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Decision by Robert Seaton, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2147
- Site address: land 1810 metres south of Blairmore Farm, Kiltarlity, Inverness, IV4 7HT
- Appeal by Druim Ba Sustainable Energy Limited against the failure by the Highland Council to issue a decision within the prescribed period.
- Application for planning permission 15/03998/FUL dated 23 October 2015
- The development proposed: construction and operation of a wind farm of up to 30 megawatts installed capacity comprising 10 turbines with a maximum tip height of 126 metres and associated infrastructure
- Date of Hearing/Inquiry Sessions : 3 to 10 May 2017
- Date of site visit by Reporter: 25 October 2016, 13-14 April 2017, 25 May 2018

Date of appeal decision: 28 June 2018

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## DECISION

I dismiss the appeal and refuse planning permission.

## PRELIMINARY

On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 Regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. I have therefore determined this appeal in accordance with the 2011 regulations as they applied before 16 May 2017.

## REASONING

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan the main issues in this appeal are the effects of the proposed development on:
  - landscape and visual amenity
  - amenity at sensitive locations (including houses, workplaces and visitor sites) as a consequence of visual effects, noise and shadow flicker
  - forestry



- cultural heritage
- species and habitats, and in particular the effect on the North Inverness Lochs Special Protection Area (SPA) and its protected interest, Slavonian Grebe
- access and recreation, including horse-riding
- socio-economics, including tourism, and
- transport.

Other matters raised include pollution and effects on telecommunications and aviation.

3. I am also required to carry out an appropriate assessment of the proposed development's effects upon the North Inverness Lochs SPA under the Conservation (Natural Habitats etc.) Regulations 1994 in respect of the effects upon the North Inverness Lochs Special Protection Area. I deal with this in the section of my decision on species and habitats.

### **The status of the report and decision on the previous windfarm application**

4. A previous application was made under section 36 of the Electricity Act 1989 for a windfarm on the Blairmore estate, the site for which included the appeal site. The application was rejected by Ministers, who accepted the recommendation of a reporter. Both the reporter's report and the ministerial decision are before me.

5. The decision and report are clearly material considerations in the present appeal. I am not obliged in law to agree with every finding in the report or apply its reasoning. That would in any case not be possible: first, the proposed development is not the same as the development to which that application related; second, both policy and other facts have moved on. However, where I consider it might be perceived that I am departing from the findings or reasoning of the report or decision, I consider I ought to set out reasons for doing so.

6. I will make one such comment at the outset. The reporter, having considered the law, policy and guidance applying to windfarms at that time, found at paragraph 8.30 of his report that it supported wind farm development in principle, and that there was no objection to an appropriately designed windfarm in the location of the application site. I understand this finding then to have been summarised in paragraph 8.166 of the report. Since applicable policy and guidance has changed since that report was issued and since the present decision must be made under the different legal framework of the Town and Country Planning (Scotland) Act 1997, I have to consider these matters again, and do so below.

7. I do not interpret the finding to go any further than a conclusion on law, policy and guidance as it applied at the time to the appeal site. I therefore reject the suggestion that the reporter's comment amounts to a finding that there is landscape capacity for a windfarm at the appeal site or approval for siting of particular turbines.

### **Development plan**

8. The development plan comprises the adopted Highland-Wide Local development Plan (HWLDP), the Inner Moray Firth Local Plan, and the Onshore Wind Energy Guidance (OWEG).

9. HWLDP policy 67 is the key policy for determination of this appeal. It provides support to renewable energy developments subject to a number of environmental and other considerations being taken into account. Its central criterion is that development proposals must not be significantly detrimental overall.

10. Since the proposed development would be in woodland, policy 52 on the principle of development in woodland is also relevant. Applicants must demonstrate the need to develop a wooded site and to show the site has capacity to accommodate the proposed development. There is a strong presumption in favour of protecting woodland resources. Development proposals on a wooded site are only to be supported if they offer clear and significant public benefits. If the proposal involves woodland removal, compensatory planting is required. Proposals are also to be assessed for conformity with the Scottish Government's policy on control of woodland removal.

11. HWLDP policy 57 deals with effects on cultural heritage. There are two tests. First, a development must not compromise a heritage resource of national importance. Second, where there are any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. The policy also requires the development to support communities in fragile areas who are having difficulties in keeping their population and services.

12. Although a number of other HWLDP policies are relevant (such as policy 28 on sustainable development, policy 29 on design quality and placemaking, policy 57 on cultural and built heritage, policy 58 on protected species and policy 61 on landscape) I find that their subject matter is largely comprehended by the specific provision made for renewable energy developments in policy 67.

#### Supplementary guidance

13. Policy 67 also requires an assessment of development proposals against supplementary guidance. The council adopted its Onshore Wind Energy Guidance (OWEG) in 2016 as supplementary guidance in respect of policy 67.

14. Supplementary guidance may only, in accordance with the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, deal with the provision of further information or detail in respect of policies or proposals set out in the plan, and then only provided those matters are identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance.

15. The last paragraph of policy 67 sets out the matters that may be dealt with in supplementary guidance made under it. Insofar as there is any room for doubt about the interpretation of OWEG, I consider that it should be interpreted as doing no more than providing further information or detail with the framework set out for it in policy 67.

16. OWEG is divided into five chapters. Chapter 1 is an introduction. Chapters 2, 4 and 5 are relevant to the proposed development. Chapter 3 relates to community and small-scale development and is not relevant.

17. Chapter 1 advises, consistently with HWLDP policy 67, that policy considerations are to be balanced with wider strategic and economic objectives, including sustainable economic growth in Highland and the area's contribution to renewable energy targets and tackling climate change.

18. Chapter 2 provides a spatial framework for onshore wind energy as required by Scottish Planning Policy (SPP) paragraph 162 and consistent with SPP table 1. This indicates that the proposed development is in a group 3 area, which is an area with potential for wind farm development. SPP table 1, which is incorporated into OWEG, indicates that in such an area wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

19. Chapter 4 provides more detail on the council's approach to considerations under policy 67. There are matters, including (in respect of an assessment of landscape and visual effects) the criteria referred to at paragraph 4.17, that I am required to consider. However, I do not understand chapter 4 to contain policy tests. It is rather intended to make applicants aware of key constraints.

20. Chapter 5 is in two parts. The first sets out how the council will go about assessing strategic capacity for wind energy and how it will apply such assessments. The second part is an assessment specifically of the Loch Ness area in which the appeal site is located. The key policy as regards the application of the assessment's is in paragraph 5.4. This provides that such an assessment does not introduce any constraint additional to those set out in the spatial framework provided in its chapter 2. If a proposed development does not align with the strategic capacity assessment, the appellant is expected to demonstrate why it is still an appropriate development.

21. I find that the strategic capacity assessment for the Loch Ness area is a useful guide to matters to be considered in determining whether a proposed development can be accommodated. It cannot (and is not intended to) provide site-specific or development-specific detail of the type the appellant has provided.

22. The strategic capacity assessment for Landscape Character Area (LCA) 8 – Glenconvinth, Rocky Moorland Plateau with Woodland, under the heading "Potential for wind energy development" says "No scope for medium or large scale turbines". This is not a development plan policy restricting development of such turbines in LCA 8. However, since the proposal is not apparently consistent with the assessment, I consider it triggers a policy requirement for the appellant to explain why the proposed development is appropriate notwithstanding this assessment. Indeed, the appellant has set out to do so in its evidence.

## **Other policy considerations**

### National energy policy

23. There are international, United Kingdom and Scottish targets for renewable energy generation, for reducing reliance on other forms of energy generation, for reducing atmospheric pollution from fossil fuels and for reducing carbon dioxide emissions. These provide strong support for renewable energy development in Scotland.

24. The Government published its Scottish Energy Strategy and Onshore Wind Policy Statement in December 2017.

25. At the time of submission of the appeal, the Scottish Government had a target that the equivalent of 100% of Scotland's electricity demand should be met from renewable sources by 2020. The Scottish Energy Strategy introduced a new target that the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption should be supplied from renewable sources by 2030.

26. The strategy emphasises the continued need for the development of new renewable-energy generating capacity. It indicates that onshore wind is a key technology, among the lowest-cost forms of power generation and a vital component of the industrial opportunity that renewables create for Scotland. It states that the Scottish Government will continue to support its development in the right places. This is to be done on the basis of case-by-case assessment and continuing to strike the right balance between factors including environmental impacts and benefits.

27. The Onshore Wind Policy Statement deals with a number of aspects of onshore-wind policy. Its Ministerial introduction is similarly positive about the important role of onshore wind in Scotland's future. It states: "This important role means we must support development in the right places and, increasingly, the extension and replacement of existing sites, where acceptable, with new and larger turbines, based on an appropriate, case-by-case assessment of their effects and impacts."

28. I invited parties to comment upon the effect of these documents on the determination of the appeal.

29. The appellant argued that the new 2030 target for renewable generation represented a "step change" in policy with profound implications for the approach to be taken to schemes such as the proposed development. The appellant considered that the new target materially increased the need case for such developments. It also considered that the language of the two documents was demonstrably stronger than that in the current National Planning Framework or SPP.

30. I agree that Scottish Government energy policy is strongly supportive of renewable energy proposals, including onshore wind. I have no doubt that the target for 2030 is ambitious. I consider the setting of the target rebuts the argument made by certain objectors that if the 2020 renewable energy target is likely to be achieved by other means, the need case for the proposed development is diminished.

31. However, it may be that the appellant's point is intended to go further – that a strengthening of the need case for renewable energy means that other considerations, such as environmental protection, must have less weight.

32. I do not find anything in either policy document that expressly says the existing policy balance between support for development of renewable-energy generation and protection of the environment is altered. Rather, the emphasis is upon continuity of protection. There is specific reference made to protection of landscape and to development in the right place.

33. I consider that if a change in the balance had been intended, the Scottish Government would have said so expressly.

34. The Scottish Government's targets are for renewable energy. There is no target for onshore-wind energy alone. If the new targets do represent a step change in the need for renewable-energy development, it does not follow that the need must be met by new onshore-wind development that would not otherwise have been granted permission. Nor does it mean that (as a consequence) the existing standard of environmental protection must be relaxed. This is so, even having acknowledged the vital role that onshore wind is to play in meeting the targets.

35. The Scottish Government has also published its Climate Change Plan: Third Report on Policies and Proposals 2018-2032. This includes a summary of the Scottish Energy Strategy. It also includes a policy-output indicator for the electricity sector that, from 2020 onwards, Scotland's electricity-grid intensity will be below 50 grams of carbon dioxide per kilowatt hour, while the system is to be powered by a high penetration of renewables, aided by a range of flexible and responsive technologies. Success of the Scottish Energy Strategy in contributing to the Climate Change Plan will be measured by this indicator.

36. I did not seek parties' views on this plan. It confirms the Scottish Government's support for renewable-energy generation already set out in the Scottish Energy Strategy. I have no doubt that the proposed development could contribute to achieving the policy output sought. However, that does not change my view upon the balance to be applied between achieving the renewable-energy target (and thereby the climate-change-mitigation outcome) and environmental protection.

#### Scottish Planning Policy

37. SPP paragraph 161 requires development plans to include a spatial framework for onshore wind following the approach in its table 1. OWEG takes the same approach. Therefore the proposed development is, in terms of SPP and OWEG, in an area in which wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

38. A list of considerations is set out in SPP paragraph 169. The considerations include scale of contribution to renewable-energy targets, effect on greenhouse-gas emissions, impacts upon communities and individual dwellings, landscape and visual impacts, effects on natural heritage, including birds, impacts on the historic environment, impacts on tourism and recreation and impacts on road traffic, amongst other matters.

39. SPP paragraph 28 sets out a presumption in favour of development that contributes to sustainable development. This is a significant material consideration when the relevant policies in a development plan are more than five years old.

40. The key development plan policies are set out in the HWLDP, which is now more than five years old. Although OWEG is only recently adopted, it must be considered in the context that it is supplementary to policies that are more than five years old. I therefore consider that the SPP sustainable-development presumption is a significant material consideration in this case.

41. I agree with the appellant that not all windfarm proposals will necessarily benefit from the sustainable-development presumption. I must take account of the factors set out in paragraph 29 before determining whether the appeal proposal benefits from the presumption.

42. SPP paragraph 145 deals with effects upon scheduled monuments and their setting. It provides that if there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances.

43. SPP paragraph 218 gives a summary of the Scottish Government's Control of Woodland Removal Policy. It includes a presumption in favour of protecting woodland, allows removal only where it would achieve significant and clearly defined public benefits, and if woodland is removed, compensatory planting is required.

### Conclusion on policy

44. As with the previous application, a number of individual representations questioned whether onshore-wind energy should be encouraged. It is not for me, in the context of a planning appeal, to review Scottish Government policy favouring onshore wind. This is particularly so, given the vital role the Scottish Government considers that onshore wind will have in meeting targets for renewable-energy generation.

45. I consider that the proposed development's installed capacity of up to 30 megawatts would make a modest but useful contribution to achieving the Scottish Government's energy-policy objectives. The appellant's assessment is that, over its 25-year lifetime, it would displace 1.265 million tonnes of carbon dioxide that would otherwise be used in electricity generation.

46. In conclusion, I make the observations that the proposed development has considerable policy support in principle, that there are no policy issues that in principle would indicate a proposed development at the site should not be permitted, but that the proposed development must still be assessed, particularly in respect of its environmental effects, against the criteria set out in the development plan and national policy.

### **Landscape and visual effects**

#### Position of Scottish Natural Heritage (SNH)

47. SNH did not object to the proposed development in respect of its landscape and visual effects or otherwise (as it did not to the previous application). Scottish Natural Heritage objects to proposals where there are natural heritage impacts of national significance. The lack of an objection from SNH does not imply that they consider the proposal would have acceptable environmental impacts.

48. In considering visual effects, SNH considered that the reliance upon the proportion of the view taken up by the wind farm had resulted in an underestimation of the degree of

effects. It agreed with the overall significance given. It noted the avoidance of impact upon certain important receptors including Dores and Urquhart Castle.

49. I have set out my reasons below for disagreeing in respect of viewpoints at Druimindorsair and Beauly. I consider that the significant visual effects are relatively extensive over the settled land to the north. I have also found significant cumulative effects at Meall Fuar-mhonaidh.

50. SNH suggests the proposed development would depart from the pattern of windfarm development in the area and remove the break provided between Fairburn windfarm and the Monadhliath. It refers to the council's guidance, which suggests the break is valued to prevent a sense of encirclement by development in areas that experience views across the watershed towards the Beauly Firth as well as the Great Glen, and resulting potential for effects upon the Great Glen Way.

51. I have found significant cumulative effects upon the Great Glen Way and upon the viewpoint at Meall Fuar-mhonaidh. However, while I consider that the proposed development would create a sense of cumulative increase in wind farm development on either side of the viewshed between the Beauly Firth and the Great Glen, I consider the proposed development's effect as a visual stepping stone to Fairburn to be limited.

52. Like SNH, I consider the design statement demonstrates that the effects of the proposed development upon perceived scale of the existing landscape pattern and features have been reduced as compared with the previous proposal. SNH considered that the proposal would not have a significant effect on the scale of existing landscape features. It acknowledged however that significant effects would extend beyond the Rocky Moorland Plateau landscape-character type.

53. It is not clear to me if this is a reference to scale effects only or landscape effects more generally. I consider that there would still be significant scale effects upon the landscape feature of Glen Convinth and the neighbouring enclosed farmland as a consequence of the relationship of the proposed development with those smaller scale landscapes to the north, the settlements within it, and the routes through it.

## Visualisations

### *Depiction of forestry*

54. SNH and Inverness West Community Council both argued that the visualisations provided in the appellant's landscape and visual assessment did not take proper account of the changed appearance of the forest at the appeal site and the future changes in the surrounding forest.

55. The clear-felling at the appeal site is depicted in the visualisations for the landscape and visual assessment. The view of clear-felled land surrounding the turbines would change over time, as newly planted trees grew up around the turbine locations. More elevated views of the appeal site would be likely to show patterns within the new plantation identifying the location of windfarm infrastructure. In the wider Blairmore and Abriachan



forests, there are likely in future to be cleared areas and areas of new planting that are not show in the visualisations.

56. I agree with the community council, therefore, that the forest would provide a more complex mosaic as context to the proposed development than is depicted in the visualisations for the landscape and visual assessment, and I have taken that into account.

#### *Representativeness of viewpoints*

57. The representativeness of viewpoints in the landscape and visual assessment was criticised in evidence by Inverness West Community Council's witness, Dr Caroline Stanton. I am content that with the further visual material provided both by the appellant and by the two community councils, there is sufficient information to determine the significant landscape and visual effects of the proposed development.

#### Landscape designations

58. The proposed development would be visible over a restricted area to the east of Loch Ness within the Loch Ness and Loch Duntelchaig Special Landscape Area, where it would be seen between Carn a' Bhodaich and Carn na Leitire. I do not consider that this would amount to a significant effect upon the special landscape area.

59. I do not consider that any other landscape designation would be significantly affected by the proposed development.

#### Wild land

60. Several objectors suggested that there would be an adverse effect upon wild land areas to the west, the closest being wild land area 24, the Central Highlands. SNH did not consider that there would be such an effect. I agree. The proposed development would be seen at some distance from the wild land areas in the context of a more settled area. I find that the effect would not be significant.

#### Landscape character

61. There was no dispute that the two landscape-character types of the plateau would be significantly affected. These are referred to as INV4 (Rocky Moorland Plateau with Woodland) – in which the appeal site is located - and INV3 (Rocky Moorland Plateau) in the Inverness and District Landscape Character Assessment and LN18 and LN9 respectively in OWEG's strategic-capacity assessment. Mr Welch, the appellant's landscape witness, also acknowledged that there were significant effects in INV13 (Enclosed Farmland) and INV14 (Crofting Settlement) landscape-character types (the former is referred to as LN18 in the OWEG strategic-capacity assessment while the latter beyond the boundary of that assessment).

62. Dr Stanton pointed out a discrepancy in the boundary between the two rocky moorland plateau landscape-character sub-types as shown in the Inverness and District Landscape Character Assessment and the appellant's assessment. I note that the map of landscape-character areas in OWEG's strategic-capacity assessment follows the same

boundaries as the appellant's assessment. I do not consider this would substantially change the assessment of significant effects, although since one turbine should have been shown as being inside landscape-character type INV3, the appellant's assessment should have recorded direct effects within the commercial forest in that landscape-character type similar to those in INV4.

63. There was also a difference between Mr Welch, the appellant's witness, and Dr Stanton, IWCC's witness, as to the geographical extent of significant effects within the landscape-character types. Mr Welch identified variations in the degree of effect across those landscape-character types. In INV13 and INV14, he found only intermittently significant effects. Dr Stanton argued that Mr Welch's approach involved double-counting, since Mr Welch's methodology already took account of the geographical extent of the area affected within any landscape-character type in determining the magnitude of the effect.

64. The Guidelines for Landscape and Visual Assessment allow a degree of discretion as regards the assessment of effects. Nonetheless, Mr Welch's methodology describes the assessment of an effect's magnitude against the sensitivity of the receptor as giving a result in terms of significance for the receptor. Mr Welch's baseline assessment considers the landscape-character types (or units of those types) as receptors, and does not describe smaller areas within those types separately as receptors. I therefore consider that an assessment of significance must be made at the level of the landscape receptor described, and not at the level of a smaller unit. In both cases I consider that the effect would be significant. Mr Welch's evidence does direct me to where the impacts occur that cause the effect on the two landscape-character types to be significant.

#### Landscape scale

65. I consider high level scale effects are likely to be more limited in extent than Dr Stanton suggests. However, I do accept that there would be high-level scale effects where the proposed development was seen in the context of the enclosed farmland, in the narrow spaces of Glen Convinth, and at the Ardendrain and Moniack Mhor viewpoints. This would be a consequence of the scale contrast with the forest edge and the more detailed landscape of the enclosed farmland. From lower positions the proposed development's position on the hill above the glen and contrast in size of the turbines to the landscape of the glen would compound the effect. The effect would be pronounced where the proposed turbines would be seen in intricate and enclosed spaces on the glen floor, for instance at the Glen Convinth cemetery, or near the viewpoint provided by Inverness West Community Council looking south to the head of Glen Convinth.

#### Visual effects

##### *Viewpoints*

66. The appellant provided a viewpoint study in the environmental statement covering twenty-five viewpoints. The same or nearby viewpoints had been used in the landscape and visual assessment of the previous application. Mr Welch acknowledged significant effects at seven viewpoints: 1 (the Great Glen Way east of the appeal site), 2 (on Carn na Leitire), 3 (on the A833 south of the appeal site), 5 (Ardendrain), 6 (Kiltarlity), 19 (Abriachan), and 20 (the Bunloit Road, also part of the Great Glen Way). Dr Stanton

argued that there would also be significant effects at viewpoint 7 (Beauly) and viewpoint 21 (Drumindorsair, north of Kilmorack). Mr Kenneth McCorquordale, the council's witness in respect of visual effects, agreed that there would be a significant effect at viewpoint 7 and also argued that there would be a significant cumulative effect at viewpoint 13 (Meall Fuar-mhonaidh).

67. At viewpoint 7 (Beauly railway station), the proposed turbines would be prominent on the hills surrounding the flat land of the strath. I consider that the height of the proposed turbines above the viewer would be striking, particularly given their position on the brow of the hill. In my view, though, it is an overstatement to say, as Dr Stanton does, that they would tower above the viewer. As Mr Welch points out, the landform would to a degree mitigate the impact. Nonetheless, I consider the visual effect at viewpoint 7 to be above the threshold of significance as defined in the landscape and visual assessment methodology. There would be some stacking of turbines, which would detract somewhat from their appearance as a cohesive group and compound the adverse visual effect.

68. The viewpoint is located in a landscape in which, although there are some open views toward the proposed development, there are also extensive areas in which the proposed development would be wholly or partly screened, particularly by the trees lining the river, field and road boundaries. There would however also be areas where there is less screening than at the viewpoint and so where the impact was rather greater, such as at the entrance to the Lovat Bridge Holiday Park from the A862.

69. Viewpoint 21 at Drumindorsair represents views from the scattered settlement north of Kilmorack (referred to locally, I understand, as the Braes of Kilmorack). I acknowledge that the proposed development would take up a relatively small proportion of the view and would be seen at a distance of just over 10.5 kilometres. However, it would be prominent. There would be some stacking of turbines, though in a different grouping from viewpoint 7. Given the orientation of the settlement's houses towards the view, I consider the viewpoint to be particularly sensitive. I consider the effect at this viewpoint too would be significant.

70. The summit of Meall Fuar-mhonaidh (viewpoint 13) is popular for walkers and has panoramic views across the central highlands and along Loch Ness in either direction. The proposed development would be seen from the path when climbing and descending the north shoulder and at the summit.

71. The report on the previous application found that there would be no significant effect upon the viewpoint 13 at Meall Fuar-mhonaidh. The reporter considered that, if the windfarm was seen at all at such a distance, it would be a small vertical and horizontal element upon the horizon. He did not find any cumulative effect.

72. The hill has panoramic views, although OWEG indicates the important views are those up and down the Great Glen.

73. On my site visit, I found that wind turbines are now a feature across much of the view from the summit in a number of different landscapes, both relatively near (like Bhlaraidh) and in the middle distance across Loch Ness (like Dunmaglass and Corriegarth) and on the horizon (like Millennium). Views to the north and north west are largely unaffected by turbines (other than the Fairburn windfarm seen relatively distantly to the west of Ben

Wyvis). The proposed development would introduce a group of turbines into the mid-ground of the view in a quarter so far unaffected. I note that both of these are described as factors contributing to cumulative change in Mr Welch's methodology.

74. I agree with Mr Welch that the addition of the proposed development would leave an extensive sector to the north west relatively free of the influence of turbines, including views to the Strathfarrar, Glen Afric and Strathconon hills, all within landscape designations. The proposed development would not be in a prominent part of the panoramic view, and would not impinge directly on views to the Great Glen or to other key elements of the more distant views to the north, such as Ben Wyvis. Most existing or consented windfarm developments would be associated with the Monadhliath or different landscapes from the appeal site on the west side of Loch Ness. I acknowledge that on its own, leaving aside its effect on the cumulative situation, the proposed development would not have a significant effect.

75. Nonetheless, given the sensitivity of the viewpoint, I find that the increment of the proposed development would lead to a cumulative effect that reaches the threshold of significance. I note though that Meall Fuar-mhonaidh is very prominent and there are relatively few other locations at which a similar cumulative view would be obtained.

76. Although the appellant acknowledges a significant visual effect at viewpoint 5 (Ardendrain), I consider that the degree of the effect is underestimated in the landscape and visual assessment. I consider that the proximity of the proposed turbines and their position above the viewpoint would have a dominant effect upon it. The wirelines provided within Glen Convinth demonstrate that the proposed development at the head of the glen would have a wider effect, dominating the enclosed farmland and narrower spaces of the Glen by the cemetery. This effect would weaken on the east side of the glen, as the C1072 rises to the Moniack Mhor viewpoint. Before the viewpoint is reached on the C1072 road, although the proposed development would be seen in contrast to the small-scale enclosed farmland.

### *Settlements*

77. The appellant acknowledges significant visual effects in the settlements of Kiltarlity and Abriachan. It argues that since views to the proposed development in Kiltarlity would be limited by both landscape and trees, this would limit the significant effects to only part of the village. It makes a similar case in respect of Abriachan.

78. The proposed development would however be clearly visible in Kiltarlity from some key village facilities including the village hall, the bus stop outside it and the path to the primary school (on which viewpoint 6 is located) and to the church at Tomnacross. I find an assessment of a significant effect in respect of the village as a receptor is justified.

79. The appellant also points out that the proposed development would not be visible in the easterly parts of Abriachan. There would be striking views of it from the village hall (represented by viewpoint 19), as well as at the Leault nursing home, at Loch Laide and on the way to the Abriachan Forest Trust buildings. The consented but not-yet-built Forest Kitchen café at Laide View would also have an outlook directly towards the proposed development. The proposed development would be likely to be a presence for residents both in a number of houses and in moving around the village to work or to local facilities or

in activities in the local countryside. I therefore consider that an assessment of a significant effect in respect of the village as a receptor is justified.

80. However, I agree with the design statement that at the Abriachan viewpoint the position of the turbines in relation to topography reduces the perception of their scale, that the array is reasonably balanced and that the turbines are screened to a degree by deciduous trees.

81. Notwithstanding my finding in respect of viewpoint 7, my site visit confirmed that there would be limited visibility of the proposed development from within the settlement of Beauly (even if there is some visibility from houses on its southern edge). I therefore disagree with Mr McCorquordale that the proposed development would be visually prominent within the settlement. Viewpoint 7 is at the railway station. People arriving and leaving the settlement by train would be affected. However, I do not consider that the effects upon the settlement itself would be significant. I also do not consider that there would be significant effects on settlements further north.

82. I find that the proposed development would be a dominant feature at the township of Ardendrain as shown at the Ardendrain viewpoint. The appellant acknowledges significant effects on residential visual amenity at seven houses in the township. The orientation of houses in Ardendrain is mainly to the other side of Glen Convinth, to the east south east, rather than south to the proposed development. However, the turbines, set at a higher level at the head of the narrow glen would be a considerable element of the experience for residents arriving or leaving the township, at a number of houses and gardens, moving between them and in local walks, such as the route along the edge of the Boblainy forest.

83. I acknowledge that Ardendrain is not identified as a settlement in the development plan, and therefore no landscape buffer applies to it in the spatial framework for onshore wind development. Nonetheless, I consider that its amenity is a material consideration.

#### *Roads and other routes through the landscape*

84. The appellant has acknowledged significant visual effects upon the A833. As the environmental statement narrates, the proposed development would drop out of view either behind topography or screened by roadside trees at various points along the road. Nonetheless, it would be a prominent feature of the journey when travelling both north and south, as demonstrated by the wirelines provided by the community council as well as the appellant's evidence. It would be a dominant feature when travelling south past Ardendrain and descending into Glen Convinth, where the proposed turbines would be positioned above on the hill ahead.

85. Although the road is not a signposted scenic route, I understand it is a route used by many tourists, including tourists travelling from cruise ships in the port of Invergordon to Loch Ness, as well as by Ardendrain and Glen Convinth residents to and from local facilities. These are factors in its sensitivity.

86. I do not find any other principal routes would be significantly affected by the proposed development.

87. There would be significant visual effects on the minor roads between Foxholes and Abriachan (C1072), and between Abriachan and Blackfold. I note evidence from Inverness West Community Council and others that these roads are sometimes used as walking routes (particularly, but not only, the Abriachan-Blackfold road, parts of which are included in the Great Glen Way). These roads are referred to in the OWEG strategic capacity assessment as key routes.

88. The appellant has acknowledged significant effects along several stretches of the Great Glen Way. Inverness West Community Council pointed out that near Blackfold the Great Glen Way had been rerouted between Blackfold and Wester Altourie. It had previously run along the road, and now runs along higher ground. As a consequence, as the community council's wirelines demonstrate, the proposed development would be visible ahead of south-bound walkers for much of the path as far as Ladycairn.

89. Dr Stanton somewhat overstates the matter in saying that the proposed development would be the dominant feature of the Great Glen Way when travelling all the way south from Blackfold to Achpopuli and when travelling north from Bunloit to Borlum wood. It would be a conspicuous and prominent feature for much of the distance from Blackfold, notwithstanding intermittent screening between Ladycairn and the C1072 Abriachan Road. The Strathfarrar hills, seen to the north west would also be important element of the view though. Nonetheless, I consider that the significant effect upon the Great Glen Way extends rather further than is assessed in the landscape and visual assessment.

90. At the closest point, though, on the forest road to Achpopuli by viewpoint 1, the proposed development would be a dominant element of the experience, being also sometimes audible. The intervening forestry and topography would mitigate the effect only to a degree.

91. Travelling north along the Great Glen Way, although there would be stretches where the proposed development would have a significant effect, such as at viewpoints 1 and 20, its effects would be more limited, although there would be a similar experience arriving at and passing along the forest road from Achpopuli.

92. On my site inspection, I noted the visibility of Fairburn windfarm and of windfarms in the Monadhliath from the Great Glen Way. Visibility of windfarms in the middle distance is an element of the experience of the section of the path to Fort Augustus. The proposed development would represent a considerable increment in the experience. I find that there would be a significant cumulative effect.

93. The appellant has acknowledged significant effects upon views from core paths and other popular walking routes within 6.5 kilometres, and up to 10 kilometres where there is a clear view towards the proposed development. These include the core paths on Carn na Leitire and the route along the south-eastern edge of the Boblainy Forest, from Ardendrain to Balnain, and also the route on the south side of Glen Urquhart.

94. I note the sensitivity of the signposted and obviously well-used paths over Carn na Leitire, including the core paths on the western side of the hill, just below the viewpoint. Although several parts of the core paths are within the Abriachan Forest Trust woodland and have no longer-distance outlook, the climax of a walk along these paths is evidently the

views out over the Caiplich plateau and to the hills beyond. The sensitivity of the outlook is demonstrated by the several benches that have been provided by the core path. One of these is oriented so that it looks over the appeal site to the Afric and Strathfarrar hills beyond. Others are oriented to a more northerly view towards Ben Wyvis, taking advantage of another aspect of the broad panorama and indicating the importance of views other than towards the appeal site.

### *Summits*

95. I have dealt with Meall Fuar-mhonaidh in dealing with viewpoint 13 above.

96. The proposed development would have a significant effect at the summit of Carn na Leitire, just as it would at viewpoint 2. One of the Abriachan Forest Trust's maintained paths leads across the summit. Although a number of windfarms would be visible, their distance is greater than at Meall Fuar-mhonaidh. I do not find that the cumulative effect would be significant, given this distance and their separation by other landscape types.

### The nature of significant effects

97. I found Dr Stanton's evidence set out in paragraph 30 of her report helpful in understanding the nature of the significant effects of the proposed development. I broadly agree with it subject to a number of comments.

98. I have already set out my view that the scale effects of the proposed development.

99. I consider that the landscape and visual effects of the proposed development would be relatively contained in most directions. In particular, it would have a limited effect upon the Loch Ness and Loch Duntelchaig special landscape area and key viewpoints and settlements by Loch Ness. The views to it from the settled area to the north would be relatively extensive. I agree with Dr Stanton that the proposed development would be seen by a large number of people in the settled land to the north and travelling along routes through the landscape often prominently on the hills forming the backdrop to their landscape.

100. I find the landscape separation provided by forestry between the more intricate landscapes and the proposed development provides a degree of mitigation to scale effects and the prominence of the proposed development as a visual focus. The appellant has stated it has an intention to manage the forestry positively around the site perimeter and along the Blairmore forest's northern boundary near Cragganvallyie to secure its retention for the windfarm's life, subject to losses to windthrow and disease. It undertakes to clear and replant any areas where there are losses. I consider that it would be possible to secure this undertaking in the context of a grant of permission by planning obligation. While felling and replanting may create a somewhat more complex image, I consider that the appellant's proposal would limit such an effect.

101. I agree with Dr Stanton that there are some areas of apparent wildness and remoteness on the Caiplich plateau upon which the proposed development would have some degree of effect. However, I consider any such effect limited. Such areas are restricted and generally have views over more managed or settled areas. Given the

proposed development's location within a commercial forestry plantation, it would be an intensification of an existing intrusion of evident human influence on the landscape.

102. Dr Stanton's criticises the cohesiveness of the layout in respect of certain viewpoints. As the appellant says, a neat symmetrical layout would be almost impossible to achieve in the undulating upland landscape at the appeal site with a development consisting of the number of turbines proposed. Furthermore, in views from routes through the landscape, the experience of the proposed development's cohesiveness would change as the viewer moved along the route. This is demonstrated, for instance, by the wirelines provided by Inverness West Community Council for the Great Glen Way.

103. However, I agree with Dr Stanton that there does appear to be a lack of cohesion in the appearance of the proposed development at a number of viewpoints of high sensitivity, compounding significant effects. I am not persuaded by the evidence on design that such a high degree of stacking at sensitive viewpoints was unavoidable.

#### Onshore Wind Energy Guidance criteria and strategic landscape assessment

104. I have the following comments on alignment with the criteria in OWEG paragraph 4.17 :

- Criterion 1: I do not consider that Ardenrain is to be treated as a settlement in terms of the guidance, since it is not identified as a settlement in the development plan. I am satisfied that, if it was to be treated as a settlement, it would not be encircled should the proposed development be granted permission, notwithstanding any other significant effect upon it. I have found a significant cumulative effect upon Meall Fuar-mhonaidh. Although the term "key location" is left undefined, I consider that Meall Fuar-mhonaidh would be such a location. I consider that turbines would be sufficiently prominent in views to the south, east, west and north that the threshold for this criterion would be met.
- Criterion 2: I agree with Mr Welch that the proposed development would not directly impinge upon the views from the landscape gateways identified in the guidance at Abriachan and Moniack Mhor.
- Criterion 3: I have found a significant cumulative effect at Meall Fuar-mhonaidh. The proposed development would plainly not diminish the hill's prominence. It would undoubtedly represent a change to the hill's setting. However, given the scale of the hill's setting, the importance of the Great Glen to the setting, and the relative lack of prominence of the appeal site in relation to views from the hill, I do not consider the proposed development would disrupt the hill's relationship to its setting.
- Criterion 4: The appellant acknowledges that there would be a significant adverse visual effect upon the Great Glen Way. Therefore the proposed development would not align with criterion 4. I do not find that the proposed development would overwhelm the Great Glen Way. Given that it would be a dominant feature along the forest road to Achpopuli, its prominence over a longer stretch from Blackfold in the north to the Bunloit Road in the south, and its cumulative effect, I consider it would detract significantly from the visual appeal of the route.
- Criterion 5: Given my findings in respect of effects on the A833, the Blackfold to Abriachan road and the C1072 Caiplich road, I find that the proposed development would not align with this criterion. I consider that the proposed development would dominate the A833 as it enters Glen Convinth particularly from the north. I do not



consider that the effect of the proposed development would overwhelm any other roads.

- Criterion 6: I agree with Mr Welch that a criterion relating to the pattern of existing windfarms has limited relevance. I disagree with the council that the proposed development would generally be perceived as opposing the developments in the Monadhliath across the Great Glen. There would a few generally elevated viewpoints from which they could both be seen within the landscape at the same time.
- Criterion 7: I consider that there would be effective separation between the proposed development and other windfarms. While the proposed development may have some limited effect as a visual stepping stone between Fairburn and the windfarms of the Monadhliath, this could only be perceived from a few elevated viewpoints, such as the summit of Meall Fuar-mhonaidh or sequentially from the Great Glen Way.
- Criterion 8: I have found that the proposed development would have an adverse effect upon perceived landscape scale in certain areas nearby, at Ardendrain and Moniak Mhor and in Glen Convinth.
- Criterion 9: The proposed development would not affect the landscape setting of nearby wind energy developments.
- Criterion 10: I consider that there would be some adverse effects upon the distinction between landscape-character types, particularly in the southern part of the enclosed farmland within Glen Convinth and between the sub-types of rocky moorland plateau.

105. As regards the strategic capacity assessment, although the proposed development is in landscape character area 8, I find that, in accordance with OWEG paragraph 5.4, landscape character areas 9 and 18 are to be considered.

106. I have not found significant effects at any of the key views or gateways of landscape-character area 8, 9 or 18, with the exception of the cumulative effect upon the view from Meall Fuar-mhonaidh. I have found significant effects upon all three of the key routes identified for these areas. I note that residents and people using key routes are to be regarded as of medium sensitivity in landscape-character area 8 and high sensitivity in landscape-character areas 9 and 18. I consider that this sensitivity is reflected in my finding of significant effects at the settlements of Kiltarlity and Abriachan, in Ardendrain, Glen Convinth, on the A833 and Great Glen Way.

107. I have found two cumulative effects on Meall Fuar-mhonaidh and on the Great Glen Way that suggest there is some cumulative effect upon capacity for wind farm development in the area. However, like the appellant I do not find the assessment that there is no strategic capacity for development in the area fully justified. I note that Dr Stanton acknowledged in evidence that there was capacity for development of a windfarm in the area of the appeal site.

#### Conclusion of landscape and visual effects

108. The landscape and visual effects of the proposed development are evidently less in degree than those of the previous proposal, although perhaps not as much less as might have been expected from the reduction in turbine numbers and height. Nonetheless,

judged against the existing baseline, there is still a relatively high degree of significant effects. I find the significant visual effects of the proposed development are relatively extensive over settled land to the north, including in two settlements and in landscapes more detailed than that of the Caiplich plateau. I note also that the proposed development would not align with five of the ten criteria in OWEG.

109. Some significant adverse landscape and visual effects are an inevitable consequence of the Scottish Government's policy support for renewable generation generally, and for onshore wind in particular.

110. However, I find that the proposed development would have an unsatisfactory relationship within Glen Convinth, including the enclosed farmland within the glen, on Ardendrain and on the A833 running through the glen. I also consider that the proposed development presents a complex image at a number of sensitive viewpoints that compounds its significant adverse effects on visual amenity. These are points that weigh particularly against it.

### **Visual amenity at sensitive locations**

111. In setting out the framework for consideration of the effects upon residential amenity of the proposed development, the report on the previous application made a number of comments that I adopt:

"8.67 It is an inevitable consequence of the Scottish Government's energy policy that in a relatively densely populated country, some residential properties will always be close to a wind farm.

8.68 A local resident does not have a right to a view and the impact on the value of a property is not in itself a relevant consideration. A balance has to be struck between the public interest of providing sustainable sources of energy and the impact of such essential infrastructure upon nearby residents. Therefore, the issue is not whether the proposal would have local impacts but whether these impacts are reasonable and acceptable. ...

8.79 I appreciate that significant changes to a local resident's outlook do not mean a wind farm proposal is necessarily unacceptable. Significant changes are likely for the closest properties. I agree that a 'higher' test is relevant. The frequently referred to phrase was '...[that the] property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place to live.' This phrase came from an appeal decision in England – Enifer Downs Farm ... Some parties referred to it as the 'Lavender test' (the name of the Inspector making that decision).

8.80 However, if the Enifer Downs Farm case is read as a whole, it seems to me that the Inspector was posing the question as a means to assess whether overall the wind farm had an acceptable impact on the residential amenities of the most directly affected properties. In my judgement this cannot just comprise the outlook from a garden or window. Depending on the circumstances, it could include the overall landscape and visual impacts and noise."

112. The report adopted the findings of the applicant's local visual amenity assessment on the significance of visual effects, although not its overall conclusions. The study found seven properties at which there were major visual effects and twenty where the effects were moderate, a total of 27 properties significantly affected.

113. In the present appeal, the appellant provided a local visual amenity assessment that identified significant visual effects at 22 properties (major effects at five properties and moderate effects at the remainder).

114. At the inquiry, the appellant's expert, Mr Mark van Grieken, acknowledged that a number of new houses had been built or permitted that were not included in the residential visual amenity assessment. He identified the potential for moderate effects (once built) upon the three holiday cottages granted permission to the south west of the proposed development near Lochan Dubh. He noted the existence of Strianach and gave the view that there would be similar amenity and similar views to those at Moniack Mhor.

115. Kiltarlity Community Council provided a review of the residential visual amenity assessment. This focused on fourteen houses the community council considered would be most of interest.

116. The representation of forestry in the wirelines provided in the residential visual assessment was criticised by the community council and others. I acknowledge forestry is represented schematically. I have also already acknowledged above that the Blairmore forest would be likely to be more of a mosaic of species, felled areas and new planting than a schematic representation can show. I have taken this into account.

117. There are a number of houses close to the edge of the Blairmore forest that would benefit from the screening provided by the forest or the small neighbouring woodland to the north, but would lose it if the existing forest was clear-felled. These include properties in Teavaran and Cragganvallie, particularly Teavaran Cottage (P41), Craggan Lodge (P78) and 3 Cragganvallie (P13). The property permitted to the south east of 3 Cragganvallie (where there is presently a cabin) would also be screened by the Blairmore forest.

118. I have already noted the appellant's intention to retain the edges of the Blairmore forest. I consider that it would be possible for controls imposed with planning permission to require forestry screening to be maintained. I acknowledge that it cannot be guaranteed screening woodland will not be diminished or removed by disease, wind-throw or other cause. I do not however consider it would be realistic entirely to leave forestry out of the assessment of residential visual amenity.

119. I note that 3 Cragganvallie and Teavaran Cottage are screened both by trees close to the properties and also likely to be partly screened by the Blairmore Forest, while Craggan Lodge is not oriented towards the proposed development. I do not consider that an adjustment is required in the level of impact assessed for them in the residential visual amenity assessment.

120. I find the information gathered by the community council to be helpful. I note the following particularly in respect of visual effects upon the properties reviewed:

- It was evident on my site visit, and Mr van Grieken acknowledged, that the main outlook of South Teavaran is to the south west towards the proposed development.
- I also found on my site visit that at Strianach the proposed development would be visible in the main view from the large windows of house's kitchen and living room to the south western side of the field of view. I agree with the residential visual amenity assessment that the impact upon Strianach would be similar in degree to that on Moniack Mhor and so would be significant.
- A new house has been permitted to the north west of South Teavaran. Although its main views would be west across Glen Convinth, the side view from the proposed kitchen and study would face the proposed development. I consider that the potential effect of the proposed development would be similar in degree to that upon South Teavaran, and so significant.
- There was disagreement about the degree of impact of the proposed development on Laide View. This new house is designed with large windows looking south west across Loch Laide to the proposed development, though at a distance of 3 kilometres. Given the particular orientation of the house, the proposed development would undoubtedly detract from its main view. Notwithstanding the distance, I consider the effect would be significant.

121. In other respects, I accept the appellant's evidence on the degree of visual effects upon individual properties.

122. I find the number of houses at which there would be significant effects is not reduced as much as might have been expected between the previous application and the proposed development that is subject of this appeal. I note that a concentration of the houses at which there would be significant effects are in Ardendrain or Glen Convinth. I consider that these findings confirm my general findings as to the extent and degree of the proposed development's visual effects.

123. The appellant's noise evidence acknowledges that for the White House, where the proposed development is predicted to have a major visual effect, the difference between background noise and turbine noise could, in certain wind conditions, reach a level it describes as noticeable and intrusive. This would also be the case for the holiday cottages for which planning permission has been granted, where visual effects are predicted to be significant. At a number of other properties where there are significant visual effects, turbine noise would be audible above background even if noise management is applied during the day at speeds when people might be expected to be enjoying their garden. I therefore consider that the overall effects of the proposed development would detract from the existing high level of amenity enjoyed by a number of nearby properties.

124. Nonetheless, considered in the round, I do not find that at any individual property, even at the White House, the overall effect would be such as to cause the property to become an unattractive or unsatisfactory place to live.

#### Abriachan Forest Trust

125. The Abriachan Forest Trust is a community-owned body, which owns land lying to the east of the Blairmore estate. The trust has a forestry business, but its evidence indicates it is involved in a wide range of other activities, including education and

encouraging leisure and amenity uses of its land. It has provided a number of facilities to support these activities. It estimates there are about 40,000 visits a year to its facilities.

126. Its central facility, including its forest classroom, car park, toilets and playground is located to the east of the forestry track to Achpopuli along which the Great Glen Way passes. It also owns Carn na Leitire itself and has provided the walking trails over it. The forest classroom building is roughly two kilometres from the nearest turbine.

127. Although some education is provided in the forest classroom building, the trust's evidence indicates much of its education work is done in the outdoors. I noted on my site visit various facilities and buildings that would be used for this activity that were closer to the proposed development than the forest classroom. I also note that some of the purpose-built leisure facilities, including the bike trails are relatively close to the proposed turbines including trails around the Red Quarry car park, which are some 900 metres from the nearest turbine.

128. I note the opposition of the majority of the trust's members who responded to a survey to the proposed development.

129. I have no doubt, as I have set out above, that the proposed development would have an adverse effect upon the attractiveness to walkers of the core paths maintained by the trust on Carn na Leitire and also other paths, such as that to the Glen Urquhart viewpoint.

130. However, as regards other activities, I did not find the evidence to demonstrate that there would be a significant effect. I doubt that people taking part in active sports such as mountain biking would be put off even by the close view or sound of turbines (there is an example of turbines operating with bike trails at Glentress). The education facilities are mainly east of the forestry road to Achpopuli, rather than in the commercial forestry to its west. I doubt, given their location in the forest and the focus of such activities upon the natural environment of the forest, that the intermittent view or sometimes sound of turbines would significantly disrupt those activities. The evidence on noise did not suggest that there would be any significant effect upon the trusts' buildings at times when they would be occupied.

### **Amenity at sensitive locations: noise and shadow flicker**

131. The Scottish Government's onshore wind planning advice, issued in May 2014, indicates that "The Assessment and Rating of Noise from Wind Farms" (published September 1996 and referred to as ETSU-R-97) describes a framework for the measurement of wind farm noise which should be used by planning authorities to assess and rate noise from wind energy developments, until such time as an update is available. There has been no update since the advice was published.

132. OWEG also indicates that noise assessment should be carried out in accordance with ETSU-R-97.

133. The approach taken by ETSU-R-97 is to compare predicted turbine noise levels at noise-sensitive locations with existing background noise levels through a range of wind speeds and then assess the significance of the difference. It recommends the setting of a

noise limit of 5 dB(A) above measured background noise or, in low-noise environments, an absolute limit. It makes further recommendations about the level at which the absolute limits should be fixed, with separate limits for day and night. The fixed limit recommended are 43 dB(A) at night, between 35 and 40 dB(A) during the day and 45 dB(A) for properties with a financial involvement.

134. The noise assessment in the environmental statement was carried out on the basis that the fixed daytime limit would be 35 dB(A) on account of the very low level of measured background noise at noise-sensitive locations. The assessment indicated that the proposed development was capable of meeting recommended limits if certain turbines operated in a noise abatement mode during the daytime period.

135. I heard evidence from three noise experts, on behalf of the appellant, the council and Kiltarlity Community Council. Neither the council's environmental health officer, Mr Robin Fraser, nor the community council's expert, Mr Dick Bowdler, disputed that the Scottish Government's and council's preferred approach to assessment of wind farm noise was as set out in ETSU-R-97. They also did not dispute that, with the use of the noise abatement mode, the proposed development could meet the noise limits set out in the environmental statement for noise-sensitive properties or that those limits were properly derived from the limits suggested in ETSU-R-97.

#### Night-time noise limit

136. Both Mr Fraser and Mr Bowdler argued that a lower fixed limit should apply at night time to protect amenity.

137. The council's position was that the limit should be 38 dB(A). It gave three reasons:

- that background levels were very low and turbine noise at the limit would result in a considerable excess over background;
- that a higher night-time limit than day time limit would lead to a jump in turbine noise as the turbines were turned up at night; and
- that for noise predicted for the candidate turbine minimal mode management would be required to meet the council's proposed night-time limit of 38 dB(A).

A fourth reason relating to tonality was mentioned in the council's submission, though the council did not insist upon it at the hearing.

138. Mr Bowdler argued that the night-time limit could be set at 35 dB(A). ETSU-R-97 did not require a noise limit to be set at 43 dB(A) and it was not necessary in this case to set a limit at 43 dB(A) since a lower limit could be achieved. He argued that the only purpose of setting a higher limit would be to allow the appellant to turn the turbines up at night.

139. As regards the night-time fixed lower limit of 43 dB(A), ETSU-R-97 acknowledges that it does not offer sufficient protection for external amenity in quiet areas. However, the night-time target has the different purpose of protecting neighbours from sleep disturbance inside their homes. The application of the night-time limit is recommended between 11 pm and 7 am, at times when people might be expected to be indoors.

140. The report into the previous application rejected very similar arguments to those made by the council and Mr Bowdler for applying a lower night-time limit. It acknowledged

that there was a body of opinion that would support a reduction to 38 dB(A) but found no support in any Scottish Government publication for doing so.

141. In the present case, the council has sought to rely upon recommendations for management of noise in OWEG chapter 4. This indicates that ETSU-R-97 is recognised as best practice. However, its paragraph 4.53 also says that, given the low noise environment found in many places Highland area, the council may in certain circumstances seek noise limits lower than national guidance. The reasons put forward by the council and Mr Bowdler do not relate to the purpose of the night-time fixed limit – to prevent sleep disturbance. I do not consider that they represent sufficiently special circumstances to justify departing from the 43 dB(A) night-time limit recommended in ETSU-R-97.

142. I find no other reason to depart from the findings of the report on the previous application in respect of the night-time fixed limit.

143. I note also that the predictions for the candidate turbine do not show as sharp an increase in noise immissions at the closest receptors (the White House, Shooting Lodge Cottages, and Gatehouse Lodge) as might be suggested by an increase in the limit from 35 dB(A) during the day to 43 dB(A) at night. I acknowledge that a turbine with a greater sound power output than the candidate might be chosen, but no evidence was provided to me that would suggest a turbine was available or likely to be deployed that would cause a jump in noise immissions of 8 dB(A) at any property between daytime and night-time periods.

#### Significance of noise effects upon amenity

144. Mr Bowdler made the argument that ETSU-R-97 does not provide a measure of loss of amenity. He pointed out that in a location where background noise was low, there could be situations when turbine noise was very much greater than background, and yet accord with ETSU-R-97. Such situations would arise where the fixed lower limits applied.

145. ETSU-R-97 sets out to provide a reasonable degree of protection to neighbours. In arriving at the daytime noise limits, the document states that, among a number of factors considered, it sought to protect both the internal and external amenity of wind farm neighbours. It is clear from reading chapters 4 and 6 that the authors of ETSU-R-97 did consider relevant standards intended to protect amenity (including the predecessor of BS 4142:2014) in arriving at their recommendations for daytime fixed lower limits. Furthermore, ETSU-R-97 takes into account circumstances, such as those at Druim Ba, where there is low background noise. It suggests fixed limits for such situations because there is a point below which a limit for turbine noise set relative to background noise is not necessary to provide reasonable protection to neighbours.

146. The daytime fixed limits are intended to protect amenity in external areas such as patios in the quiet period of the day. For this reason the range of daytime limits is lower than the night-time limit.

147. I acknowledge that in setting fixed limits, the authors of ETSU-R-97 struck a balance so that the limits would not place unreasonable restrictions upon wind farm development. I am not convinced, though, that if the lowest daytime fixed limit of 35 dB(A) is applied (as it

is in the appellant's noise assessment for the present appeal) that turbine noise below that level in external areas of a property is likely to represent a significant effect upon that property's amenity.

148. Mr Bowdler justified his approach with reference to British Standard BS 4142:2014 and to the Scottish Government's Technical Advice Note on Assessment of Noise. I see no reason to apply either BS 4142:2014 or the guidance in the Technical Advice Note rather than ETSU-R-97. BS 4142:2014 sets out in its first section that it does not apply to sources of sound where other standards apply. The Technical Advice Note itself refers to ETSU-R-97 as a source of guidance supporting decision-making.

149. Mr Stephen Arnott, the appellant's witness, argued that Mr Bowdler's assessment of significance failed to make a qualitative, as well as a quantitative assessment, as recommended by the Technical Advice Note. Mr Bowdler's method for assessing significance does not set out how it takes account of the absolute level of turbine noise. Both BS 4142:2014 and the Technical Advice Note indicate that the context in which a sound occurs must be understood as part of the assessment, including the absolute level of noise. Given that the absolute level of turbine noise being considered would be low, albeit against a lower background, I consider this a significant omission.

150. Mr Arnott provided a qualitative assessment in his evidence in respect of predicted daytime noise from the candidate turbine. In it, he gave the view that noise would not reach the level of lowest observed adverse effect at a wind speed of 5 metres per second except at the White House, Shooting Lodge cottages and Gatehouse Lodge. This was described as a level at which the noise would be noticeable and intrusive, and might lead to some behaviour change, such as talking more loudly.

151. At the hearing, Mr Bowdler criticised this assessment as insufficiently reasoned. I understood Mr Arnott simply to have applied his experience to describe the effect of turbine noise at the levels predicted upon behaviour relating the effect to particular properties. At the hearing he explained that he used a set of descriptions of behaviour standard in England for qualitative assessment of significance. I am content to accept his assessment.

152. I acknowledge that some individuals are more sensitive to noise than others. It is possible some people might have their sleep affected if the night-time fixed limit is set at the level recommended in ETSU-R-97. However, I consider it is inevitable that the regulation of noise will strike a balance such that some sensitive individuals are still adversely affected. The night-time fixed limit was set with reference to international standards intended to prevent sleep disturbance. Evidence would have to show more than just that some individuals might be adversely affected to demonstrate that there would be a significant effect notwithstanding the application of such a limit.

153. I also accept there may be some effect upon the internal amenity of properties from the increase of noise between daytime and night-time limits. Given that the increase would only be to a level that is recommended to prevent sleep disturbance, I do not consider the effect likely to be significant.



154. Taking these matters into account, I do not find it likely that there would be significant effects upon amenity as a consequence of turbine noise alone if the proposed development were to operate within noise limits assessed in the environmental statement.

#### Background noise proxy data

155. Although Mr Bowdler questioned the allocation of data from noise-measurement locations as proxy for background noise at certain noise-sensitive locations, and considered that actual background noise might be slightly lower at those locations, he accepted that this was relevant only in the context of his assessment of significance and not in respect of compliance with ETSU-R-97. Having rejected his case in respect of significance, I do not need to consider it further.

156. In any case, the appellant's allocation of proxy data has been accepted by the council, which is the statutory authority for dealing with noise nuisance. I have either visited or am generally familiar with the noise-measurement locations and locations of the properties in respect of which Mr Bowdler disputed use of proxy data. I found nothing that would cause me to take a different view from that of the council.

#### Acceptability of noise abatement as mitigation

157. The appellant proposes applying a noise abatement mode during the day in order to meet the daytime limit, an approach Mr Bowdler considered unacceptable.

158. It may be that a turbine operating in a noise abatement mode would cause noise immissions close to the limit at the controlling property for somewhat longer than if a turbine was operating without restriction. Given that such noise levels would meet the lowest daytime noise limits set in accordance with ETSU-R-97, I am not persuaded that the use of a noise abatement mode would be inappropriate in principle. I also note that to reach the opposite conclusion would have wider implications more appropriately considered in general policy or guidance rather than in the context of a single planning appeal.

159. Mr Bowdler argued that the running of turbines close to the noise limit might cause a practical difficulty for investigation of whether a limit had been breached, and therefore for its enforcement. Mr Fraser and Mr Arnott agreed that this could be resolved by providing for an interim noise abatement scheme in conditions that would apply for the course of an investigation. I also agree.

160. Mr Bowdler also raised the issue that the public and the council cannot know that a turbine is operating in a noise abatement mode at any particular time. I do not consider such information would be required, except in circumstances of investigating a complaint about noise. In such a case, I understand that information can be provided on the modes in which the turbine was programmed to operate given particular wind conditions and time of day.

161. Although Mr Bowdler said that he had come across a situation in which the lack of a record of the mode in which a turbine had actually been operating had caused a difficulty in investigating a complaint, neither Mr Fraser nor Mr Arnott had. In view of this, I doubt that any such issue is very common. I do not consider it would be appropriate to reject use of a

noise abatement mode as mitigation on such a basis. The availability of an interim noise abatement scheme would in any case address any enforcement issue arising from practical difficulties in investigating noise complaints, including circumstances of a malfunction in the programming of a turbine's noise abatement mode.

#### Level of the daytime fixed limit

162. The appellant argued that the daytime fixed limit could be increased from 35 dB(A) so that turbines could run without the noise abatement mode being applied. ETSU-R-97 recommends daytime fixed limits within the range 35 dB(A) to 40 dB(A), all considered to provide reasonable protection to the amenity of neighbours. There are three criteria set out in ETSU-R-97 for determining where in the range the fixed limit should be set. These are:

- The number of dwellings in the neighbourhood of the wind farm
- The effect of noise limits on the power generated
- Duration and level of exposure.

163. I also acknowledge the OWEG noise-management principle that windfarm proposals in Highland should seek to achieve noise limits at sensitive locations that are at the low end of the range in national guidance.

164. The evidence before me indicated that there were up to about twenty dwellings, including the new dwellings in the process of construction to the south west of the proposed windfarm, at which predicted noise would exceed 35 dB(A).

165. I acknowledge that, on the basis of predictions using the candidate turbine, relatively few dwellings would experience a difference between turbines operated with noise abatement to meet a 35 dB(A) fixed limit and turbines operating largely without noise abatement to meet a 38 dB(A) fixed limit. It is possible, but perhaps not likely, that more properties would be affected if a different turbine was chosen.

166. I note the appellant's evidence that the five properties principally affected would be the White House, the Gatehouse and the three holiday cottages. The appellant's qualitative noise assessment indicates that, with the noise abatement mode operating, turbine noise would at times be noticeable and intrusive at those properties.

167. I acknowledge that:

- noise abatement would result in a reduction of 8 percent in power generated;
- background noise levels at the White House at higher wind speeds were based on a cautious assumption because sufficient data was not available, and the data measured at the White House is used as proxy for background at the Shooting Lodge holiday cottages and Gatehouse; and
- the Gatehouse and holiday cottages have not yet been built and no objection was made by the site's owner.

168. Nonetheless, background noise is likely to be very low in a relatively sheltered location like the White House, notwithstanding the uncertainty at higher wind speeds. The proposed development would have significant effects upon visual amenity of four of the properties principally affected, including a major effect at one them, the White House. A higher fixed limit would be likely to increase the impact upon overall residential amenity at

those properties. Overall, I do not consider that the fixed limit should be more than 35 dB(A).

169. I note that the report on the previous application concluded that 35 dB(A) was the appropriate limit for that larger development. This appeal relates to a different development, and noise would not affect neighbouring properties to the same degree. The proposed development is also smaller, and therefore the benefits in terms of renewable energy generated against which any effect must be balanced are not as great. I consider that my conclusion on noise is consistent with that report's recommendations insofar as the two proposals can be compared.

170. The report only recommended the application of a higher daytime fixed limit in the context where the decision-maker had determined to grant consent and therefore decided to accept what the reporter had considered unacceptable effects upon neighbours. In those particular circumstances, the reporter considered that power generation should be prioritised over the amenity of residential properties.

#### Low frequency noise, infrasound, vibration and excess amplitude modulation

171. The environmental statement refers to a number of scientific studies that have been carried out into the effects of low frequency noise, infrasound and vibration on human health. None have identified any significant effect. The Scottish Government's web-based advice on onshore wind indicates the Government accepts those findings. No other expert evidence has been submitted to me that would cause me to doubt them.

172. Wind turbines can cause excess amplitude modulation (sometimes referred to as "other amplitude modulation" or "OAM") beyond that accounted for in the ETSU-R-97 assessment and rating method. The evidence reported in the environmental statement indicates that this is rare and difficult to predict. Should such an effect occur, I consider it is likely it could be addressed through the statutory nuisance regime. In the circumstances, I do not consider it necessary to impose a condition specifically to control OAM.

#### Construction noise

173. The environmental statement reported no significant effect from construction noise. I accept that assessment. I consider that the temporary effects of construction noise can be managed under conditions and existing legislation.

#### Shadow flicker

174. The assessment in the environmental statement found no sensitive buildings within 10 rotor diameters and 130 degrees on either side of north of the proposed turbine locations. It concludes that there would be no significant adverse effect on amenity at such locations as a consequence of shadow flicker. Its approach accords with the Scottish Government's recommended approach for assessment of shadow flicker in its web-based advice. I therefore accept the environmental statement's assessment.

## Forestry

175. Much of the appeal site is covered at present with commercial forestry. The appellant provided a felling licence granting consent for the felling of trees across most of the appeal site (although not in the area of the borrow pit). It is subject to a condition requiring the site's restocking. Much of the area of forest in respect of which the licence was granted has now been felled.

176. Forestry Commission Scotland and the council's officers responsible for forestry objected to the proposed development on the basis that, notwithstanding any grant of consent for felling at the site, there would in the process of restocking be an overall loss of woodland to make room space for the windfarm's infrastructure. They argued that the principle of woodland removal was not fully justified in terms of the Scottish Government's control of woodland removal policy, that the area of woodland removal had not been determined or agreed, that as a consequence there were no proposals for either the scale or location of compensatory planting, and that there was no adequate long term forest plan.

177. In written submissions, the appellant indicated that forestry cover would be reduced by 9.4 hectares to accommodate the proposed development. The appellant provided scoping documents for a new forest plan for the Blairmore estate. These indicate that an area at the northern corner of estate which is currently not under tree cover could be used for compensatory planting.

178. It is not for me to say whether the proposed area of compensatory planting is suitable. Nonetheless, I am not persuaded that a requirement to identify a 9.4 hectare area for compensatory planting should provide an insuperable barrier to the proposed development. I consider that the matter of identifying compensatory planting can be dealt with under a condition attached to permission for the proposed development. It could possibly be provided as part of a long term forest plan approved before commencement of the proposed development.

179. Kiltarlity and Inverness West Community Councils also referred to the effect that the loss of forestry cover would have upon wildlife habitats. I do not consider that loss of habitat arising from change of use of a relatively small part of the Blairmore forest, which has in any case now been clear-felled, to use for the proposed development is an issue of substantial weight in determining the appeal.

180. Annex C of the Scottish Government's policy on control of woodland removal advises that change of land use from forestry along with compensatory planting can be acceptable where it will facilitate appropriate development of a renewable energy project or significantly reduces net greenhouse gas emissions. I find that the relatively small loss of woodland cover from the appeal site would be acceptable under the policy given the public benefits the proposed development could provide in respect of renewable power generation and mitigation of climate change. This would be subject to compensatory planting being provided.

## Cultural heritage

181. The council's historic environment team (HET) objected to the proposed development, although the council did not. In its objection it:

- criticised the assessment made of the proposed development's effects upon the historic environment in the environmental statement, which relied upon the assessment made in the environmental statement submitted for the previous application;
- criticised the assessment's approach of comparing the proposed development with that previously proposed;
- referred to the proposed development's significant effects upon the setting of at least four nationally important archaeological sites, acknowledged in the environmental statement;
- criticised the assessment of the direct effects of the proposed development upon a number of boundaries, banks and dykes, which it considered were "under-represented in the historic environment baseline and throughout the text";
- argued that the potential for direct effects upon unrecorded remains was underestimated. It considered that, notwithstanding the deep ploughing that would have been carried out for forestry planting at the appeal site, there was at least moderate potential for further archaeological features to survive there.

182. It also criticised Historic Environment Scotland's consultation response for suggesting that the proposed development would have no significant effects upon the historic environment, when such effects were acknowledged in the environmental statement. Nonetheless, HET did consider that the effects of the proposed development could be either mitigated or offset and that such measures could be secured under a condition.

183. I agree that the arrangement of the environmental statement's assessment of effects upon cultural heritage is not particularly helpful. However, the appellant did provide the assessment that accompanied the previous application, and I consider that the information before me was sufficient to reach a conclusion on the effects of the proposed development on cultural heritage.

184. The environmental statement acknowledges the proposed development would have significant indirect effects upon three groups of features, including two with scheduled ancient monuments and all three with features of probable or certain national importance. However, I do not find the evidence of either the appellants or HET to address the tests set out in HWLDP policy 57 in respect of heritage resources of national importance or SPP paragraph 145 in respect of impact on the setting of scheduled ancient monuments.

185. The commercial forestry around the proposed development would continue to be present whether or not the proposed development is granted permission. Given that context, I do not consider in the case of any of the monuments whose settings would be affected that the effect would be such as to have an adverse effect upon the setting's integrity. I also do not consider the proposed development would compromise those monuments in the sense of HWLDP policy 57. I consider that the benefits of the proposed development, in terms of its contribution to meeting renewable-energy and carbon-reduction targets, would be capable of outweighing the significant adverse effects, taking

into account the mitigation and offsetting measures the appellant has undertaken to provide. Overall, I consider that the proposed development does meet the tests in HWLDP policy 57 and SPP paragraph 145.

186. As regards the walls, banks and dykes directly affected by the proposed development, I consider that the environmental statement explains adequately that these are field boundaries associated with Easter and Wester Cudrish farm steadings. The HET does not suggest that the environmental statement is wrong in its assessment that a significant effect is unlikely as a consequence of the removal of relatively small parts of these, nor does it make a case that the walls, banks and dykes are of such particular importance that removal of several relatively small parts would amount to a significant effect upon built heritage. No other party has made such a case to me. I do not consider it would do.

## **Species and habitats**

### Ornithology

187. The environmental impact assessment of the proposed development considers its effects upon ornithology, and carries out more detailed assessments on three potentially sensitive species, red kite, hen harrier and Slavonian grebe. Each of these is assessed to be of high nature conservation importance.

188. As regards red kite and hen harrier, the environmental impact assessment found no or negligible effect. SNH, the government's statutory advisor on these matters, was satisfied that the conservation status of these species would not be adversely affected at a regional level.

189. SNH advised that appropriate assessment was required of the proposed development's effect upon the North Inverness Lochs Special Protection Area, for which the protected interest is Slavonian Grebe. This is considered below.

190. SNH advised that an appropriate range of protected species surveys had been done in accordance with standard methodologies. Although a number of objectors suggested that there might be adverse effects upon a number of other bird species, I have not found any of the evidence submitted sufficient to persuade me that SNH's advice was incorrect.

### Slavonian Grebe: appropriate assessment under the Conservation (Natural Habitats &c.) Regulations 1994

191. The North Inverness Lochs Special Protection Area (SPA) lies to the south west of the proposed development. The SPA has a significant proportion of the United Kingdom population of Slavonian grebes.

192. The appellant has carried out collision risk modelling. The information on the model, which includes data on the proposed development and the height and swept area of its proposed turbines, is set out in Appendix 10.4 of the environmental statement.

193. SNH referred to the information provided in respect of the modelling as comprehensive. With the exception of evidence from Inverness West Community Council discussed below, no other party has produced expert or technical evidence that would cast doubt upon the modelling or the assumptions made in it.

194. Modelling was carried out, first, treating flights as unpredictable (that Slavonian Grebe would fly from the SPA in random directions) and, second, weighting flights in directions towards sites that are suitable for Slavonian Grebe. The models indicated a very low likelihood of bird strikes at turbines.

195. Inverness West Community Council provided evidence that a breeding pair of Slavonian grebes had established themselves in 2016 at a location historically known to be used by the birds, but not identified in evidence before me as currently used by them.

196. The community council suggested that flights between the new breeding site and the SPA would bring grebes close to the proposed development. It also argued that, given the re-establishment of Slavonian grebe at one historic site, it could not be assumed that other historic sites were defunct. It noted that flights from the SPA to another historic site could take birds through the proposed development. Furthermore, it argued that there had been loss of trees in the Blairmore forest to wind-throw and that the proposed development would involve clear felling. It argued, therefore, that Slavonian grebe, which would normally be averse to flying over forest, might not then be put off from flying over the appeal site by its presence.

197. The appellant pointed out that both the historic sites referred to by the community council had already been considered in the collision risk modelling provided in the environmental statement. It referred to the environmental statement's assessment that Slavonian grebe would be unlikely to follow a flightpath that took them over the rising ground or forest at the appeal site. Their natural behaviour in flight would make them more likely to follow a route along which water bodies can be found, since they cannot take off from land. Such a route was available and would not take them through the proposed development.

198. I consulted SNH regarding these submissions. It confirmed that the re-establishment of Slavonian grebe at the historical site did not change its view that the proposed development would have no adverse impact upon the SPA either in isolation or cumulative with other proposals.

199. The community council criticised the use of field studies of 2010 to inform the modelling. However, the evidence before me includes further surveys of 2011 to 2015. They do not indicate an upward trend in population in that time. Even if there has been since, the comprehensive nature of the modelling and precautionary assumptions built into it are such that I conclude there is no reason to disagree with SNH's advice. Consequently, I do not find that the proposed development would have any adverse effect upon the integrity of the SPA or upon Slavonian grebe as a species of high conservation importance.

200. I note that a framework is proposed for habitat management in part of the SPA to be carried out in association with the proposed development, which would have as its aim improving habitat for Slavonian grebe.

### Other ecology

201. The environmental statement found no significant effects upon habitats and vegetation, bats or other fauna.

202. SNH stated that an appropriate range of protected species surveys had been done in accordance with standard methodologies. It did not challenge the environmental statement's conclusions. It noted, however, that use of the site by protected species was possible, and recommended that further surveys should be carried out before commencement of construction and that contractors should be made aware of the possible presence of protected species. These matters can be dealt with by condition.

203. As SNH considered the proposed development's effect on habitats within the appeal site other than commercial forestry. It did not challenge the environmental statement's conclusions.

204. I have dealt with the objection by Forestry Commission Scotland above, which did not raise any issue in respect of impact upon ecology within the commercial forestry as a consequence of the proposed development.

205. The Scottish Environment Protection Agency (SEPA) did not object to the application, subject to certain conditions being imposed on permission.

206. Although some objectors suggested that sensitive habitats in the area could be adversely affected by the proposed development, I do not find substantive evidence that there would be any significant effects.

207. I note that the appellant's proposed habitat management plan could improve biodiversity in the area.

### **Access and recreation, including horse-riding**

208. I have already noted a number of significant adverse visual effects upon recreational routes. I do not find any other significantly adverse effect is likely upon recreational interests outside the Blairmore forest itself.

209. The issue of access for horse-riding to the Blairmore forest was raised in an objection. I invited written submissions on this topic.

210. Cathryn Hill-Freeman provided a written submission including a plan identifying routes in the Blairmore forest she states that she and others have used for horse-riding for over twenty-five years. She argues that

- off-road areas for horse-riding are important given greater traffic on the roads and greater numbers of horses in the area;
- that horses would find the environment created by the proposed development to be noisy, unpleasant and frightening and that this could be dangerous to horse and rider and the general public;



- the proposed development would have an adverse effect upon the condition of tracks used for horse-riding; and
- that increased traffic on the A833 and on local single-track roads as a consequence of the proposed development would have an adverse effect upon the amenity of horse-riders and cyclists.

211. The appellant has provided in evidence a leaflet from the British Horse Society (BHS) which indicates that it does not consider that horse-riding and development of wind turbines are wholly incompatible. It recommends a number of safeguards. These include a recommendation of a separation distance between proposed turbines and tracks used for horse-riding. I find that the separation distance is met at the tracks Mrs Hill-Freeman referred to in her submission. I can understand that horses can react unpredictably to the movement of turbines. However, given that the recommended separation distance is met, I consider it unlikely that there would be a significantly adverse effect upon any existing use of the tracks for horse-riding.

212. I also walked the tracks identified in the Blairmore forest on my site inspection. I found them largely lined by dense commercial conifer plantations with few wider views. I consider that their visual appeal for most recreation is limited. I can understand that visual appeal may not be a main consideration in identifying a location to exercise horses, but I do not consider that from such a baseline any detriment to the amenity of the tracks should be a determining issue in this appeal.

213. It is possible that during construction there might be some obstruction of access routes to the Blairmore forest, both for horse-riders and others, although I do not consider that any such temporary effects are likely to be significant. I consider that they would be capable of being managed under the transport management plan.

214. The appellant has proposed that an access management plan should be approved under a condition. I consider that this would address issues relating to design of facilities for access for horse-riders and others.

### **Socio-economic effects, including tourism**

215. A number of objectors suggested that there would be adverse effects upon tourism in the area of the proposed development as a consequence of the proposed development. The thrust of these objections was that the effects of the proposed development on landscape and amenity both individually and cumulative with other windfarm developments would cause tourists to go elsewhere.

216. I have set out the landscape and visual effects I consider that the proposed development would have. These include significant effects upon Meall Fuar-mhonaidh, the Great Glen Way, the A833, core paths and the summit of Carn na Leitire, where tourists are likely to be among the receptors.

217. However, I am not persuaded that there is evidence to demonstrate an additional significant adverse economic effect as a consequence of their secondary effect upon tourism. Impact upon tourism was considered in the report upon the previous application. The reporter said this:

“8.122 There was no dispute that tourism is important, nationally, regionally and locally. There is no dispute that impact upon tourism has to be considered. However, I find no compelling evidence that the construction of a well-designed wind farm would have any significant impact on the number of tourists or spend from tourists. ...

8.124 ... Wind farms are not new in Scotland. If wind farms systematically deterred the numbers and spend from tourists then it is reasonable to assume evidence for this would be found by now.

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

218. I have not been provided with evidence that would suggest to me that the reporter was wrong in any of these findings or that anything has changed since the previous application was determined. I note that the council did not refuse permission on grounds of the effect of the proposed development on tourism.

219. I accept that construction and decommissioning operations would have a short-term positive effect upon the economy of the local area and that operation would be likely to have a small positive effect. If turbine towers were to be procured in Scotland, I accept that that would also have a small overall positive effect on the Scottish economy.

### **Transport effects**

220. The environmental statement included an assessment of the effects of construction traffic. Neither Transport Scotland nor the council’s transport planning team objected to the proposed development in principle, subject to conditions being imposed on any permission granted.

221. The Council’s transport planning team objected to the use of the southern access to the Blairmore estate from the A833 except for emergency purposes. It did indicate that the objection could be removed with further assessment. Given that the transport assessment was carried out on the assumption of use by construction traffic of the northern access from Glen Convinth, I consider that any such further assessment can be done under a condition of permission.

222. Although a number of individuals objected in respect of the effects of construction traffic on the A833 and on minor roads between Abriachan and Glen Convinth, I consider that any impact can be satisfactorily managed through a transport management plan along the lines envisaged in the environmental statement, together with a requirement for formal community liaison arrangements. I therefore do not consider that any significant effect would arise from the effect of construction traffic.

### **Pollution**

223. The environmental statement reported no significant effect upon soil, water or air quality as a consequence of the proposed development. SEPA did not challenge these

conclusions and did not object to the application subject to the imposition of certain conditions.

224. The environmental statement estimated that the carbon dioxide emissions generated in the construction of the project would be offset after 13 months of operation.

### **Telecommunications and aviation**

225. The environmental statement does not find any significant effects upon aviation radar or upon telecommunications signals. A scheme to mitigate adverse effects upon broadcast signals found after the proposed development comes into operation could be secured by condition.

### **Design of the proposed development**

226. In designing the proposed development, the appellant has taken its cue from the report into the previous application. It has reduced the number of turbines proposed and their height, so reducing both the horizontal and vertical scale of the proposed development. It has achieved a design that avoids significant adverse effects on the environment other than effects upon landscape and visual amenity and upon the setting of certain archaeological monuments. By keeping the proposed turbines largely in similar locations to that of the previous proposal and most other infrastructure with the exception of the substation, it has avoided creating any new construction impacts or effects on habitats as compared to the impacts that proposal would have had.

227. However, I consider that the following issues indicate an unsatisfactory design:

- The proposed development would have an unsatisfactory relationship with Glen Convinth, dominating the glen including the enclosed farmland within it, Ardendrain and the A833 running through it. These effects confirmed by the number of houses at which there would be a significant adverse effect in that area.
- Stacking of turbines at many sensitive viewpoints resulting in an image that is not cohesive. It compounds significant adverse landscape and visual effects. Although it is unlikely that a neatly symmetrical design could have been produced, I am not convinced that the degree of stacking that appears was inevitable for a development of a similar scale at the appeal site.
- Noise abatement mode to achieve the noise limits assessed in the environmental statement would result in a reduction in power output of 8 percent in a ten-turbine design. I do not consider this appropriate in a development that would have extensive landscape and visual effects, including effects arising from its proximity to Glen Convinth and from the complex image it presents at a number of sensitive viewpoints.

### **Policy assessment**

#### Development plan

228. I have also already found that the proposed development is capable of meeting the criteria of HWLDP policies 52 on woodland removal and 57 on natural, built and cultural heritage.

229. I have found that of the various considerations listed in HWLDP policy 67, the proposed development has no significant effects other than landscape and visual effects and effects on the setting of three groups of archaeological monuments. I have already found the latter can to a degree be mitigated or offset. As I have already noted, significant landscape and visual effects are an inevitable consequence of the development of commercial-scale windfarms and the proposed development would be in an area where new wind-energy development is likely to be acceptable in accordance with OWEG. The question for determination of the appeal is whether those significant effects would cause the proposed development to be significantly detrimental overall.

230. I have found that the proposed development would have relatively high degree of significant landscape and visual effects. This must be balanced against the modest but useful contribution the proposed development would make to meeting renewable energy targets and the economic benefit that would arise from it. However, I consider that the degree of effects upon Glen Convinth, the A833 running through it, and upon Ardendrain in particular, together with the lack of cohesion in the proposed development's image at a number of viewpoints takes the balance over the threshold of significant detriment overall.

231. I therefore find that the proposed development would not comply with the development plan.

### Scottish Planning Policy

232. The proposed development is in an area in which wind farms are likely to be acceptable in accordance with SPP. Regarding the considerations in paragraph 169, I have found that the proposed development would have a small net economic benefit, would contribute modestly to renewable energy targets and to reduction in greenhouse gas emissions. It would not have significant effects on natural heritage, carbon rich soils, hydrology or the operation of assets such as aviation radar or broadcasting facilities. Its cumulative effects would be relatively limited. However, it would have a high degree of landscape and visual effects, including effects upon the amenity of communities, including the settlements of Abriachan and Kiltarlity and the township of Ardendrain, upon the landscape and settlements in Glen Convinth, upon the A833 - a route in high use by tourists - and the Great Glen Way - a long-distance walking route. I have also noted its adverse effect on the setting of historic monuments. Overall I do not find the policy balance is in favour of approval.

233. The appellant argued that the proposed development finds support in the SPP presumption in favour of development that contributes to sustainable development. I have considered the proposed development's contribution to climate change mitigation, its economic benefit, and the support it would provide to the delivery of energy infrastructure. However, I do not consider that the proposed development sufficiently protects the amenity of existing development, given its visual effects upon nearby settlements, the township of Ardendrain and the A833. I do not consider it represents good design or, given the degree of its landscape and visual effects, supports the creation of a pleasant place. It is not the right development at the appeal site. I therefore find that it does not have the support of the sustainable-development presumption.

## CONCLUSION

234. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission.

*Robert Seaton*

Reporter