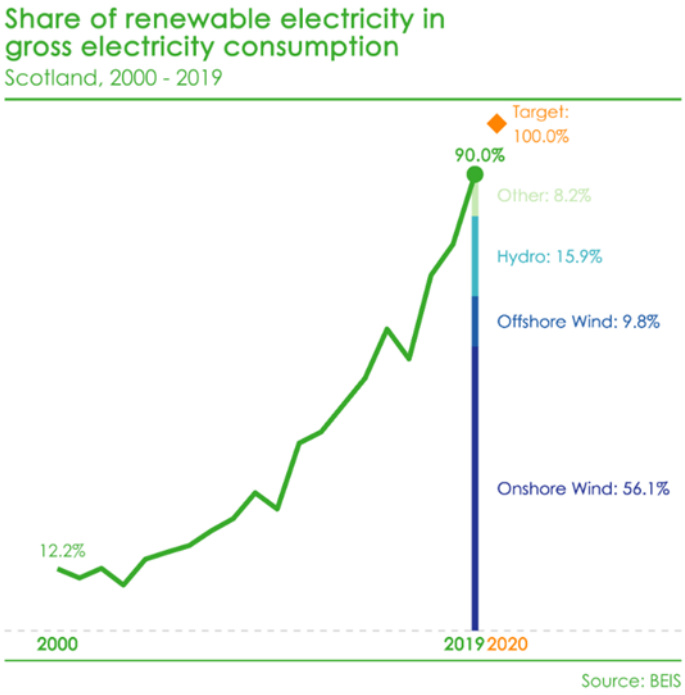


3.7.2 Renewable Electricity

As shown in Table 3.2 above, there is a 2020 target of delivering the equivalent of 100% of Scottish electricity consumption from renewables: this target equates to around 16GW of installed renewables capacity.

The Scottish Government estimates that in 2019, the equivalent of 90% of gross electricity consumption was from renewable sources, rising from 76.2% in 2018. This is illustrated in Figure 3.4 below. Much of this increase was due to wind, however, the commentary on the data acknowledges that "*Scotland's ability to meet the 100% target by 2020 will depend on how much renewable electricity generation increases and gross consumption decreases in the next year".*

Figure 3.4: Performance against 2020 Renewable Electricity Target



In addition, the Scottish Government's 2019 Q4 statistics show that as of December 2019, Scotland had 11.8GW of installed (operational) renewable electricity generation capacity, with an additional 13 GW of capacity in the pipeline. Therefore, there remains to be a significant shortfall against the Scottish 2020 renewable electricity generation target which is c. 16GW. Indeed, the Government acknowledges that meeting the 2020 target depends upon the speed at which these projects become operational, how favourable the climate is for renewable electricity generation, and the extent to which gross consumption falls. Accordingly, the Proposed Varied Development represents a significant opportunity to increase the amount of renewable energy generated on a site where the development of an onshore wind farm has already been supported, and thereby make a valuable contribution to what remains an unmet and uncapped target for 2020.

In the Caplich S36 Report to the Scottish Ministers (November 2017), the Reporter, in addressing overall conclusions and recommendations, made reference to relevant International, UK and Scottish policy on renewable energy. At 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 remaining binding irrespective of European Union membership, will pose a significant challenge going forward*".

The Reporter went on to make reference to UK and Scottish Government targets and took 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"*.

The Reporter added at paragraph 8.9 that "*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*".

This is supported by the Reporter in relation to the Consented Scheme who stated at para 12.7 of his Report that "the [Consented Scheme] would install 39 wind turbines at 3.4 MW capacity, therefore, contributing over 130 MW to the energy supply. This contribution would support European, United Kingdom and Scottish greenhouse and renewable energy targets (*for which there is no cap*); and aid in the reduction of carbon dioxide emissions".

The decision also confirms that national planning policy as set out in National Planning Framework 3 and SPP (considered in Chapter 4) 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".*

3.8 Recent Onshore Wind Energy Decisions

In order to establish the weight that should be given to the renewable and climate change policy framework and associated targets in decision making, it is helpful to examine the position of Reporters in recent S36 and Appeal Decisions.

In the Corriemoillie Wind Farm S36 Decision (December 2019), the Reporter considered climate change and renewable targets and stated that *"the seriousness of climate change, its potential effects and the need to cut carbon dioxide emission, remains a priority of Scottish Ministers*" (page 7 of the Decision Letter).

In the Gordonbush Wind Farm Extension S36C Decision (issued November 2019), when considering Scottish Government policy, the Scottish Ministers were *"satisfied that deploying larger and more efficient turbines of the proposed varied Development would provide considerable carbon savings and these savings would be of an order that weighs in favour of the proposed varied Development*".

In the Pencloe Wind Farm S36 Decision (issued December 2018) the Reporter addressed national energy policy in his overall conclusions. In Chapter 9 of his Report to the Scottish Ministers, para. 9.7, the Reporter states 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".

In the Hopsrig Appeal Decision Notice at para. 64, the Reporter referred to Dumfries and Galloway Council's position that the SES and OWPS add little to that already set out in SPP and NPF3. He took a different view and stated:

"However, I agree with the appellant that the OWPS uses particularly positive language when discussing on-shore wind. For example, in paragraph 3, it is described as playing a "vital role in meeting Scotland's energy needs and a material role in growing our economy." It is also stated that "Onshore wind generation will remain crucial in terms of our goals for a decarbonised energy system…". I find it significant that, despite the progress that has been made in recent years in the delivery of onshore wind energy development and the consequent improvement there has been in the provision of energy in ways that minimise greenhouse gas emissions, there remains undiminished, in principle, policy support for further such development. This is made clear in paragraph 4 of the OWPS – "Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated."

A further helpful position on energy policy was summarised by the Reporter in the Corlic Hill Wind Farm Appeal Decision (17 May 2016) where in setting out overall conclusions he stated at para. 195 of the Decision Letter:

"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 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".

In summary, in recent decision-making the Scottish Government's renewable energy policy has been a significant material matter. Furthermore, Protecting Scotland's Future: The Government's Programme for Scotland 2019-2020 was published following most of these decisions and substantially adds to the Scottish Government's ambitions to address the climate change emergency.

3.9 Conclusions on Renewable Energy Policy

The Scottish Government renewable energy policy documents and associated renewable energy and climate change targets all provide considerable support in favour of renewable energy development. Indeed, considering the recent enactment of climate change legislation, and the clear recognition that we are in a state of 'climate emergency', the need case for the Proposed Varied Development must be a significant material consideration, especially as the development of a wind farm on this site has previously been deemed acceptable.

The Proposed Varied Development has a potential installed capacity of 207 MW, is predicted to have a 1.6 year carbon payback period and is estimated to be capable of powering the equivalent of 317,000 homes. It would make a valuable contribution to legislated climate change targets and government policy objectives, thereby implementing Government policy and legislation.

As the Scottish Government makes clear, renewable energy generation is a key component of the ways in which climate change can be addressed and a key component in meeting climate change targets. The SES recognises that onshore wind is a vital part of Scotland's renewable energy future and that it is the most cost-effective way of generating renewable energy and on this basis must be considered as being the energy generation technology that could contribute the most to our climate change objectives in the short term.

The scale of the challenge presented by the new targets adopted by the Scottish Government on the advice of the CCC is considerable, especially given the requirements for decarbonisation of heat and transport, which will require significant increases in renewable energy generation well beyond historic deployment levels. Notably, recent figures show Scotland has not met interim targets therefore there is even greater pressure upon increasing renewable energy generation.

Accordingly, the current climate change emergency, the scale of the challenge, and the contribution that the Proposed Varied Development can make compared to the Consented Scheme is a significant consideration in favour of consent.

4 National Planning Policy

4.1 Introduction

This Chapter of the Planning Statement summarises the national planning policy position which is a relevant material consideration to the determination of the s.36c application for the proposed development. The national policy position remains as that which informed the consented development s.36 decision.

4.1 The National Planning Framework 3

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 (referred to below) applied at the strategic and local levels, are intended to help the planning system deliver the Government's vision and outcomes for Scotland and to contribute to the Government's central purpose. Indeed, Page 1 of NPF3 highlights how national planning policy responds to the Scottish Government's overall purpose.

High level support for renewable energy development 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…".*

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 legislation".

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

The introductory section acknowledges that, at present, the energy sector accounts for a significant share of the country's greenhouse gas emissions.

Paragraph 3.7 states that whilst there is strong public support for wind energy as part of the renewable energy mix, opinions about onshore wind in particular locations can vary. It adds that the technology is *"…recognised as an opportunity to improve the long term resilience of rural communities".*

Paragraph 3.8 makes reference to targets and states that by 2020, the aim is to reduce total energy demand by 12%. In order to achieve this, and to maintain energy supplies, further diversification of supplies will be required.

It adds 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, with an interim target of 50% by 2015. It should be noted that even more ambitious targets have been set following the publication of NPF3, as set out in Chapter 3 above.

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 and for Scotland to be a world leader of offshore renewable energy. In time we expect the pace of onshore wind energy development to be overtaken by a growing focus on our significant marine energy opportunities including wind, wave and tidal energy".

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

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 Government has made it unequivocally clear that it wants to continue to *"capitalise on our wind resource"*. The Proposed Varied Development would significantly contribute to the unmet 2020 target set out in NPF3.

With regards to the Consented Scheme, the Scottish Ministers agreed with the Reporter's conclusions that "the development would support the vision and aims of NPF3 to make Scotland 'a low carbon place' by capitalising on the wind resource and encouraging community ownership". The Proposed Varied Development would capitalise on the wind resource even further.

It should be noted that the Scottish Government is currently preparing the fourth National Planning Framework ("NPF4"). In accordance with the Planning (Scotland) Act 2019, NPF4 will incorporate SPP and it will form part of the statutory Development Plan rather than being a material consideration. Therefore, the policies contained within NPF4 will have more weight in the decision-making process. Early engagement on the scope and content of NPF4 has already been carried out, and the Government is aiming to lay a draft version before the Scottish Parliament in 2021.

4.2 Scottish Planning Policy

On 23 June 2014, the Scottish Ministers published SPP. The purpose of the 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. The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed.

Paragraph (iii) states that as a statement of Ministers' priorities, the content of the SPP is a material consideration that carries significant weight.

4.2.1 Relationship of SPP to National Outcomes

Paragraph 9 of the 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…."*.

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.

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 … 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".*

Outcome 2 'A Low Carbon Place' explains that NPF3 will facilitate the transition to a low carbon economy, particularly by supporting diversification of the energy sector. Paragraph 18 refers 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 s.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. Note: these targets have been significantly strengthened in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.

4.2.2 Principal Policies of SPP

SPP contains two Principal Policies, namely 'sustainability' and 'placemaking'[7]. 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".

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

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".*

[7] 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.

4.2.3 Presumption in Favour of Development that contributes to Sustainable Development

Para. 27 of SPP introduced a "*presumption in favour of development that contributes to sustainable development".*

As stated in para. 28:

"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".

For practical purposes the presumption is a relatively new approach. Although little practical guidance is available, the approach to its application in wind farm cases has been consistently set out by a number of Reporters and in the Graham's Dairy Judgment and Gladman Developments Limited v Scottish Ministers Judgment. As explained below, paragraphs 32 and 33 of the SPP explain how the presumption operates, but not what it is.

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

Para. 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 …".

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".

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.

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

The most recent appeal case which deals with the presumption in favour of sustainable development, in the context of the Highland area, is the Dell Wind Farm Appeal Decision issued on 22 August 2019. At para. 94, the Reporter agrees with the Appellant "*that paragraph 33 of SPP is engaged and is a significant material consideration given that the local development plan is more than five years old*".

The Reporter cited the Caplich s.36 Decision[8], which was issued on 27 April 2018, in coming to this conclusion. The Caplich Inquiry Report (IR) dated 29 November 2017 is very informative, particularly paras. 2.128 to 2.144.

The Reporter starts by setting out his position on the presumption with a clear rebuttal of THC'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".

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".

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".

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".

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

"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".

[8] 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).

It should be noted that the Reporter[9] 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).

The Reporter went on in the following paragraph to state:

"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".

In this application, although the CaSPlan is less than five years old, the key development plan policies which are set out in the HwLDP are more than five years old. The Reporter in the Dell Wind Farm Appeal Decision deals with this in the context of the Onshore Wind Energy Guidance being less than five years old. With reference to the Druim Ba Wind Farm and Caplich Wind Farm appeal decisions, as well as the ways in which the proposal would contribute to sustainable development, the Reporter concludes that "*paragraph 33 of SPP is engaged and is a significant material consideration given that the local development plan is more than five years old"* (underlining added).

Accordingly, the planning balance should be tilted in favour of the Proposed Varied Development because it would contribute to sustainable development (as discussed below and established in relation to the Consented Scheme), the key policies set out in the HwLDP are more than five years old, and there are no adverse impacts which would significantly and demonstrably outweigh the benefits derived from the Proposed Varied Development.

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

In the Caplich case, the Reporter considered whether the development should be regarded as 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. These matters are considered below in relation to the Proposed Varied Development.

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 4.1 below together with a summary response of the extent to which the Proposed Varied Development is consistent or otherwise with the respective principle:

[9] 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".

Table 4.1: SPP para. 29 Principles

Policy Principle	Proposed Varied Development
1. Giving due weight to net economic benefit.	There would be net positive socio-economic effects, as summarised in Chapter 6, below and detailed in EIAR Volume 2: Main Report Chapter 11 'Socio-Economics, Recreation and Tourism'.
2. Respond to economic issues, challenges and opportunities, outlined in local economic strategies.	As above.
3. Supporting good design and the six qualities of successful places.	This is of limited relevance to wind farm developments however the layout of the development was previously consented and the Design and Access Statement sets out how good design principles have been taken into account.
6. Supporting delivery of infrastructure, for example transport, education, energy, digital and water.	The Proposed Varied Development would deliver energy infrastructure.
7. Supporting climate change mitigation and adaptation including taking account of flood risk.	The Proposed Varied Development 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 Proposed Varied Development would provide opportunities for walking and biking on access tracks.
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 Proposed Varied Development would contribute positively to climate change action and demonstrate care for the landscape by being predominantly in a 'Group 3' location and one which is consistent with a landscape capacity study that has statutory status.
10. Protecting, enhancing and promoting access to cultural heritage, including the historic environment.	The Proposed Varied Development seeks to protect the cultural heritage and historic environment of the area. As set out in EIAR Volume 2: Main Report, Chapter 7 'Cultural Heritage', the Proposed Varied Development would result in no material change to the residual effects predicted as a result of the Consented Scheme.
11. Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.	The Proposed Varied Development would promote access to the surrounding area.
12. Avoiding over-development, protecting the amenity of new and existing development and considering the	There would be no conflict with this policy principle.

implications of development for water, air and soil quality.	

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 Varied Development. The Proposed Varied Development is considered to adhere to the abovementioned principles and is, overall, considered to constitute sustainable development.

4.2.5 SPP & National Outcomes

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…".*

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".*

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.

In particular, the Proposed Varied Development would assist in delivering sustainable economic growth in line with Outcome 1.

The Proposed Varied Development, given its nature and use would clearly assist in achieving Outcome 2 'a low carbon place'. Indeed, as set out in EIAR Volume 4: Technical Appendices, TA 12.1, the Proposed Varied Development would pay back the carbon emissions associated with its construction, operation and subsequent decommissioning in 1.6 years. This equates to an expected carbon emission saving of 387,420 tCO_2/year, compared to 228,808 tCO_2/year for the Consented Scheme.

The Proposed Varied 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 Varied Development would contribute to a natural, resilient place through the part it plays in mitigating the effects of climate change. As discussed below, the application site is in a Group 3 'Areas with potential for wind farm development' location meaning that it is free of national level designations and many other types of constraints. Indeed, the principle of developing a wind farm based on the proposed turbine layout has already been deemed acceptable.

It also needs to be noted that very few developments would be able to contribute to all four outcomes – that the Proposed Varied Development contributes positively to three (and the fourth one is not relevant) is to its credit and reinforces the engagement of the presumption[10].

4.2.6 Conclusion on the SPP Presumption in Favour

As set out above, the Proposed Varied 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 Varied Development is consistent with sustainable development. SPP sets out a clear presumption in favour of proposals that contribute to sustainable development. Furthermore, the Proposed Varied 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.

Accordingly, as the Proposed Varied Development would contribute to sustainable development, as also established in relation to the Consented Scheme, and the key policies set out in the HwLDP are more than five years old, para. 33 of SPP is engaged. Furthermore, it is considered that the significant impacts that would arise as a result of the Proposed Varied Development are acceptable overall would not significantly and demonstrably outweigh its benefits therefore the planning balance should be tilted in its favour.[11]

4.2.7 SPP: Development Management for Energy Infrastructure Developments

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 …;

[10] 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).
11 At the time of writing, the Scottish Government has launched a Scottish Planning Policy and Housing: Technical Consultation on Proposed Policy Amendments. The consultation closes on 9 October 2020. The consultation states an objective to provide a clearer basis for decisions on applications for housing on sites that have not been allocated in the local development plan where there is a shortfall in the effective housing land supply. Whilst onshore wind is not referenced, part of this consultation involves a possible removal of the presumption in favour of development that contributes to sustainable development from the SPP. At the time of writing the presumption in favour remains in effect and forms a material consideration in favour of the Proposed Varied Development.

- 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."

Given the findings of the EIAR and in light of the policy appraisal set out in this Planning Statement, the Proposed Varied Development is considered to be acceptable in terms of the above considerations.

4.2.8 SPP Subject Policies – A Low Carbon Place

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.

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.

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.

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.

The Proposed Varied Development is consistent with the 'low carbon place' subject policy and would contribute to the attainment of its objective.

4.2.9 Onshore Wind

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. It makes it clear at (paragraph 166) that moratoria on onshore wind development are not appropriate.

In terms of Spatial Framework guidance, a "*community separation for consideration of visual impact*" is set out as *"an area not exceeding 2km around cities, towns and villages identified on the local development plan with an identified settlement envelope or edge".*

As with the previous SPP, this separation distance has a purpose of guiding the preparation of Spatial Frameworks and is not a requirement for a 'set back' to settlements, or in relation to individual properties for wind farms in terms of development management.

4.2.10 SPP: Spatial Framework Approach

With reference to the Spatial Framework approach set out in Table 1 of SPP, the site does not lie within any 'Group 1' areas (where wind farms will not be acceptable).

The vast majority of the site and infrastructure fall within a Group 3 area (where there is potential for wind farm development) which reflects the boundary of the woodland plantation. The preferred access track (which is the same as the Consented Scheme but with the deletion of approx. 0.5 km of track) falls within a Group 2 area of significant protection, however, there are no predicted issues in terms of national and international designations, other nationally important mapped environment interests or impacts upon communities. Accordingly, the application site can be regarded as falling within Group 3.

This approach was taken by the Reporter in the Cnoc an Eas decision. The Reporter set out in paragraph 111 of that decision 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."

Table 1: Spatial Frameworks

Group 1: Areas where wind farms will not be acceptable: National Parks and National Scenic Areas.		
Group 2: Areas of significant protection: 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.		
National and international designations: • 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.	**Other nationally important mapped environmental interests:** • areas of wild land as shown on the 2014 SNH map of wild land areas; • carbon rich soils, deep peat and priority peatland habitat.	**Community separation for consideration of visual impact:** • 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.
Group 3: Areas with potential for wind farm development: Beyond groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.		

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

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".*

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".*

The Applicant does not place reliance on the limited lifespan (i.e. 50 years) of the Proposed Varied Development (50 years) as a factor that makes the development acceptable in amenity terms.

Furthermore, the provisions of paragraph 170 are different from the matter of reversibility. The Proposed Varied Development would remain a reversible type of development and whether this occurs in 35 or 100 years, it remains reversible compared to most other conventional types of development.

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).

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 in Chapter 3, above, 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.

4.2.11 Wild Land Policy References in SPP

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."

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.

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".

This policy applies to development proposals that are located within the identified Wild Land Areas (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.

The effects of the Proposed Varied Development on WLAs are considered in EIAR Volume 4: Technical Appendix (TA), TA 4.9.

4.2.12 Natural Heritage Designations

Paragraphs 207 to 212 set out the relevant tests for the consideration of development impacting upon natural heritage designations. With the exception of a short length of access track, the Proposed Varied Development is not located within a Special Areas of Conservation (SACs) and/or Special Protection Areas (SPAs), Ramsar or a Site of Special Scientific Interest (SSSI), however it is noted that the site is bordered by such designations as illustrated in EIAR Volume 3a: Figure 5.3.

The relevant SPA's, SAC, Ramsar sites and SSSI's are referred to in the relevant chapters of the EIAR:

i. Caithness and Sutherland Peatlands SPA;

ii. Caithness and Sutherland Peatlands SAC;

ii. Caithness and Sutherland Peatlands Ramsar site;

iii. Caithness Lochs SPA;

iv. Lochan Buidhe Mires, Skelpick Peatlands, Strathy Bogs and West Halladale SSSIs.

The SSSI's underpin the SPA & SAC designations and there is coincidence in many of the qualifying features but not total coincidence. Similarly, there are qualifying features in the Ramsar citation that are not qualifying species listed for the SPA. For this reason, separate assessments have been carried out as reported in Chapter 5 of the EIAR with respect to ornithology and in Chapter 9 of the EIAR with respect to non-avian ecology. The conclusions of the EIAR with respect to the relevant designations are considered below against the relevant provisions of the SPP and Planning policy, for both avian and then non-avian ecology.

Natura 2000 Sites

With respect to sites designated as Special Areas of Conservation (SACs) and/or Special Protection Areas (SPAs) Paragraph 207 of SPP states that:

"Any development plan or proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site."

Whilst with the exception of a short length of access track, the Proposed Development is not located within a SAC or SPA, it is noted that the main site is bordered by a SSSI in all directions. These are the SSSIs that underpin the adjacent Caithness and Sutherland Peatlands SPA and therefore collectively share the same footprint. With respect to ornithology a search for all designated sites within a 10 km radius of the main site was made and extended to 25 km for SPA and Ramsar sites (the search to 25 km was to identify any SPAs where gulls and/or geese are qualifying species).

In relation to the integrity of the SPA, as noted in Chapter 5 of the EIAR, because of the connectivity of the site and SPA-qualifying bird populations, together with the international importance and high sensitivity of the qualifying species of the SPA, a Report to Inform a Habitats Regulation Appraisal (HRA Report) has been prepared; (Technical Appendix 5.2 of the EIAR).

At the time of the Public Inquiry for the Consented Scheme the designated site of primary importance when assessing the effects on the designated sites in the area were the Caithness and Sutherland Peatlands SPA and the Caithness and Sutherland Peatlands Ramsar site. The Scottish Ministers accepted the recommendation of their appointed Reporter who conducted the Public Inquiry that it could be concluded, beyond reasonable scientific doubt, that the integrity of the Caithness and Sutherlands SPA and Ramsar site would not be adversely affected by the Consented Scheme.

The overall conclusion of the HRA Report in relation to the Proposed Varied Scheme is that it is beyond reasonable scientific doubt that the integrity of the Caithness and Sutherland Peatlands SPA would not be adversely affected by the construction and operation of the Proposed Varied Development and there would be no adverse effects on the integrity of the SPA, either alone or in combination with other plans or projects.

The relevant qualifying interests of the Caithness Lochs SPA and Ramsar Site were included in the assessment of likely significant effects from the Proposed Varied Development because of SNH Guidance that SPAs up to 25 km with qualifying populations of geese should be considered for potential connectivity.

It is concluded in Chapter 5 of the EIAR that there would be no significant adverse effects on this qualifying species of the Caithness Lochs SPA and Ramsar site and that the integrity of the Caithness Lochs SPA and Ramsar site would not be adversely affected by the construction and operation of the Proposed Varied Development, either alone, or in combination with other wind farm development.

Ramsar Sites

Whilst it is acknowledged that there is often some coincidence between the qualifying species for a SPA, and qualifying features of a Ramsar site, or listed key features of SSSIs, there can (as there is in the case) be qualifying features of the Ramsar site that are not SPA qualifying species and features of an SSSI that are not SPA qualifying species or Ramsar qualifying features.

For this reason, the relevant features of these designated sites are assessed independently within the EIAR.

With respect to Ramsar sites and SSSI's paragraph 211 of SPP confirms that

"211. All Ramsar sites are also Natura 2000 sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes."

In relation to the coincident species as already noted for the SPA's as above, it is concluded that there would be no significant adverse effects on the qualifying species of the Caithness and Sutherland Peatlands SPA and Ramsar site and that the integrity would not be adversely affected by the construction and operation of the Proposed Varied Development, either alone, or in combination with other plans or projects.

Chapter 5 of the EIAR concludes that for those qualifying features of the Caithness and Sutherland Peatlands Ramsar site that are not a SPA qualifying species there would no significant adverse effects on any of the qualifying features and, noting the conclusion in respect of those SPA/Ramsar qualifying features that do overlap, the integrity of the Ramsar site would not be adversely affected by the Proposed Varied Development either alone or in combination with other plans or projects. The same conclusion was reached for the Caithness Lochs Ramsar site.

National Designations

The relevant policy tests in relation to national designations including SSSI's is set out in paragraph 212 of SPP.

"Development that affects a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve should only be permitted where:

• the objectives of designation and the overall integrity of the area will not be compromised; or

• any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance."

Peregrine, which is listed in relation to 3 of the 4 SSSI's, is the only key feature of the SSSIs that is not covered by the conclusions reached on the likely significant effects on SPA qualifying species or Ramsar qualifying features. Peregrine has been the subject of detailed study in the ornithological EIA work for the Proposed Varied Development. The overall conclusion is that there are no significant effects predicted for this species from

disturbance or collision. This conclusion is further supported by findings from the nearby Strathy North and Strathy Wood wind farm sites which show that peregrine activity is infrequent in the wider area and no breeding peregrine have been confirmed at either wind farm site.

It was therefore be concluded that the construction and operation of the Proposed Varied Development would not have any significant effect on this SSSI feature that contributes to the breeding assemblages of the Lochan Buidhe mires, Skelpick Peatlands and West Halladale SSSIs, either alone, or in combination with other wind farm development. On that basis, and taking into account the conclusions reached in relation to the SPA qualifying species and the additional Ramsar qualifying features that are also common to the SSSIs, it is concluded that the objectives of designation and the overall integrity of the area of the four SSSIs will not be compromised in relation to the ornithological key features.

With respect to non- avian ecology, the impacts on the surrounding Caithness and Sutherland Peatland Special Area of Conservation (SAC) are assessed in Chapter 9 of the EIAR. The Caithness and Sutherland Peatland RAMSAR citation for this site, mirrors the ecological receptors of the SAC with the exception of invertebrates and includes bog habitats, otters, and a number of rare plant and moss species. It is concluded within Chapter 9 the EIAR that there are no residual likely significant effects and the integrity of the area will not be compromised by the Proposed Varied Development either alone or in combination with other plans or projects.

The likely significant effects to aquatic species macro-invertebrates is assessed as Minor adverse (Not Significant).

The four SSSIs which have potential to be directly or indirectly affected by the development; are Lochan Buidhe Mires, Skelpick Peatlands, West Halladale and Strathy Bogs. The biological features which these are designated for is blanket bog. The effects of the development on such habitats are assessed in the consideration of the Caithness and Sutherland Peatlands SAC and Chapter 9 of the EIAR concludes that the objectives of SSSI designation and the overall integrity of the area will not be compromised.

In conclusion based on the review of the likely significant residual adverse effects that are predicted for relevant qualifying species of the Caithness and Sutherlands Peatlands SPA/SAC and Ramsar Site, the Caithness Lochs SPA and Ramsar sites, and, the Lochan Buidhe Mires, Skelpick Peatlands, Strathy Bogs and West Hallidale SSSIs, it has been concluded that the integrity of these designated sites would not be adversely affected. The Proposed Varied Development complies with the relevant tests as set out within SPP,

4.3 Conclusions

The Proposed Varied Development is well aligned with national planning policy, meeting the onshore wind locational policy objectives of NPF3 and SPP.

Indeed, para. 33 of SPP is fully engaged therefore the presumption in favour of the development is a material consideration. The Proposed Varied Development would not result in any adverse impacts which would significantly and demonstrably outweigh its benefits. Accordingly, in line with recent decision-making set out in section 4.2.3 above, the planning balance should be tilted in favour of the Proposed Varied Development.

5 Development Plan

5.1 Introduction

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

- The Highland-wide Local Development Plan ("HwLDP") (adopted 5th April 2012);
- The Caithness and Sutherland Local Development Plan ("CasPlan") (adopted 31st August 2018); and
- relevant Supplementary Guidance, particularly the Onshore Wind Energy Supplementary Guidance ("the OWESG") (November 2016).

It should be noted that the Consented Scheme was assessed by the Reporter against the HwLDP and the draft OWESG, however, the CaSPlan had not been prepared at the time of the Public Inquiry or the Reporter's recommendation. The Scottish Ministers concluded in the Decision Letter that *"on balance, the [Consented Scheme] complies with the development plan when read as a whole*". This Section considers the Proposed Varied Development against the relevant provisions of the up to date Development Plan.

5.2 Development Plan Allocation

The HwLDP identifies the site as lying within an area of wider countryside, with small areas of Local / Regional Importance. The access route crosses an area of International Importance.

The site does not fall within any allocations set out in the CaSPlan.

5.3 HwLDP Relevant Policies

The Proposed Varied Development is assessed against the following HwLDP policies which have been listed in order of relevance:

- Policy 67 – Renewable Energy Developments (Policy 67 has been specifically formulated to deal with renewable energy developments and is the 'lead' policy, supported by Supplementary Guidance);
- 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 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;
- Policy 72 – Pollution;
- Policy 77 – Public Access;
- Policy 78 – Long Distance Routes'.

5.4 HwLDP Policy Assessment

5.4.1 Policy 67 - Renewable Energy Developments

Policy 67 is the key HwLDP policy for the assessment of onshore wind farm developments. The Policy contains criteria which generally address the environmental topics referred to in other policies within the Plan. The Policy also refers to the OWESG and its role in providing further criteria for the consideration of onshore wind energy proposals.

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 Varied Development meets this requirement as the "*primary renewable resource*" for its operation is wind and the application site enjoys an excellent wind resource. Indeed, the very reason for the proposed increase in tip height of the wind turbines is to maximise the energy generated from the wind resource.

Secondly, Policy 67 states the Council will consider a proposed development's contribution *"towards meeting renewable energy generation targets"*. The Proposed Varied Development has a potential installed capacity of 207 MW 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 are discussed in Chapters 3 and 4 above.

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 Varied 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 Varied Development are set out in Chapter 6, below.

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. This Planning Statement assesses the Proposed Varied Development against other relevant Development Plan policies. HRES is no longer used by the Council as a material policy / guidance document and is therefore of no relevance.

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 Varied Development will realise significant benefits, as summarised in Chapter 6, below, and has also been designed to make best use of existing infrastructure, including that of other nearby wind farm developments, as discussed in EIAR Volume 2: Main Report, Chapter 2 'Development Description' in relation to access tracks.

Finally, Policy 67 requires a Proposed Varied 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".* Each of these 11 factors are considered below.

1. Natural, Built and Cultural Heritage Features

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 Varied Development is assessed against Policy 57 below with regard to natural, built and cultural heritage features.

2. Species and Habitats

The EIAR addresses ornithology and ecology in Volume 2: Main Report Chapters 5 and 9 respectively and details the results of the surveys carried out in relation to species and habitats.

Ornithology

As set out in EIAR Chapter 5, an assessment of the likely significant effects of the Proposed Varied Development on valued ornithological receptors (VORs) has been carried out in line with industry guidance. The assessment considered the sensitivity of birds on and around the site, and the magnitude of effects during construction, operation and decommissioning stages. The assessment also considered potential impacts on the qualifying species of the Caithness and Sutherland Peatlands SPA and Ramsar site, and underlying SSSIs as a result of the Proposed Varied Development, both alone and in combination with other plans and projects.

It should be noted that whilst the full range of potential effects have been considered as part of the assessment, the key issue between the Proposed Varied Development and the Consented Scheme is collision risk and whether this has changed significantly due to the increase in tip height and rotor diameter.

It is concluded within Chapter 5 of the EIAR that there would be no likely significant residual effects on birds as a result of the Proposed Varied Development either alone, or in combination. The EIAR further reports that beyond reasonable scientific doubt, that the integrity of all of the designated sites that support protected species listed under the relevant designations would not be adversely affected, either from the Proposed Varied Development alone, or in combination with other wind farm development.

Chapter 5 of the EIAR details how the assessment work has been carried out in accordance with up-to-date and relevant Guidance from SNH, together with other professional guidance from the Chartered Institute of Ecology and Environmental Management (CIEEM) and in relevant grey literature. The comprehensive baseline data sets for the survey area and the wider area which, together with the monitoring data available for the operational Strathy North Wind Farm, provide important insight on breeding birds and flight activity on the main site and across the surrounding peatland habitat and provide a high level of confidence in the assessment of significance of predicted residual effects from the construction and operation of the Proposed Development on the main site.

Non-avian and habitats

In accordance with the approach to mitigation taken for the Consented Scheme, careful consideration has been given to the design of mitigation measures that could avoid, reduce or offset any of the predicted effects on important non-avian ecological receptors. As concluded in EIAR Chapter 9, suitable mitigation through the design of the Proposed Varied Development and measures specific to important ecological features have been identified which would reduce all potential effects to a non-significant level. Indeed, the implementation of a Habitat Management Plan and associated works through the 50 years operational lifespan of the Proposed Varied Development would result in a negligible / minor benefit in terms of habitats.

The Applicant has sought to reduce some of the adverse predicted effects that are not categorised as significant, but it is recognised that there are wider ecological benefits that can be delivered through the proposed mitigation strategies. This was recognised by the Reporter appointed to conduct the PLI into the Consented Scheme in 2015, in his conclusion that there would be no significant adverse effects in relation to non-avian ecology and that it was likely that there would be beneficial effects to the peatland habitats on the main site.

Condition 23 of the 2018 Consent requires the submission and approval of a Habitat Management Plan prior to development, and Condition 19 of the 2018 Consent requires the appointment of an independent and suitably qualified Ecological Clerk of Works (ECoW) which would ensure the implementation of mitigation measures and safeguarding of environmental and ecological features.

Accordingly, the Proposed Varied Development is not considered to result in significant effects upon species and habitats.

3. Visual Impact and Impact on the Landscape Character

The third factor in Policy 67 relates to visual impact and impact on the landscape character of the surrounding area. The appropriate approach is to determine whether a development would result in effects that are "significantly detrimental" overall, not if a development per se, would result in a significant effect.

EIAR Volume 2: Main Report, Chapter 4 'Landscape and Visual Amenity' considers the likely significant effects on the landscape and visual resource of the area arising from the Proposed Varied Development.

Design Approach

Before summarising the impact on visual amenity and landscape character effects of the Proposed Varied 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.

The design of the Proposed Varied Development has gone through numerous iterations since this site was first explored for development as a wind farm in 2007. The siting and design of turbines and associated tracks and infrastructure resulted from a constraints exercise which included consideration of potential impacts from a Landscape and Visual Impact Assessment (LVIA) perspective. It was also influenced by national and local guidance and consultations with Scottish Natural Heritage (SNH), THC and Scottish Environment Protection Agency (SEPA).

In addition, and most recently, consideration of increasing the height of turbines recognised that the location of the site, set back from the coast, coastal settlements, the A836 and largely visually shielded from Strath Halladale and Strathnaver, provided a unique opportunity to accommodate larger turbines. The evolution of the design is described in EIAR Volume 2: Main Report, Chapter 1 'Introduction' and the Design and Access Statement.

It should be noted that with regards to the Consented Scheme, the Reporter found (para. 3.77):

"the application site is positioned well in relation to the surrounding topography: a u-shaped extended valley in which the proposed turbines would be relatively screened from much of the surrounding area. The application site is not located in an area subject to any landscape designation. There would be little impact on national scenic areas. Significant localised landscape impacts would occur, as would other significant landscape impacts from a limited number of locations, including within one special landscape area. There would be no significant landscape or visual impact from the identified northern estates. There would be very limited impact on residences. Again, the significant visual impacts identified would be limited to a few locations".

Visual Impact

As set out in EIAR Volume 2: Main Report, Chapter 4, the majority of visual effects would not be significant due to the natural screening provided by the surrounding landform, and the proximity of the Proposed Varied Development to Strathy North Wind Farm. Indeed, the presence of Strathy North Wind Farm often reduces the sensitivity of views affected as well as the perceptibility of changes that would result from the Proposed Varied Development.

Potentially significant effects would be limited to those experienced by recreational users in the hills and moorland around the Proposed Varied Development (of which VP1: Ben Griam Beg and VP3: Loch nan Clach Geala are representative) and, to a lesser extent, travellers along small localised parts of the A836 (VP6: Bettyhill and VP7: A836 west of the B871). Significant effects are also predicted from the Scottish Hill Track 344: Strath Halladale (Trantlebeg) to Strathy. Localised significant visual effects are predicted from parts of the A836 (Tongue – eastern edge of Detailed Study Area) (NC500 / Cycle Route 1) and parts of the A836 Tongue to Detailed Study Area.

The visual assessment demonstrates that of the few residential areas where views would be theoretically obtained, no significant visual effects would occur.

EIAR Volume 2: Main Report, Chapter 4, predicts that the addition of the Proposed Varied Development to the cumulative development baseline would result in a significant cumulative effect to one viewpoint, VP1: Ben Griam Beg, located approximately 8.6 km to the south of the turbines of the Proposed Varied Development, where they would appear closer, larger and more prominent than the cumulative developments leading to an increased prominence of wind turbines within northward views. All other cumulative effects to viewpoints, routes and residential receptors would be not significant.

In terms of the effects of turbine lighting, EIAR Volume 2: Main Report, Chapter 4 concludes that lighting every turbine (as required by Civil Aviation Authority (CAA) Guidelines) would result in significant effects during low light conditions and the hours of darkness. However, the Applicant is engaging with aviation stakeholders and the CAA to agree a lighting solution which could result in a reduced visual effect. Discussions include consideration of the following:

- Potential reduction of lighting intensity during good meteorological visibility;
- Radar activated lighting (should this be approved for use); and
- Potential for cardinal or strategic lighting on selected turbines.

Therefore, although some significant visual effects are predicted as a result of the Proposed Varied Development, they would be limited to areas within close proximity of the site and affect relatively discreet parts of the landscape and occasional views by recreational users of the landscape and travellers along small parts of the

A836. In addition, there would be no significant visual effects to residential areas and or designated landscapes (excluding the effects of turbine lighting). The Applicant is confident that a solution can be reached in terms of aviation lighting which can be dealt with via the submission of a scheme of aviation lighting as part of meeting the requirements of Condition 10 attached to the 2018 Consent.

Landscape Character

As summarised in EIAR Volume 2: Main Report, Chapter 4, the vast majority of effects to landscape character, landscape designations and other protected landscapes resulting from the Proposed Varied Development would not be significant. This is largely due to the proximity of the Proposed Varied Development to Strathy North Wind Farm which provides a precedent in most areas for the types of effects which would be experienced, and the natural screening provided by the surrounding rolling landform. Significant landscape effects (excluding the effects of turbine lighting) would be limited to:

- Ben Graim and Loch nan Clar SLA;
- Localised parts of the Lone Mountains Landscape Character Type (LCT);
- Localised Parts of the Sweeping Moorlands and Flows LCT (134); and
- Localised parts of the WLA39: East Halladale Flows WLA.

These effects would occur largely within 5 km of the Proposed Varied Development turbines and not more than 15 km away, generally affecting discrete parts of the landscape.

No significant cumulative landscape effects have been identified when considering the addition of the Proposed Varied Development to the cumulative development baseline (existing and proposed wind farm sites). This is mainly due to the position of the Proposed Varied Development adjacent to the operational site of Strathy North wind farm and the proposed Strathy Wood wind farm, leading to the appearance of a largely cohesive cluster of baseline development which would strongly define the character of the landscape in which it would be located. In adjacent areas, where the more notable landscape effects of the Proposed Varied Development alone would be experienced, the effect of the cumulative development baseline would be such that the addition of the Proposed Varied Development would be unlikely to increase the prominence of wind turbines as a feature of the landscape.

Landscape Designations

As set out in EIAR Volume 2: Main Report, Chapter 4, there would be no significant effects to any designated landscapes.

Wild Land

The Proposed Varied Development is not located within any WLAs therefore the Proposed Varied Development would have no direct effects on these mapped areas. The East Halladale Flows WLA is located approximately 8.5 km to the east of the main site covering an area of approximately 159 km^2 on the boundary between Caithness and Sutherland known as the Flow Country.

With regards to the Consented Scheme, the Reporter at paras. 4.28-4.29 stated that "*I do not consider that the addition of the turbines proposed would introduce significant adverse landscape and visual impacts to the detriment of wild land areas. The proposed development would be visible from some limited parts of mapped wild land areas. However, the discrete nature of these views; the distance to the turbines; and the presence of existing wind turbine development mean that there would be no significant adverse impact on areas of wild land".*

EIAR Volume 4: Technical Appendices, TA 4.9, provides a detailed assessment of the WLA and the potential impacts resulting from the Proposed Varied Development. In summary, whilst limited significant effects would be likely on the strength of wildness and some of the Key Qualities of the WLA, the character and qualities of the WLA overall would not be affected or undermined. All of the physical and perceptual attributes of wild land would still be present, and all of the Key Qualities would still be experienced, albeit to a reduced degree in some areas.

Conclusion

In summary, the vast majority of landscape, visual and cumulative effects of the Proposed Varied Development (excluding the effects of turbine lighting) would be not significant. Significant effects would be limited to an area within close proximity of the site, affecting relatively discrete parts of the landscape within 15 km of the turbines of the Proposed Varied Development and occasional views obtained by recreational users of the landscape, and travellers along small parts of the A836.

There would be no significant visual effects to residential areas and no significant effects to any visual receptors or designated landscapes (excluding the effects of turbine lighting).

There could be very localised significant effects to wild land characteristics within WLA39: East Halladale Flows, however, there would be no significant effects to any designated landscapes and the integrity of these areas would not be affected.

When taking turbine lighting into consideration, it was concluded that lighting every turbine would result in significant effects during low light conditions and the hours of darkness. However, the Applicant is engaging with aviation stakeholders to agree a lighting solution which could result in a reduced effect.

Accordingly, on the basis of the findings of EIAR Volume 2: Main Report, Chapter 4, it is considered the Proposed Varied Development would not be significantly detrimental overall, either individually or cumulatively, with regards to landscape and visual impacts. Significant landscape and visual impacts are inevitable as a result of commercial scale wind farm developments. The Proposed Varied Development is the result of an iterative design process and, when viewed in the context of the overall scheme, the proposed increase in tip height would only result in a small immaterial change to the overall potential effects predicted in relation to the Consented Scheme.

4. Amenity at Sensitive Locations

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 following criterion. There are no work places within the Detailed Study Area of the LVIA therefore any potential impacts have not been considered as part of the LVIA as any effects are considered very unlikely.

There are no inhabited residential properties in close proximity to the site. The visual assessment contained in EIAR Volume 2: Main Report, Chapter 4 has demonstrated that of the few residential areas where views would be theoretically obtained, no significant visual effects would occur. Indeed, 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.

In addition, no impacts are anticipated upon recognised visitor sites due to the degree of separation between such receptors and the Proposed Varied Development.

Accordingly, amenity at sensitive locations is considered to be safeguarded.

5. Safety and Amenity of Regularly Occupied Buildings

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

Noise

EIAR Volume 2: Main Report, Chapter 6 'Noise', considers the likely significant effects in terms of noise associated with the operation of the Proposed Varied Development. The noise assessment has been undertaken in accordance with ETSU-R-97, the Institute of Acoustics Good Practice Guidance, and current good practice.

As set out in EIAR Volume 2: Main Report, Chapter 6, no significant residual noise effects are predicted in relation to both the Proposed Varied Development individually and cumulatively with other wind farm developments. At some locations, under some wind conditions and for a certain period of time, noise from the Proposed Varied Development may be audible, however, any noise would be at an acceptable level in the context of the ETSU-R-97 guidelines.

When compared to the Consented Scheme (as set out in EIAR Volume 2: Main Report, Chapter 6, section 6.10) based on the candidate turbines used in the noise assessment, the predicted operational noise levels at the Noise Assessment Locations (NALs) are higher than presented in the Environmental Statement for the Consented Scheme, however, this does not change the conclusion that no significant effects are anticipated.

A set of proposed noise conditions are included within EIAR Volume 4: TA 6.1, Annex 5.

Ice Throw

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 / Ice Throw

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. EIAR Volume 3a: Figures, Figure 12.1, illustrates that there are no residential receptors within an 11 rotor diameter distance of the turbines as such the potential effects of shadow flicker have been scoped out of further assessment.

In terms of ice throw, as set out in the 2019 Scoping Report, standard mitigation for risk of ice throw comprises off-site monitoring to enable deactivation of the turbine upon sensing ice accumulation, as well as physical and visual warnings for both site personnel and third parties.

Ice detection is performed by a software application, whereby ice build-up on the turbine blades is determined by comparing the actual performance data with the nominal turbine power curve. The software makes comparisons with pre-defined threshold levels or a low power (ice detection) power curve. When the performance levels drop below the reference thresholds an alarm is generated within the SCADA system to warn the operator. In this instance the system can be configured to pause the turbine or to continue operation at reduced power whilst displaying the level of icing severity. If the turbine is shut down by an icing event, then depending on the system installed, it could be possible to carry out remote re-starting of the turbine when climatic conditions allow.

Sometimes a manual start would be required. This would necessitate the operator going to the turbine, where a visual assessment of ice build-up can be made. When attempting to re-start the turbine it would be necessary to put an exclusion zone in place in case of any residual ice throw from the blades.

In line with current guidance, a permanent warning sign at the site's entrance is proposed to alert the public to this issue.

Accordingly, no issues are anticipated in terms of shadow flicker or ice throw.

6. Ground water, surface water (including water supply), aquatic ecosystems and fisheries

EIAR Volume 2: Main Report, Chapter 10 'Soil and Water' considers the likely significant effects on the water environment associated with the construction, operation and decommissioning of the Proposed Varied Development.

With the exception of the proposed watercourse crossings, the Proposed Varied Development lies outside of any floodplain and is not at flood risk. No private water supplies or drinking water protected areas have been identified within 1 km of the site. No designated sites, that are dependent on water have been recorded within the site.

The site drains to the River Strathy, which is an important fishery. It has been shown that there are no private water supplies near to or within 1 km of the site and that the geology at site does not support important groundwater resources. No Groundwater Dependent Terrestrial Ecosystems (GWDTE) are recorded close to the Proposed Varied Development.

Sustainable Drainage Systems (SuDS) are proposed to ensure the rate of surface water runoff from the Proposed Varied Development during and following construction is no greater than that prior to development so as not to increase flood risk. The proposed SuDS measures allow the quality of water to be managed at source prior to any discharge being made.

In addition, the proposed habitat management proposals include a programme of ditch blocking which would reduce both the rate and volume of peak water flows, providing a flood risk and water quality benefit when compared to existing conditions.

An assessment of the potential effects of felling the Strathy South conifer plantation has been undertaken which has included considering the proposed felling phases and the potential for the felling to change water quality in the upper reaches of the River Strathy. It has been shown that the proposed felling would be unlikely to impair water quality in the river or result in an increase in flood risk downstream.

In summary, as a result of the site design, embedded mitigation and the adoption of best practice construction techniques, the Proposed Varied Development would not result in any significant effects on the water environment. A programme of water quality monitoring is proposed pre-construction, during construction and for a period following construction to confirm the findings of this assessment and includes monitoring of water quality in the River Strathy and key tributaries. This programme is captured by Condition 18 attached to the 2018 Consent.

EIAR Volume 2: Main Report, Chapter 10 also concludes that, following the completion of a comparable assessment, the significance of effects attributable to the Proposed Varied Development would be no greater than that assessed in the Consented Scheme in relation to water.

The following conditions were attached to the 2018 Consent to address matters raised by SEPA in relation to the protection of the water environment and are deemed appropriate to be attached to the consent for the Proposed Varied Development:

- Condition 3 'Decommissioning and Restoration Plan';
- Condition 8 'Buildings and Other Facilities';
- Condition 17 'Micrositing'
- Condition 18 'Construction and Environmental Management Document';
- Condition 19 'Ecological Clerk of Works';
- Condition 25 'Borrow Pit Working'.

7. Safety of Airport, Defence and Emergency Service Operation

There are no aviation, defence or emergency service operation issues in this case. Indeed, neither the Ministry of Defence, NATS or Highlands and Islands Airports (HIAL) have raised concerns or objections to the Proposed Varied Development. This is a matter in favour of the Proposed Varied 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

There are no communication installations or radio / television issues arising as a result of the Proposed Varied Development.

9. Amenity of Walker, Cyclists and Horse Riders

The predicted visual impacts on recreational users of the landscape are discussed above in relation to Criterion 3 'Visual Impact and Impact on the Landscape Character'. It should be noted that the site currently forms a woodland plantation accordingly the creation of access tracks throughout the site would be positive in terms of outdoor recreational use of the area.

10. Tourism and Recreation Interests

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.

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 or proposed for the area. The available research documents are all consistent in their conclusion that the development of wind farms will not result in a significant reduction in tourist numbers, tourist experience or tourism revenue. This is detailed in EIAR Volume 2: Main Report, Chapter 11 'Socio-economics, Recreation and Tourism'.

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.

With regard to the North Coast 500 (NC 500), in the recent Limekiln 2 decision (located within Caithness and near the NC500 route), the Reporter concluded that *"there is no evidence to suggest that [the wind farm's] presence would alter the overall visitor experience or appeal of the route … There is no evidence before us to support a conclusion that the development would be significantly detrimental to the visitor economy. On the contrary, the weight of evidence available shows no correlation between wind farm development and visitor numbers in an area*" (para. 5.35).

Although the popularity of the North Coast 500 has grown significantly since the consideration of the Consented Scheme, it is notable that the Reporter considered that "*the siting of the wind turbines would have little impact on the attractiveness and attributes of the area. I don't consider that the majority of those visiting would be put-off by the presence of this proposal, or when considered with others*" (para. 9.27).

Although the Proposed Varied Development is anticipated to result in a significant visual effect on localised parts of the A836 (NC500 / Cycle Route 1), there is no evidence to demonstrate that the Proposed Varied Development would further impact on the attractiveness of the area, resulting in a significant adverse effect on tourism and recreational activity and those aspects of the economy in this part of Highland.

11. Traffic and Transport Interests

EIAR Volume 2: Main Report Chapter 8 'Roads and Traffic' presents an assessment of the potential traffic and transport effects associated with the construction of the Proposed Varied Development.[12] It is concluded that no significant impacts are anticipated as a result of the Proposed Varied Development. Any impacts would be temporary and further reduced and managed through the implementation of additional good practice measures including an appropriate Construction Traffic Management Plan (CTMP), monitoring of road conditions, execution of any remedial works required during the construction period, and liaison with the Council, Transport Scotland and Police Scotland prior to and during the construction phase.

EIAR Chapter 8 also concludes that no significant cumulative impacts are anticipated. In addition to the CTMP, if the construction phase of any notably sized development(s) would likely overlap with the construction of the Proposed Varied Development, as a matter of best practice, the Applicant would seek to liaise with the relevant developer(s) regarding the schedule of deliveries to identify potential means of reducing the effect of combined construction.

[12] It is recognised that traffic activity associated with the operational and maintenance phase of the Proposed Varied Development would be very low, as such traffic generated during the operational phase would not be expected to produce any significant effects. For the decommissioning phase, the future baseline situation would not be reliably predictable given the long duration between the present day and decommissioning. Relevant authorities would therefore be consulted with respect to decommissioning and an appropriate level of assessment undertaken at that time, if deemed appropriate.

It should also be noted that, as set out in Table 8.18 of EIAR Chapter 8, no significant effects were anticipated in relation to the Consented Scheme and the Proposed Varied Development would not result in any material changes to this position in terms of residual effects.

The Applicant also proposes that Conditions 12, 13 and 14 to the 2018 Consent can be applied in relation to the Proposed Varied Development.

5.4.2 Onshore Wind Energy Supplementary Guidance (November 2016)

THC's 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.

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 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'.

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*".

'Section 2 – Highland Spatial Framework'

The SG contains a Spatial Framework ("SF") which accords with the provisions of Table 1: Spatial Frameworks in 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.

As shown in the SF, the vast majority of the site is identified within a Group 3 area (where there is potential for wind farm development) which reflects the boundary of the woodland plantation. The proposed wind turbines are wholly located within this area and the track falls within a Group 2 area of significant protection, however, there are no predicted issues in terms of national or international designations, wild land areas, or peat and carbon rich soils, therefore the application site can be regarded as falling within Group 3. This approach was taken by the Reporter in the Cnoc an Eas decision as discussed above in Chapter 4 with regards to SPP.

It should be borne in mind that the Reporter found the Consented Scheme to be consistent with the Council's draft OWESG and, as set out in para. 118 of the Decision Letter for the 2018 Consent, the Scottish Ministers took account of the adopted OWESG where it differed from the draft and did not consider that it created any new

provisions whose substance has not already been addressed by the Reporter. In addition, the Proposed Varied Development does not amend the turbine locations, or the route of the access track approved as part of the Consented Scheme.

'Section 4 – Key Development Plan Considerations'

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

Paragraphs 4.3 to 4.9 highlight the importance of sensitive siting and design of wind energy developments. As explained in EIAR Volume 2: Main Report, Chapter 1, Strathy South Wind Farm has been subject to three principal design iterations over time and the layout has evolved to respond to feedback from consultees and the collection of additional environmental data. The design evolution of the Proposed Varied Development is illustrated in EIAR Volume 3a: Figures 1.2a, 1.2b and 2.1. In summary, the siting and design of the Consented Scheme was previously supported by the Scottish Ministers and the findings contained within the EIAR show that the increase in tip height would still ensure a sensitively sited and designed wind energy development.

Landscape and Visual Effects

Paragraph 4.11 of the SG lists various "key aspects" which may be relevant to the assessment of a proposal and 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 Varied Development, are matters such as:

- National Parks, National Scenic Areas and mapped wild land areas;
- Special Landscape Areas;
- The capacity of the local landscape to accommodate a proposal;
- Important public views.

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*".

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. Appendix 2, below, considers the Proposed Varied Development against the 10 criteria. Overall, the Proposed Varied Development would have a satisfactory and acceptable relationship with regard to the various physical considerations in the criteria.

Other Considerations

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.

These matters are addressed throughout this Planning Statement and the EIAR.

The SG: Section 5 – Highland Strategic Capacity

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 site and proposal-specific factors*". These are important caveats.

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*".

Chapter 4 of the EIAR has assessed the Proposed Varied 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

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. 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".

The Reporter in the Culachy Appeal Decision Notice (dated 27 April 2018) 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".

The same Reporter in the Druim Ba Appeal Decision Notice (28 June 2018), para. 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".

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".

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. This position is accepted by THC and endorsed in the recent Dell Wind Farm Appeal Decision (22 August 2019) where the Reporter stated at para. 10:

"parties agreed that the guidance does not contain any further tests to assess compliance beyond what is contained with Policy 67".

Overall Conclusion

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

5.4.3 Policy 57 – Natural, Built, and Cultural Heritage

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. Appendix 2 to the HwLDP defines the features referred to in Policy 57. Heritage features are assessed first, below, followed by built and cultural heritage features.

Natural Heritage of Local / Regional Importance

With regards to the findings of the EIAR, it can be demonstrated that the Proposed Varied Development would not have an unacceptable impact on the natural environment (cultural heritage is discussed below).

The EIAR has assessed the Proposed Varied Development in terms of natural heritage of local / regional importance. As discussed in relation to Policy 67 above, although significant landscape and visual effects are predicted in terms of the Ben Graim and Loch nan Clar SLA (as was the case in relation to the Consented Scheme), the effects would occur largely within 5 km of the Proposed Varied Development turbines and not more than 15 km away. As the effect is generally restricted to a discrete part of the landscape, it is deemed acceptable overall.

Appendix 2 also refers to 'wild areas' and makes it clear that the policy framework for that feature is based on National Planning Framework 2 (NPF2) (para 99) and SPP (2010) (para 128).

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.

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. Anticipated effects in terms of WLAs are considered in relation to Policy 67, above.

Natural Heritage of National Importance

As detailed in the EIAR, with the exception of a short length of access track the Proposed Varied Development is not located within an area recognised in Planning Policy terms as having features of national importance.

However, the Proposed Varied Development is bounded by the Caithness and Sutherland Peatlands SPA and Ramsar site, and the Caithness and Sutherland Peatlands Special Area of Conservation (SAC). These designations are underlain by several SSSIs, shown in Figure 5.3 (EIAR Volume 3a: Figures).

Lochan Buidhe Mires, Skelpick Peatlands, Strathy Bogs and West Halladale SSSIs

The SSSI citations have three categories of ornithological species that are listed as key features as discussed on pages 9 and 10 of the EIAR Technical Appendix 5.1 and shown in Table 5.1.5 of that Technical Appendix.

The first category comprises those notified species that are listed as key features that the site was considered to support at nationally significant numbers at the time of designation. The species listed are common scoter and black-throated diver, both of which are also SPA qualifying species. The second category comprises species that are a component of a breeding bird assemblage and these are listed in Table 5.1.5 of Technical Appendix 5.1 of the EIAR. The one listed species that is not also a SPA qualifying species or Ramsar qualifying species is peregrine. The third category comprises SPA qualifying species that are listed on the SSSI citations in recognition of the SSSI habitat that supports these qualifying species. It is concluded within the EIAR that there would be no direct impact on the habitats within the SSSIs.

As regards the SPA qualifying species, as detailed in the EIAR and discussed below, it has been concluded that there would be no likely significant residual effects on any of the SPA qualifying species. It has been concluded that there would be no likely significant effects on any of the Ramsar species that are not also SPA qualifying species listed in Table 5.1.2 of Technical Appendix but are key features of the SSSIs; namely breeding greylag goose, and curlew.

Peregrine is the only SSSI qualifying species that is not also SPA/Ramsar qualifying. The EIAR at section 2.17 Technical Appendix 5.1 provides a summary of findings provided from the baseline information that was collected using comprehensive desk study and new survey work from April 2018 to September 2019.

The overall conclusion is that there are no significant effects predicted for this species from disturbance or collision both of which have been assessed as being of minor significance; (Table 5.17). This conclusion is further supported by findings from the nearby Strathy North and Strathy Wood wind farm sites for which the same suite

of surveys have been completed. These show that peregrine activity is infrequent in the wider area and no breeding peregrine have been confirmed at either wind farm site.

It can therefore be concluded that the construction and operation of the Proposed Varied Development would not have any significant effect on this SSSI feature that contributes to the breeding assemblages of the Lochan Buidhe mires, Skelpick Peatlands and West Halladale SSSIs, either alone, or in combination with other wind farm development. On that basis, and taking into account the conclusions reached in relation to the SPA qualifying species and the additional Ramsar qualifying features that are also common to the SSSIs and the conclusion that there would be no direct impact on the habitats within the SSSIs, it is concluded that the objectives of designation and the overall integrity of the area of these four SSSIs will not be compromised in relation to the ornithological key features.

The non-avian ecology the biological features which the SSSIs are designated for is blanket bog, and as such the conclusions made within Chapter 9 of the EIAR with respect to the effects of the development to such habitats for the surrounding Caithness and Sutherland Peatlands SAC are relevant. The conclusion reached within the EIAR is that the integrity of the SSSI's would not be affected.

In terms of Policy 57 and features the Proposed Varied Development would not to compromise the natural environment. In addition, as per the second part of Policy 57 it should also be noted that the Proposed Varied Development would support local communities for reasons set out in Chapter 6, below.

Natural Heritage of International Importance

<u>The Caithness and Sutherland Peatlands SPA</u>

Part 3 of Policy 57 of the HwLDP concerns features of international importance and requires that where significant effects are likely, alone or in combination with other projects, an appropriate assessment is undertaken in order to establish whether a proposed development will adversely affect the integrity of the site.

At the time of the Public Inquiry for the Consented Scheme the designated site of primary importance when assessing the effects on the designated sites in the area were the Caithness and Sutherland Peatlands SPA and the Caithness and Sutherland Peatlands Ramsar site. The Scottish Ministers accepted the recommendation of their appointed Reporter who conducted the Public Inquiry that it could be concluded, beyond reasonable scientific doubt, that the integrity of the Caithness and Sutherlands SPA would not be adversely affected by the Consented Scheme.

In relation to the Ramsar site the Scottish Ministers adopted their conclusions in respect of the qualifying species of the SPA for those bird species that the Ramsar site had in common with the SPA. This approach is in accordance with Scottish Government policy in paragraph 211 of Scottish Planning Policy (2014), which is still extant and considered below. The Scottish Ministers gave further consideration to species identified as qualifying features in the Ramsar citation that were not qualifying species listed for the SPA and therefore not assessed in the assessment for the Natura site. At that time the only bird species identified as falling into that category, and which also formed part of SNH's advice to Scottish Ministers, was breeding greylag goose. The breeding population of greylag goose is identified as a qualifying feature in the Ramsar citation.

The VORs that are not qualifying species of the SPA are breeding greylag goose, curlew and the arctic skua. Chapter 5 of the EIAR considers the impacts upon these species before concluding that there would be no

significant adverse effects on this Ramsar qualifying features as a result of the construction and operation of the Proposed Varied Development, either alone, or in combination with other wind farm development.

In relation to the integrity of the SPA, as noted in paragraph 5.1.115 of the EIAR, because of the connectivity of the site and SPA-qualifying bird populations, together with the international importance and high sensitivity of the qualifying species of the SPA, a Report to Inform a Habitats Regulation Appraisal (HRA Report) has been prepared and included as Technical Appendix 5.2 to the EIAR.

The HRA Report contains an assessment against the conservation objectives of the SPA for each of the nine qualifying species that were the subject of assessment in the EIAR for the purposes of identifying likely significance of effects.

The overall conclusion of the HRA Report is that it is beyond reasonable scientific doubt that the integrity of the Caithness and Sutherland Peatlands SPA would not be adversely affected by the construction and operation of the Proposed Varied Development either alone or in combination with other plans or projects.

Caithness Lochs SPA and Ramsar Site

As noted in Technical Appendix 5.1 of the EIAR (pages 8 and 9), the relevant qualifying interests of the Caithness Lochs SPA and Ramsar Site were included in the assessment of likely significant effects from the Proposed Varied Development because of SNH Guidance that SPAs up to 25 km with qualifying populations of geese should be considered for potential connectivity. It is noted in paragraph 5.1.117 of the EIAR that this SPA is just beyond the screening distance for SPAs with qualifying populations of geese species; the SPA being 26 km from the Proposed Varied Development. It is noted that both greylag geese and whooper swan were both recorded overflying the site during the non-breeding season with flight activity sufficient for collision risk estimates; It was therefore considered appropriate to consider the potential and predicted effects on these qualifying species from collision risk.

It is concluded in the EIAR that there would be no significant adverse effects on the qualifying species of the Caithness Lochs SPA and Ramsar site and the overall conclusion is that the integrity of the Caithness Lochs SPA and Ramsar site would not be adversely affected by the construction and operation of the Proposed Varied Development, either alone, or in combination with other wind farm development.

In conclusion, there would be no residual significant effects on VORs from the Proposed Varied Development alone or in combination with other wind farm development. It is also the case, beyond reasonable scientific doubt, that there would be no adverse effects on the Caithness and Sutherland Peatlands SPA/Ramsar site the integrity of any of the designated sites, either from the Proposed Varied Development alone, or in combination with other plans or projects.

The Caithness and Sutherland Peatlands SAC & Ramsar

With respect to non- avian ecology the impacts on the surrounding Caithness and Sutherland Peatland SAC are assessed in Chapter 9 of the EIAR. In accordance with the approach to mitigation taken for the Consented Scheme, careful consideration has been given to the design of mitigation measures that could avoid, reduce or offset any of the predicted effects on important non-avian ecological receptors. It is concluded within Chapter 9 the EIAR that there are no residual likely significant effects.

The Caithness and Sutherland Peatland RAMSAR citation for this site, mirrors the ecological receptors of the SAC with the exception of invertebrates and includes bog habitats, otters, and a number of rare plant and moss species.

The likely significant effects to aquatic species macro-invertebrates is assessed as Minor adverse (Not Significant).

Designated Sites conclusion

Based on the review of the likely significant residual adverse effects that are predicted for relevant qualifying species of the Caithness and Sutherlands Peatlands SPA, and Ramsar Site, the Caithness Lochs SPA and Ramsar sites, and, the Lochan Buidhe Mires, Skelpick Peatlands, Strathy Bogs and West Hallidale SSSIs, it has been concluded that the integrity of these designated sites would not be adversely affected.

Built and Cultural Heritage

With reference to EIAR Volume 2: Main Report, Chapter 7 'Cultural Heritage', following the implementation of a Construction Environment Management Plan (CEMP), no significant effects are predicted on built and cultural heritage as a result of the Proposed Varied Development itself. A significant cumulative effect is predicted on the Scheduled Ben Griam Beg in terms of an increase in the proportion of the view occupied by wind farm development. However, this does not represent a material change to the effects anticipated as part of the Consented Scheme and is the result of a difference in terminology and methodology between assessments. However, this effect is not considered to be unacceptable as the ability to understand the defensive nature of the hillfort would be maintained and the integrity of its setting would not be adversely affected.

Summary

It is considered that the Proposed Varied Development is in accordance with Policy 57, insofar as it is relevant.

5.4.4 Policy 61 – Landscape

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 above, the Proposed Varied 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 Varied Development is considered to be in accordance with Policy 61.

5.4.5 Policy 55 – Peat and Soils

EIAR Volume 2: Main Report Chapter 10 'Soil and Water' considers the likely significant effects in terms of peat associated with the construction, operation and decommissioning of the Proposed Varied Development.

There are areas of deep peat within the site and internationally important peat resources beyond the site. A comprehensive programme of peat depth probing has been completed to delineate areas of deep peat and the site design has avoided these where possible. A site specific Peat Landslide Hazard Risk Assessment (PLHRA) and Peat Management Plan (PMP) has been prepared to assess and show how peat landslide risk is mitigated and how peat resources on site can be managed and safeguarded.

EIAR Chapter 10 concludes that the Proposed Varied Development presents no material change to the existing Consented Scheme and no new or additional significant effects to the Consented Scheme have been identified.

It should be noted that, with regards to the Consented Scheme, the Reporter stated at 3.57 that:

"I note that the application site has undergone a dramatic landscape transition over the last 30 or so years. The ploughing of peatland and the creation of coniferous forestry has modified the site from sweeping moorland to non-native dense woodland and access tracks. This has created an alien landscape. Consequently, I agree with all the parties that removal of the forestry is desirable. The proposal to progressively restore the application site to active peatland would substantially benefit the landscape (this is not in dispute). It would bring continuity to the sweeping moorland landscape character area (rather than the distinct contrast and visual interruption given by the existing forestry)".

In conclusion, the Proposed Varied Development is considered to be in accordance with Policy 55 as the site design and embedded mitigation would avoid any significant effects in terms of peat.

5.4.6 Policy 58 – Protected Species

Policy 58 is a multi-criteria based policy which applies to development proposals that may affect protected species, including European protected species. The relevant assessments on protected species are reported within Chapters 9 'Ecology' and 5 'Ornithology' of the EIAR. With the implementation of relevant mitigation measures, the Proposed Varied Development would not result in any significant impacts upon protected species therefore it is considered to be in accordance with Policy 58.

5.4.7 Policy 59 – Other Important Species

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

5.4.8 Policy 60 – Other Important Habitats and Article 10 Features

The Proposed Varied 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.

5.4.9 Policy 28 – Sustainable Design

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.

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.

The Proposed Varied Development is in accordance with criterion 3 as the wind farm would generate, and has been designed to maximise, renewable energy.

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

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

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

The Proposed Varied Development would not impact upon non-renewable resources (criterion 8).

The impact of the Proposed Varied Development on the resources listed in criterion 9 are considered throughout this Chapter and the EIAR.

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

In terms of the last Criterion, the Proposed Varied Development would contribute positively to the economic and social development of the community through the various local and wider benefits that would result. These are set out in Chapter 6 below and Chapter 11 of the EIAR.

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 Varied Development's accordance, or otherwise, with the Development Plan.

The Policy is only of limited relevance in terms of undertaking a comprehensive policy appraisal against the terms of the Development Plan and it doesn't add anything further to the existing detailed provisions of Policy 67 which deals specifically with renewable energy developments. Therefore, the Proposed Varied Development is considered to be in accordance with Policy 28 insofar as it is relevant.

5.4.10 Policy 30 – Physical Constraints

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 Varied Development is considered to be in accordance with Policy 30 as all of the relevant physical constraints have been considered throughout the EIAR and it would not adversely affect human health and safety or pose a risk to safeguarded sites.

5.4.11 Policy 36 – Development in the Wider Countryside

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.

5.4.12 Policy 51 – Trees and Development and Policy 52 – Principle of Development in Woodland

Policies 51 and 52 seek to protect existing and maximise opportunities for new woodland. The principle of a wind farm development on the site has already been established and supported in relation to the Consented Scheme therefore Policies 51 and 52 are not considered relevant to the assessment of this application.

Indeed, in relation to the Consented Scheme, the Reporter concluded on pages 313 and 314 that:

"The removal of commercial forestry and restoration of moorland would provide a positive landscape enhancement [and] the removal of commercial forestry and restoration (primarily to blanket bog) would support peatland revival and areas of important plant life".

5.4.13 Policy 56 – Travel

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 Varied Development would involve travel generation, and a traffic and transport assessment has been included in EIAR Volume 2: Main Report Chapter 8 'Roads and Traffic' to allow the Council to consider any likely on- and off-site transport implications of the development.

As set out in EIAR Chapter 8, during construction, an increase in traffic flows during peak periods is predicted along some routes however any effects would be temporary and, with the implementation of a Construction Traffic Management Plan and other mitigation measures, would not be significant.

The Proposed Varied Development is therefore considered to be in accordance with Policy 56.

5.4.14 Policy 62 – Geodiversity

As set out in EIAR Volume 2: Main Report Chapter 10 'Soil and Water' as a consequence of site design and the proposed implementation of good practice measures such as a Construction Environment Management Plan, the Proposed Varied Development would not result in any significant effects on geology. The Proposed Varied Development is therefore considered to be in accordance with Policy 62.

5.4.15 Policy 63 – Water Environment

The Proposed Varied Development is considered to be in accordance with Policy 63 as it would not compromise the objectives of the Water Framework Directive (2000/60/EC), as set out in EIAR Chapter 10.

5.4.16 Policy 64 – Flood Risk

The Proposed Varied Development is in accordance with Policy 64 as, with the exception of the proposed watercourse crossings, the Proposed Varied Development lies outside of any floodplain and is not at flood risk. As requested by THC a site-specific Flood Risk Assessment (FRA) and Drainage Impact Assessment (DIA) has been prepared and submitted with the application. The FRA concludes that with appropriate micro-siting of the wind farm turbines, hardstandings and tracks, there would be no significant flood risk to the wind farm infrastructure or to other receptors from fluvial or surface water flood sources.

5.4.17 Policy 66 – Surface Water Drainage

The Proposed Varied Development is in accordance with Policy 66 as Sustainable Drainage Systems (SuDS) have been proposed to ensure that the rate of surface water runoff from the Proposed Varied Development during and following construction is no greater than that prior to development so as not to increase flood risk. The proposed SuDS measures allow the quality of water to be managed at source prior to any discharge being made. Further, the proposed habitat management proposals include a programme of ditch blocking which would reduce both the rate and volume of peak water flows, providing a flood risk and water quality benefit when compared to existing conditions.

5.4.18 Policy 69 – Electricity Transmission Infrastructure

The electricity transmission infrastructure does not form part of the Proposed Varied Development therefore Policy 69 is not relevant.

5.4.19 Policy 72 'Pollution'

With regard to the findings of the EIAR the Proposed Varied Development is deemed to be acceptable in terms of noise, air quality, water pollution. As per the Consented Scheme, construction activities would be managed through the implementation of the Construction Environmental Management Plan as set out in Condition 18 attached to the 2018 Consent. Light pollution has been considered as part of the LVIA assessment and the Applicant is engaging with aviation stakeholders and the CAA to agree a lighting solution which could result in a reduced visual effect. Discussions include consideration of the following:

- Potential reduction of lighting intensity during good meteorological visibility;
- Radar activated lighting (should this be approved for use); and
- Potential for cardinal or strategic lighting on selected turbines.

Accordingly, the Proposed Varied Development is considered to comply with Policy 72 as the EIAR is able to demonstrate how pollution can be appropriately avoided and mitigated.

5.4.20 Policy 77 – Public Access

The Proposed Varied Development is considered to be in accordance with Policy 77 as it would enhance public access to the site. Condition 15 attached to the 2018 Consent would ensure the production and implementation of an Outdoor Access Plan of public access across the site (as existing, during construction and following completion).

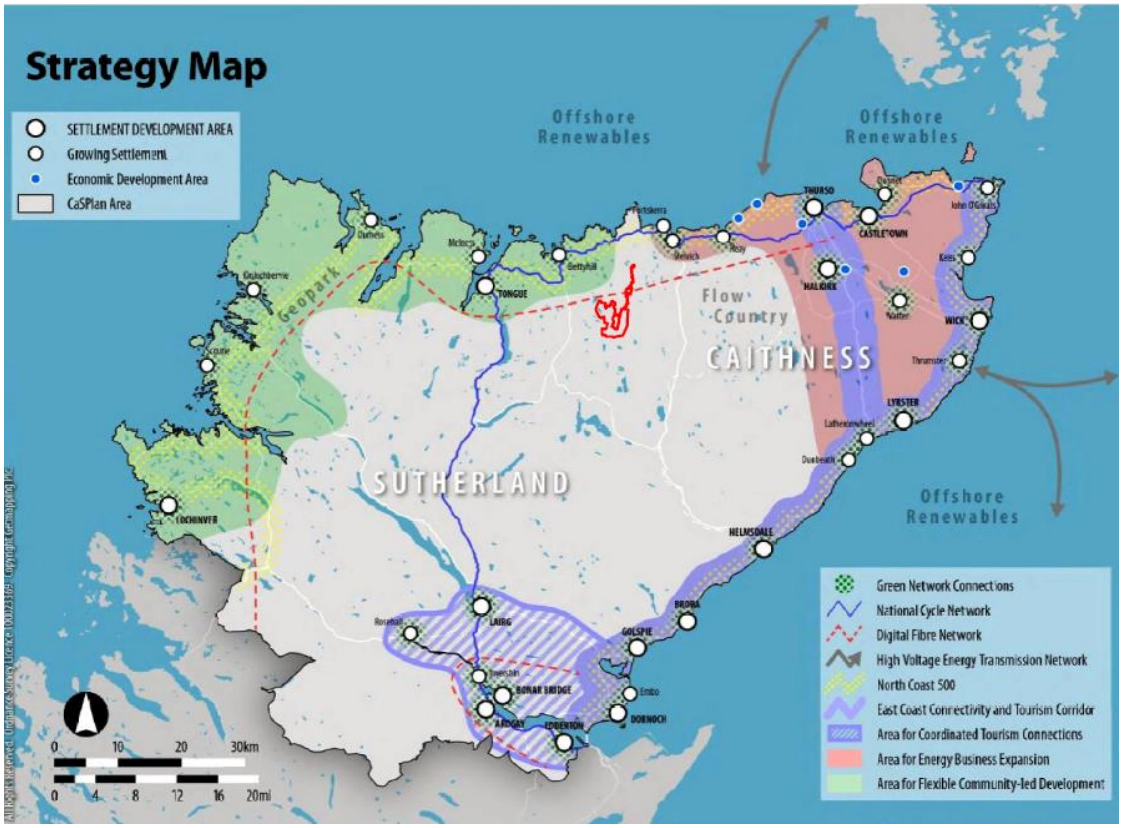
5.4.21 Policy 78 – Long Distance Routes

Potential impacts upon long distance routes has been considered in relation to Policy 67 above. The Proposed Varied Development is considered to be in accordance with Policy 78 as it would safeguard the long distant route to the north of the site and its setting.

5.5 Caithness and Sutherland Local Development Plan

The Caithness and Sutherland Local Development Plan (CaSPlan) was adopted on 31st August 2018 and replaced the Caithness Local Plan and Sutherland Local Plan. CaSPlan focuses on where development should and should not take place in the Caithness and Sutherland area over the next 10-20 years.

Page 3 contains a Strategy Map which shows the site as falling to the south of the 'Green Network Connection', 'National Cycle Network' and 'North Coast 500'. A proposed 'Digital Fibre Network' bisects the northern part of the site. The potential impact of the Proposed Varied Development on the National Cycle Network and North Coast 500 is considered in EIAR Volume 2: Main Report Chapter 4. As CaSPlan was adopted following the decision on the Consented Scheme, it is presumed the route of the Digital Fibre Network takes cognisance of the future development of the site and that both can co-exist.



Although the CaSPlan does not contain specific policies for onshore wind, it does set out a number of points relevant to the application:

- there is an aim for the area to be characterised as an international centre for renewable energy;
- the importance of safeguarding the outstanding environment and natural built and cultural heritage;
- the North Coast 500 route and east coast connectivity and tourism corridor is defined in the Strategy Plan;
- the value of peatland as a vital carbon store and its international importance is recognised;
- the value of renewable energy generation in the North Highland helping to meet national climate change targets and delivering economic benefits for the area; and,

- a number of Special Landscape Areas are mapped.

The Proposed Varied Development would increase the contribution that Strathy South Wind Farm would make in terms of the area's renewable energy generation, ability to help meet climate change targets, and local economy. In addition, the potential impact of the Proposed Varied Development on the environment, natural built and cultural heritage, tourism and peatland has been assessed in the EIAR and in relation to the 'lead' HwLDP Policy 67 above. Overall, the Proposed Varied Development is considered to be in accordance with the CaSPlan's vision and aims for the area.

5.6 Other Relevant SG

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.

Each of the abovementioned SG documents have been taken into account in the design approach to the Proposed Varied Development and the matters dealt with in each SG have been addressed throughout the EIAR and this Planning Statement.

5.7 Development Plan Policy Assessment Conclusions

The Proposed Varied Development is considered to be in accordance with the relevant policies of the Development Plan when it is read as a whole and there are no material considerations which suggest otherwise. It should be noted that the Scottish Ministers found that, on balance, the Consented Scheme complied with the Development Plan when read as a whole. The Proposed Varied Development results in very limited additional significant impacts by virtue of the increased tip and the findings of the EIAR and the policy assessment above, conclude that there would be no unacceptable significant impacts beyond those of the Consented Scheme.

Furthermore, for the reasons set out below, the Development Plan in this case needs to be viewed from the perspective of the presumption in favour of development that contributes to sustainable development which is engaged as per paragraph 33 of SPP (because the key Development Plan policies are more than five years old). In this regard the tilted balance applies. In this respect the increased tip height results in a range of benefits as set out below, including a significant increase in the renewable energy contribution and the CO_2 emissions savings. The limited impacts identified would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development is an important matter which should lend significant support in favour of a positive determination of the application.

6 Benefits of the Proposed Varied Development

The following benefits of the Proposed Varied are important material considerations in the determination of the application.

- the Proposed Varied Development would make a valuable contribution to the achievement of the UK and Scottish Government 'whole system' targets to decarbonise energy consumption by increasing the zero-carbon energy yield;
- the larger turbine dimensions, and thereby increase in energy yield, would improve the viability of the project in commercial terms as the wind farm would be able to operate in the absence of subsidies, indeed the increase in generation capacity would be in the order of 74.4 MW, which is around 64%, when compared to the capacity of the Consented Scheme;
- the increase in energy production would lead to an equivalent increase in homes supplied with clean, renewable energy and an equivalent increase in CO2 reduction, making a valuable contribution to the Scottish Government's targets;
- based on an installed capacity of 207 MW, it is estimated that during the development and construction phase the Proposed Varied Development could generate up to:
    - £2.4 million GVA and 38 job years of employment in Caithness and Sutherland;
    - £29.4 million GVA and 427 job years of employment in Highland (including Caithness and Sutherland); and
    - £89.9 million GVA and 1,350 job years of employment in Scotland (including Highland).
- it is estimated that each year during the operation and maintenance phase the Proposed Varied Development would generate:
    - £1.2 million GVA and 16 jobs in Caithness and Sutherland;
    - £3.9 million GVA and 53 jobs in Highland (including Caithness and Sutherland); and
    - £7.0 million GVA and 101 jobs in Scotland (including Highland).
- it is expected that there would be community benefit funding of £546,000 annually associated with the Proposed Varied Development, which would build on the existing Strathy North Joint Community Fund.
- throughout its operation, the Proposed Varied Development would also contribute to local public finances and thereby support the provision of public services locally. It was estimated that the Proposed Varied Development could contribute £2.5 million each year in non-domestic rates.

7 Conclusions and Recommendations

7.1 The Consenting Regime

Reference has been made to the statutory context for the application. The Proposed Varied Development requires to be considered under the terms of the 1989 Act, in particular the Schedule 9 duties.

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 EIAR addresses these. It is acknowledged that the Proposed Varied Development would give rise to significant landscape and visual effects, however such effects are relatively limited and localised and this need 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 Varied 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 are addressed.

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 nevertheless relevant to understanding in a local context, the generic duties under Schedule 9 to the Electricity Act and are supportive of the Proposed Varied Development.

7.2 The Renewable Energy Framework

The Proposed Varied Development would significantly increase the installed capacity of the Consented Scheme from 132.6 MW to 207 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.

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 on a site which has already been deemed capable and suitable of accommodating an onshore wind farm. The evidence clearly shows that there remains a considerable shortfall in terms of these targets.

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 Varied 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.

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 Varied Development is one of increasingly few onshore wind energy projects that is viable on a support free basis.

7.3 National Planning Policy

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 is mainly located within 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 Varied Development has been assessed against the relevant policy criteria and is deemed to be acceptable.

A further important point in terms of national planning policy is the presumption in favour of development that supports sustainable development. The Proposed Varied Development draws support from that policy principle which applies with force in this case.

The Proposed Varied Development can draw significant support from the provisions of both NPF3 and SPP.

7.4 The Development Plan

The key policies of the Development Plan have not changed since the Consented Scheme was considered and the Scottish Ministers issued their decision. In addition, the cumulative baseline has remained the same and the environmental effects of the Proposed Varied Development are not materially different to the Consented Scheme.

Notwithstanding this, appropriate regard has been given to, in so far as relevant, the Development Plan in the evaluation of Proposed Varied Development. As with the Consented Scheme, the Proposed Varied Development is considered to comply with the Development Plan, particularly Policy 67 and the related SG, when it is read as a whole, insofar as it is a relevant consideration in this S36C application.

7.5 Overall Conclusions

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 excellent wind resource, readily available infrastructure such as a proximate grid connection and limited 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 Varied Development is located on such a site and would ensure that such benefits are maximised to their full potential.

Chapter 6 has set out a wide range of socio-economic and environmental benefits that would arise over and above the renewable energy and climate change advantages that the scheme would deliver.

The Proposed Varied Development is the result of careful design considerations and a comprehensive EIA and, as set out in the introduction, the Scottish Ministers have already considered that the principle of onshore wind development on this site and the associated turbine layout is acceptable.

The overall conclusion reached is that the Proposed Varied Development satisfies the relevant duties 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 consent is granted under S36C of the 1989 Act with a direction that deemed planning permission should be granted for the Proposed Varied Development.

Appendix 1 – International and UK Renewable Energy Policy

This Appendix sets out international and UK renewable energy policy which underpins Scotland's own policy and reinforces support for renewable energy.

7.6 International Policy Considerations

7.6.1 International Agreements and Obligations – The COP21 UN Paris Agreement

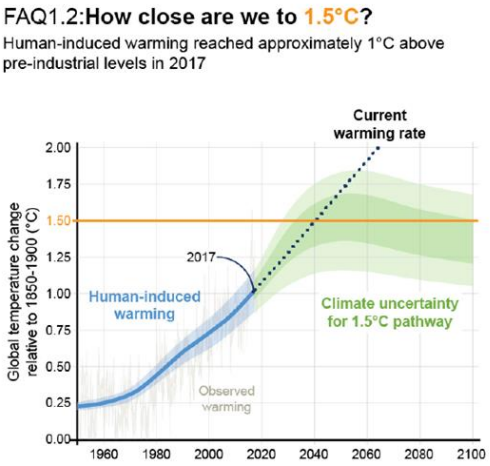
The Paris Agreement (12 December 2015) sets out (page 2) that it *"emphasises with serious concern"* the need to hold the increase in global average temperature to "*well below 2oC*" above pre-industrial levels and to pursue *"efforts to limit the temperature increase to 1.5C*". In order to achieve this 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.

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.

7.6.2 The IPPC SR1.5 Report

The Intergovernmental Panel on Climate Change (IPPC) published a 'Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways' in response to an invitation contained in the Decision of the Conference of Parties of the United Nations Framework Convention on Climate Change to adopt the Paris Agreement. The IPCC accepted the invitation in April 2016 and the Special Report known as 'SR1.5' was published in October 2018.

The report concludes that human-induced warming reached approximately 1°C above pre-industrial levels in 2017 and at the present rate, global temperatures would reach 1.5°C around 2040. This is illustrated in the graph below.



The report makes it clear that "*delayed action, limited international cooperation, and weak or fragmented policies that lead to stagnating or increasing greenhouse gas emissions would put the possibility of limiting global temperature rise to 1.5°C above pre-industrial levels out of reach*" and that "*warming will not be limited to 1.5°C or 2°C unless transformations in a number of areas achieve the required greenhouse gas emissions reductions. Emissions would need to decline rapidly across all of society's main sectors, including buildings, industry, transport, energy, and agriculture, forestry and other land use.*"[13]

Actions that can reduce emissions are referenced and these include, for example, phasing out coal in the energy sector, increasing the amount of energy produced from renewable sources and electrifying transport.

The report finds that limiting global warming to 1.5°C would require "*rapid and far-reaching*" transitions in land, energy, industry, buildings, transport, and cities[14] and will require "*unprecedented changes*".

7.6.3 EU Policy Targets

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.

These targets are to be achieved by 2020, as set out in the EU Renewable Energy Directive (March 2009[15]). 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.

The position as of the end of 2018 (the full year for which figures are available) was that renewable energy only accounted for approximately 11% of energy consumption in the UK, well short of the 15% target[16].

[13] IPPC, FAQ 2.1.

[14] IPPC Press Release, 8 October 2018 (*ibid*).

[15] Following Brexit, the UK would be released from its renewable energy targets under the EU Renewable Energy Directive. 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 UK remains part of the EU and the above legal obligations related to the 2020 and related targets remain fully in place.

[16] DECC, Digest of UK Energy Statistics (July 2019), Chapter 6. Onshore wind remains the leading technology in terms of UK renewable capacity, at 30.6% recorded for 2018.

7.7 United Kingdom Energy Policy

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.

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.

In the Corlic Hill Wind Farm Appeal decision[17] (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".

7.7.1 The UK Renewable Energy Strategy (2009)

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 2020[18]. It presents a 'lead scenario' that more than 30% of electricity should be generated from renewables by 2020[19].

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

[17] 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.

[18] Renewable energy accounted for 11% of UK energy consumption in 2018 (Source: DECC, Digest of UK Energy Statistics (DUKES) July 2019).

[19] The contribution of all renewables to UK electricity generation was 33% in 2018, (*Ibid*). In 2000 renewable generation was 2.6%.

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

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.

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*".

7.7.3 The UK Clean Growth Strategy (2017)

The UK Government published the Clean Growth Strategy 'Leading the Way to a Low Carbon Future' in October 2017. The Clean Growth Strategy (CGS) 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*".

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.

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*".

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*".

7.7.4 Committee on Climate Change – Report of May 2019

The Committee on Climate Change (CCC) published its landmark report entitled 'Net Zero – UK's Contribution to Stopping Global Warming' in May 2019. The report responds to requests from the Governments of the UK, Wales and Scotland, asking the CCC to reassess the UK's long-term carbon emissions targets.

7.7.5 Conclusions on UK Energy Policy

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.

It is relevant to take UK energy policy into account and as the Reporter in the 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…".*

Appendix 2 – Appraisal of OWESG Criteria for the Consideration of Onshore Wind Farm Proposals

Criterion 1. Relationship between Settlements / Key locations and wider landscape are respected.

While there would be some visibility of the Proposed Varied Development from Strathy, it would not be visible from the other main settlements within the detailed LVIA study area as identified in EIAR Volume 4: Technical Appendices TA 4.2 including: Tongue, Bettyhill and Melvich. Where visible, from residential areas, it is considered that the Proposed Varied Development would not lead to significant visual effects.

There would be no significant effects from the key locations identified in the OWESG: Part 2b (viewpoints and gateways). Limited effects may be experienced to views from a few locations including Flow Country – north (Ben Freiceadain & Ben Dorrery) and Flow Country – south (Morven & Scaraben) however, these would not be significant.

There would be no significant visual effects to the A836 (Drum Hollistan – John O'Groats) and from the Far North Line between Forsinard – Scotscalder (train). None of the other Key Routes identified in the OWESG: Part 2 which provide the main access routes to settlements, would be significantly affected.

The majority of the routes identified within the detailed LVIA study area are considered unlikely to experience significant visual effects (see EIAR Volume 4: Technical Appendices TA 4.4 and EIAR Volume 3a: Figures, Figure 4.5c. Although significant effects were identified for Scottish Hill Track 344: Strath Halladale (Trantlebeg) to Strathy which passes through the site, this route is not considered to be a key route. Localised significant effects were however identified for small parts of the A836, which makes up part of the NC500 tourist route and is a continuation of a Key Route identified within the OWESG: Part 2b. Given the winding and undulating nature of the route and focus of views along the coast and towards the sea, it is considered that the overall route would not experience significant effects.

It is therefore concluded the threshold for this criterion would not be exceeded by the Proposed Varied Development.

Criterion 2. Key Gateway locations and routes are respected

The majority of the Key Gateway and Key Routes identified in the OWESG: Part 2b would not be affected by the Proposed Varied Development. There would be some degree of visual effect on two of the Key Routes, and two Key Gateway including the transition from Caithness to Sutherland as illustrated by VP4: East of Melvich (see EIAR Volume 4: Technical Appendices TA 4.4. However, as illustrated in EIAR Volume 3b Figures 4.11a-c and 4.26a-f, these effects would not be significant.

Beyond the OWESG: Part 2 study area, there would be some degree of visual effect on some routes within the detailed study area identified as part of the LVIA and detailed in EIAR Volume 2: Main Report, Chapter 4 'Landscape and Visual Amenity'. The majority of these would not be significant and most of the routes in the detailed study area are unlikely to be considered key routes or gateways. Localised significant effects were however identified for small parts of the A836 which makes up part of the NC500 tourist route and is a continuation a Key Route identified within the OWESG: Part 2b. Given the winding and undulating nature of the

route and focus of views along the coast and towards the sea, it is considered that the overall route would not experience significant effects

The Proposed Varied Development would not overwhelm or detract from the key elements of the routes and gateway points identified in the OWESG: Part 2b or those likely to be considered key routes or gateways within the LVIA study area, but outwith the Caithness Landscape Sensitivity Study Area. It is therefore concluded that the threshold for this criterion would not be exceeded by the Proposed Varied Development.

Criterion 3. Valued natural and cultural landmarks are respected

Valued natural landmarks referred to under this criterion are considered to comprise the Kyle of Tongue National Scenic Area, and key landmarks within the landscape such as Dunnet Head and the coast and other features which comprise the Special Qualities of designated landscapes. Valued cultural landmarks are considered to comprise important and popular cultural sites as identified in EIAR Volume 2: Main Report, Chapter 7 'Cultural Heritage'.

It is considered that from a landscape and visual perspective the Proposed Varied Development would not diminish the prominence or disrupt the setting of these key natural landmarks. There would be no significant effects to the setting of cultural heritage sites (see EIAR Volume 2: Main Report, Chapter 7).

It is therefore concluded that the threshold for this criterion would not be exceeded by the Proposed Varied Development from a landscape and visual perspective.

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

The Proposed Varied Development would not lead to significant effects on any of the recreational Key Routes identified in the OWESG: Part 2b. The visual assessment has identified that there would be a significant effect to one recreational route which pass through the Proposed Varied Development site. Scottish Hill Track 344: Strath Halladale (Trantlebeg) to Strathy (see EIAR Volume 4: Technical Appendices, TA 4.4 and EIAR Volume 3a Figures, Figure 4.5c). This effect would be strongest during the construction phase, as a result of the close proximity of construction traffic and activity. The operational effects, while still significant would be reduced, due to the prominence of the existing Strathy North wind farm seen from the majority of the route. Given the resultant viewing expectations of those using it, the route is unlikely to be considered a key route.

None of the Key Routes identified in OWESG: Part 2b would be affected and it is not considered that the visual appeal of other routes would be overwhelmed by turbine development in the longer term. It is considered that the threshold for this criterion would not be exceeded.

Criterion 5. The amenity of transport routes is respected

The Key Routes identified in the OWESG: Part 2b would not be affected by the Proposed Varied Development.

There would be some degree of visual effect on some routes within the detailed study area identified as part of the LVIA and detailed in EIAR Volume 2: Main Report, Chapter 4 'Landscape and Visual Amenity'. Localised significant effects were identified for small parts of the A836 which makes up part of the NC500 tourist route and is a continuation a Key Route identified within the OWESG: Part 2b. Given the winding and undulating nature of the route and focus of views along the coast and towards the sea, it is considered that the overall route would not experience significant effects.

It is therefore considered that the threshold for this criterion would not be exceeded.

Criterion 6. The existing pattern of Wind Energy Development is respected

This criterion cites the following considerations to be taken into account:

- Turbine height and proportions;
- density and spacing of turbines within developments;
- density and spacing of developments;
- typical relationship of development to the landscape;
- previously instituted mitigation measures; and
- Planning Authority stated aims for development of area.

As detailed in EIAR Volume 4: Technical Appendices, TA 4.3, there would be some increased effect on landscape character and views as a result of the Proposed Varied Development comprising, in some areas, a greater number of turbines seen within views, blades extending above the skyline and a greater perceived spread of development. However, the location of the Proposed Varied Development set adjacent to the existing Strathy North wind farm, is considered to minimise the degree of these effects. The Proposed Varied Development is in general considered to reflect the existing pattern of wind farm development within the Sweeping Moorland and Flows LCT (134), particularly as perceived from the A836. While larger in scale than Strathy North wind farm, the design of the Proposed Varied Development turbine layout reflects the density of turbines in the other. It is also of a similar scale to other developments being proposed in the same landscape, including Strathy Wood Wind Farm. Together these developments would be seen as a cohesive cluster set within a single landscape. The positioning of the Proposed Varied Development, set back from the settled coastline and popular North Coast tourist route, generally maintains the design objectives and considerations that led to the development of the layout of the Consented Scheme (see EIA Volume 2: Main Report, Chapter 1 'Introduction').

It is considered that the Proposed Varied Development forms a well-located wind farm site which enables the generation of renewable energy with the minimum of significant landscape and visual effects. The Proposed Varied Development also respects the pattern of existing development with the Sweeping Moorland and Flows LCT (134). It is therefore considered that the threshold for this criterion would not be exceeded.

Criterion 7. The need for separation between developments and / or clusters is respected

As detailed in EIA Volume 2: Main Report, Chapter 4, the Proposed Varied Development would be located adjacent to the existing Strathy North Wind Farm and would appear as a cohesive grouping with these existing turbines. It would be situated in the same landscape and would maintain a strong landscape buffer with other existing developments in Caithness, including Baillie Wind Farm and the consented Limekiln 2 Wind Farm. The existing pattern of development clusters and open spaces would therefore be maintained, particularly when seen from coastal settlements, the A836, and the Bens Griam and Loch nan Clar SLA.

It is therefore considered that the threshold for this criterion would not be exceeded by the Proposed Varied Development.

Criterion 8. The perception of landscape scale and distance is respected

The Proposed Varied Development would be formed of larger turbines than those of the adjacent operational Strathy North wind farm. This difference in scale may be perceived from a small number of VPs and landscape areas close to the Proposed Varied Development, and from some VPs the larger turbines may appear to bring turbines slightly closer to the viewer. This may slightly reduce a perceived scale of the landscape in some locations which would contribute to landscape and visual effects. However, it would not affect the overriding perception of expansive scale within the landscape and would be only a small contributory factor to any of the limited significant effects which are experienced. This effect would not be experienced from any of the Key Viewpoints identified in the OWESG: Part 2b.

The apparent landscape scale and distance perceived by receptors is likely to be maintained. It is therefore considered that the threshold for this criterion would not be exceeded by the Proposed Varied Development

Criterion 9. Landscape setting of nearby wind energy developments is respected

As detailed in EIA Volume 2: Main Report, Chapter 4, the Proposed Varied Development would be located adjacent to the existing Strathy North wind farm. It is considered that it would not adversely affect the setting of the Strathy North wind farm and it would form a cohesive group when seen from almost all locations. In addition to this, the Proposed Varied Development would generally not lead to any significant increase in landscape and visual effect, other than a few locations where the new turbines would be closer to the viewer and would lead to a localised significant effect in their own right, rather than as an addition to others.

The Proposed Varied Development would not encroach on other existing wind energy developments (such as Bettyhill Wind Farm or Baillie Wind Farm) and would therefore not be detrimental to the setting of these.

Overall, it is considered that the Proposed Varied Development respects the original design objectives of the Consented Scheme and does not adversely affect the setting of any other site. It is therefore considered that the threshold for this criterion would not be exceeded by the Proposed Varied Development.

Criterion 10. Distinctiveness of Landscape character is respected

The Proposed Varied Development is anticipated to lead to some localised effects on landscape character close to the site within the Sweeping Moorland and Flows LCT (134), Bens Griam and Loch nan Clar SLA and East Halladale Flows WLA. Significant effects would occur in the form of direct effects from the presence of the Proposed Varied Development (comprising turbines, substation, hardstanding and access tracks, and LiDAR positions), and indirect effects due to the appearance of turbines within close proximity, where other similar development is not already influential, thereby locally affecting landscape characteristics.

Beyond the above areas, localised effects would largely occur within parts of LCTs and designated landscapes where existing wind energy development is already a characteristic of parts of the landscape and the wider effect is therefore considered to be not significant. These surrounding LCTs and designated areas would not be significantly affected and the complexity and variety of landscape experienced within the study area would therefore be retained.

It is therefore considered that the threshold for this criterion would not be exceeded by the Proposed Varied Development.

Conclusion

The analysis of the THC criteria for the consideration of onshore wind farm proposals has taken account of the anticipated landscape and visual effects of the Proposed Varied Development detailed in Chapter 4: Landscape and Visual Amenity of the EIAR, and in particular, the effects on the Key Views, Key Routes and Gateways identified in the OWESG: Part 2b for the nearby Caithness Landscape Sensitivity Study Area. This appraisal concludes that there would be no significant effect on any of the Key Views, Key Routes or Gateways, that the layout and design of the Proposed Varied Development is broadly in line with the criteria and that the landscape and visual effects, although locally significant would not lead to the threshold for any of the ten THC criteria being exceeded.

The Proposed Varied Development is therefore considered to be in broad conformity with THC's criteria for the consideration of onshore wind farm proposals from a landscape and visual perspective.

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