



**Report of Inquiry into application under section 36 of the Electricity Act 1989
and deemed application for planning permission under section 57 of the
Town and Country Planning (Scotland) Act 1997 (as amended)**

**The construction and operation of Shepherds' Rig Wind Farm at Carsphairn,
Dumfries and Galloway**

- Case reference WIN-170-2005
- Case type Section 36 application
- Reporters Karen Heywood and Rosie Leven
- Applicant SETT Wind Development Limited
- Planning authority Dumfries and Galloway Council
- Other inquiry parties Mountaineering Scotland
Carsphairn Community Council
Ben Ade
Fiona Clubb
- Date of application Original application: 17 December 2018
Modified application: 4 December 2019
- Date case received by DPEA 14 October 2020
- Method of consideration and date Inquiry sessions: 9 – 10 November 2021
Hearing sessions: 11 – 12 November 2021
Written submissions
- Dates of site visits Unaccompanied site inspections: 8 to 10 June 2021, 25 to 26 August 2021 and 21 October 2021
- Date of report 6 April 2022
- Reporters' recommendation Refuse section 36 consent and deemed planning permission

CONTENTS

	Page
Summary of report	2
Preamble	5
Abbreviations used in the report	7
Chapters	
1.	Background 8
2.	Legislative and policy context 18
3.	Landscape and visual impact 24
4.	Traffic and transport 72
5.	Other relevant matters: 81 <ul style="list-style-type: none"> • Forestry • Ecology • Ornithology • Cultural heritage • Geology and peat • Hydrology and hydrogeology • Noise • Aviation • Socio-economics, tourism and recreation • Shadow flicker • Telecommunications and utilities • Health and safety • Climate change and carbon balance
6.	Planning conditions 100
7.	Policy evidence and conclusions 107
8.	Overall conclusions and recommendation 121
Appendices	
A	Recommended conditions 124
B	Core documents 146
C	Appearances and webcast 146

Summary of report

The site

The application site is located within the Smittons and Craigengillan North plantations near Carsphairn and mainly comprises commercial forestry. The site is bounded to the north and north-east by further forestry and to the west, east and south-east by open moorland. Vehicular access is available from the B729.

Background to the proposal

The application was submitted in 2018. Amendments in 2019 comprised a revised site layout and the deletion of two turbines. Consultation on the revised scheme was carried out in December 2019. Consultation on further additional information was carried out in April – May 2021, relating to: road impacts; the cumulative impact of the proposed Lorg Grid Connection (separate application); and an updated cumulative landscape and visual impact assessment. Dumfries and Galloway Council objected to this application resulting in it being the subject of this inquiry.

Description of the development

The proposals include the following elements:

- 15 turbines - maximum tip height 149.9 metres;
- 2 turbines - maximum tip height 125 metres;
- anemometer mast - height 100 metres;
- battery storage facility;
- substation and control buildings;
- formation of temporary construction compound;
- two borrow pits;
- new access and access tracks; and
- associated works.

The applicant's case

The proposed development is a well sited and appropriately designed wind farm. It would not give rise to any unacceptable significant landscape and visual impacts, either alone or in combination with other built, consented and in-planning schemes. While some local landscape and visual effects are acknowledged in the Environmental Impact Assessment Report, these residual effects are highly localised. Localised significant effects on landscape character and visual amenity are inevitable as a result of commercial wind energy development anywhere in the UK. No significant effects were identified on any national designated areas, or upon the special qualities of the Galloway Hills Regional Scenic Area. In line with the applicant's comprehensive environmental assessment, no unacceptable effects arise from other matters, including recreation, socio-economics, transport and cultural heritage. Considerable benefits would flow from the development, notably its contribution to the Government's 2030 renewable energy and 2045 net zero targets. Renewable energy deployment remains a priority of the Scottish Government and is a matter which should be afforded very significant weight in favour of the development.

Dumfries and Galloway Council's case

Shepherd's Rig would cause significant adverse landscape and visual effects. The proposed wind farm, by virtue of its location, siting, extent, scale and inappropriate design would appear as a visually dominant and incongruous development. Shepherd's Rig is an ill-conceived scheme which represents inappropriate development in a sensitive location.

The proposal is contrary to the development plan. The renewable energy benefits and other socio-economic benefits of Shepherd's Rig do not outweigh the considerable unacceptable significant effects including significant effects on the factors taken into account in designating the area as part of the Galloway Hills RSA. This is the wrong place for this development.

Mountaineering Scotland's case

Mountaineering Scotland objects to the proposed development because of its landscape and visual impact in relation to Cairnsmore of Carsphairn, the Rhinns of Kells and the perceived visual relationship between them across the upper Glenkens basin. It believes that this impact would unacceptably diminish the quality of the mountaineering experience enjoyed by its members and others who hill-walk in the area. It considers that this would bring a consequential negative impact on the level of hill-walking recreation and tourism activity locally. It considers that the level of adverse visual impact is such that it outweighs any possible benefits from the proposed development and therefore that refusal of consent would be the only decision consistent with Scottish and UK policy.

Ben Ade's case (on behalf of Carsphairn Community Council)

The proposals would have an enormous detrimental effect on the residents of this rural parish, putting undue pressure on an already strained community and economy, particularly in terms of roads and transport impacts. This would cause closure of small businesses, inability to commute to work in reasonable times and unacceptable delays to road users, of which there are many. The roads in the area are not fit for the purpose intended by the applicant. Traffic and transport aside, the proposed development would negatively impact the community and neighbouring areas. The central and prominent location of the proposed site would, in effect, transform the upper Glenkens into an industrial park, rather than the widely appreciated area of outstanding natural beauty that it is today. To construct mammoth electricity generators upon such a spot goes against all previous and sensible landscape planning for wind farms, it is quite possibly one of the most poorly chosen and inappropriate sites currently in planning.

Fiona Clubb's case

The proposal would have adverse effects on the landscape, which would adversely affect the local economy and tourist sector as well as various active travel routes in the local area. Taking into account other wind farm developments consented in the local area, the landscape can accommodate no more turbines. It is likely that the proposed turbines rely on the crutch of economic gain for their value, while on the other hand Cairnsmore of Carsphairn stands in glory, delivering wellbeing entirely for free. Cairnsmore is a symbol of place and time which connects the whole community, past, present and future. If the landscape is to change at Shepherd's Rig from forestry, to turbines with forestry, there would undoubtedly be global beneficiaries, but at the direct expense of the local economy. The local tourist sector which relies on scenic value and an active travel network cannot survive another blow without serious acts of mitigation, by way of conditions imposed by the authority and/or Scottish Ministers.

Reporters' conclusions

Overall, having regard to their findings, the reporters conclude in relation to the proposed development that there would be significant adverse landscape and visual effects in relation to views to and from Cairnsmore of Carsphairn, especially from the Stroanfreggan and upper Glenkens area and the Southern Upland Way between Culmark Hill and Benbrack. The divergence of the proposals from the emerging wind farm pattern in the wider area

would result in more significant landscape and visual effects from the proposals compared to existing schemes. The adverse landscape and visual effects would adversely affect the special qualities of the Galloway Hills Regional Scenic Area. Given that the Cairnsmore of Carsphairn (and associated hills), the Southern Upland Way and the Galloway Hills Regional Scenic Area form key parts of the regional recreational resource, we find that significant weight should be given to the adverse landscape and visual impacts.

We find that there would be inevitable traffic disruptions and inconvenience resulting from the construction and decommissioning phases of the proposed development, but that the range of proposed mitigation measures would ensure that impacts are minimised. We have considered other matters raised, including effects on: forestry; ecology; ornithology; cultural heritage; geology and peat; hydrology and hydrogeology; noise; socio-economics, tourism and recreation; shadow flicker; aviation; telecommunications and utilities; health and safety; and climate change and carbon balance. We have not found that the proposed development would have any significant effect in these respects, subject to mitigation that can be secured by condition where necessary.

The applicant has undertaken reasonable mitigation in designing the proposed development in respect of its effects upon the natural beauty of the countryside and in respect of other matters Ministers are required to take into account by Schedule 9 of the Electricity Act. The proposed development has strong support in principle from national policy in respect of renewable energy and climate-change mitigation. According to the spatial framework adopted in the development plan, the application site is in an area where wind farms are likely to be acceptable, subject to detailed consideration against all relevant plan policies. However, when considered against the detailed matters in national and local policy, we find that the development would not comply with the development plan and not be considered sustainable development. We find that the significant adverse landscape and visual effects would outweigh the need case.

Recommendation

We recommend that section 36 consent and deemed planning permission be refused.

Scottish Government
Planning and Environmental Appeals Division
Hadrian House
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

File reference: WIN-170-2005

The Scottish Ministers
Edinburgh

Ministers

In accordance with our minute of appointment dated 8 December 2020 we conducted a public inquiry in connection with an application to construct and operate a wind farm at Shepherds' Rig, Carsphairn, within Dumfries and Galloway Council area. Dumfries and Galloway Council as planning authority has lodged an objection to the proposal which has not been withdrawn.

We held a pre-inquiry meeting on 24 February 2021 to consider the arrangements and procedures for the inquiry. It was agreed that landscape and visual impact would be addressed at an inquiry session. Policy matters and the terms of any proposed conditions would be addressed at hearing sessions. In addition it was agreed that further written submissions would be invited to update the cumulative landscape and visual impact assessment, and to consider whether further oral procedure was required on transport and socio-economic matters. Following further submissions, we decided that concerns about the visual impact on tourism and recreation could be considered as part of the inquiry session on landscape and visual impacts and that there should be a separate hearing session on traffic and transport matters.

The updated cumulative landscape and visual impact assessment was received on 7 April 2021. Due to COVID 19, the inquiry and hearing sessions originally planned for 24 – 27 August 2021 were postponed until 9 – 12 November 2021. The inquiry and hearing sessions were held online due to the COVID 19 restrictions applying at that time. Closing submissions were exchanged in writing, with the final closing submissions (on behalf of the applicant) being lodged on 21 January 2022.

Before the inquiry began, we sought further written submissions on two matters. First, National Air Traffic Services confirmed it was content with the applicant's proposed condition to mitigate effects on the Prestwick Air Traffic Control Primary Radar, allowing its objection to be removed and avoiding its involvement in the inquiry. Secondly, Scottish Forestry indicated that there was insufficient information on the matter of compensatory planting. In response to our request for further submissions, the applicant submitted a proposed condition on compensatory planting on 24 June 2021. The council and Scottish Forestry provided comments on the proposed condition on 15 July 2021 and 30 July 2021 respectively. The parties' agreement on the proposed condition was confirmed at the conditions hearing on 12 November 2021.

We conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 8 – 10 June, 25 – 26 August and 21 October 2021.

Our report, which is arranged on a topic basis, takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the original Environmental Assessment from November 2018, the applicant's two Additional Environmental Information reports dated October 2019 and March 2021, and the written representations made to the Scottish Ministers. Throughout the report, highlighted text indicates hyperlinks which direct the reader to the source material or reference. A link to the full Core Documents list is included in Appendix B to the report, while links to the webcast for the inquiry and hearing sessions is at Appendix C.

Abbreviations

AEI	Additional Environmental Information Report (October 2019)
AEI II	Additional Environmental Information Report (March 2021)
AOD	Above Ordnance Datum
CD	core document
DGWLCS	Dumfries and Galloway Wind Farm Landscape Capacity Study (2020)
DPEA	Directorate for Planning and Environmental Appeals (Scottish Government)
ECU	Energy Consents Unit (Scottish Government)
ECow	Ecological Clerk of Works
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report (November 2018)
ha	hectares
HES	Historic Environment Scotland
km	kilometres
LVIA	Landscape and Visual Impact Assessment
MW	Megawatts
m	metres
NPF	National Planning Framework
RSA	Regional Scenic Area
SEPA	Scottish Environment Protection Agency
SOAM	Statement of Agreed Matters
SPP	Scottish Planning Policy
TMP	Traffic Management Plan
VP	Viewpoint

CHAPTER 1: BACKGROUND, CONSULTATION AND REPRESENTATION

Site location

[Site location plan](#)
[Site layout plan](#)

1.1 The application site is located in the centre of the Dumfries and Galloway Council area, on land lying approximately 5 km east of the village of Carsphairn and 45 km north west of Dumfries, as set out in [figure 2.1 of the EIAR](#) (CD001.004). The wider area is characterised by an extensive landscape of open moorland, commercial forestry plantations and rolling hills. The upper part of the Water of Ken River and its associated valley passes to the east of the site and extends as far as Lorg, where it is bounded by steep sided slopes.

1.2 The site is not subject to any national landscape designation. However, the north western part of the site, on the western and south western slopes of Craigengillan Hill, lies in the Galloway Hills Regional Scenic Area. Five turbines are within the Regional Scenic Area, two of which are on the cusp of the boundary of the Regional Scenic Area. The Cairnsmore of Carsphairn, a listed Corbett, lies to the north west of the site.

1.3 The site is separated from the nearest settlements but there are a number of isolated dwellings in the vicinity. Those closest to the site are Craigengillan Cottage and Craigengillan at 770 m and 873 m respectively from the eastern boundary of the site. A further ten properties lie within 1 - 2 km of the site, and there are a number of properties to the west of the site alongside the B729 at a range of approximately 2 - 4 km.

1.4 There are a number of other operational wind farms within the local area. Windy Standard I and II lie approximately 5 km to the north of the site. Afton wind farm lies just to the east of the Windy Standard schemes, approximately 6 km to the north of the site. Wether Hill wind farm lies approximately 5.5 km to the east of the site. Windy Rig is a wind farm under construction on higher ground approximately 3 km to the north of the site. Further information on operational and proposed wind farms in the area, is provided in [Figure 2.1 of the AEI II](#) (CD001.019).

Description of proposed development

1.5 The proposed wind farm consists of an array of 17 turbines, 15 with a maximum blade tip height of 149.9 metres and two with a maximum blade tip height of 125 metres. The expected output from the 149.9 metres tall turbines is around 4.2 megawatts (MW) each, with an expected output of 3.6 MW from the 125 metres tall turbines, giving a total maximum installed capacity from all of the wind turbines of 70.2 MW. The maximum output from the battery energy storage facility would be 6 MW, giving a total output from the proposed development of 76.2 MW. On that basis, and in accordance with the Electricity Act 1989 the proposals require to be determined by Scottish Ministers. The applicant seeks to secure permission for a 30 year period, followed by decommissioning.

1.6 The [proposed site layout](#) (figure 4.1, CD001.013) shows turbines lying on and between Craigengillan Hill in the north of the site and Marscalloch Hill in the south eastern part, accessed off the B729 between the High Bridge of Ken and Smittons Bridge, towards the southern-most point of the site.

1.7 The proposals include ancillary infrastructure consisting of: turbine foundations; hard-standings and crane pads; onsite access tracks; a network of underground cables linking to an onsite electricity substation and control/maintenance buildings; two borrow pit working areas; an access junction between the existing forestry track and the B729; a temporary construction compound; and an operational anemometry mast. The proposal also requires works to widen the B729 to facilitate the abnormal load route. Due to their height under 150 metres, aviation lighting is not required on the proposed turbines.

1.8 Before the start of the inquiry, the applicant proposed to provide 62.72 hectares of forestry planting to compensate for the woodland at the application site that would either be felled or would not be replanted as a direct result of the proposed development. No location for the planting has been proposed, but the applicant, council and Scottish Forestry have agreed a proposed condition requiring the submission to and approval by the planning authority of a detailed plan before commencement of the proposed development.

1.9 A full description of the proposal is set out in [Chapter 4 of the Environmental Impact Assessment Report](#) (CD001.003) as amended by [Chapter 4 of the Additional Environmental Information Report](#) (CD001.012).

Environmental Impact Assessment

1.10 The original application for consent under Section 36 of the Electricity Act was submitted on 17 December 2018 and was supported by an Environmental Impact Assessment Report from November 2018 (CD001.003). The original proposal consisted of 19 turbines and associated infrastructure. An Additional Environmental Information report was submitted in October 2019 (CD001.012), including a revised site layout and the deletion of two turbines (T7 and T11).

1.11 At the pre-examination meeting, we requested that for the purposes of the inquiry, we would require a revised cumulative landscape and visual impact assessment to take account of the latest position. The applicant also sought to provide further information on the offsite roadworks and on matters relating to the proposed grid connection for the proposed development. As the applicant's matters had not been requested for the purposes of the inquiry, they required to be advertised and consulted on. Bringing this together for simplicity, a [further Additional Environmental Information report](#) was therefore published in March 2021 (CD001.018), and advertised for consultation, comprising the following:

- an update of the cumulative landscape and visual impact assessment;
- an assessment of the offsite roadworks along the B729 between Carsphairn and the site entrance required to facilitate turbine delivery for the proposed wind farm; and
- a cumulative assessment for the proposed Lorg and Longburn Grid Connection ('the Lorg Grid Connection') which requires separate consent but which may traverse the narrowest central part of the wind farm application site.

1.12 The Additional Environmental Information reports from October 2019 and March 2021 are addenda to the Environmental Impact Assessment Report, and are to be read in conjunction with it. The three documents will be referred to in this report as follows:

- the Environmental Impact Assessment Report, dated November 2018 – 'the EIAR';

- the Additional Environmental Information Report, dated October 2019 – ‘the AEI’; and
- the Additional Environmental information Report, dated March 2021 – ‘the AEI II’.

1.13 The original EIAR was publicised in the Herald newspaper on 19 December 2018, the Galloway News on 20 and 27 December 2018, and the Edinburgh Gazette from 24-30 December 2018. The publication of the AEI was advertised in the Herald on 5 December 2019, the Galloway News on 5 and 12 December 2019 and the Edinburgh Gazette on 4 and 8 December 2019. The publication of the AEI II was advertised in the Edinburgh Gazette and the Galloway News on 15 April 2021. Notice of the original inquiry dates was advertised in the Galloway News on 5 August 2021, with the reconvened inquiry dates being advertised in the same newspaper on 21 October 2021.

1.14 The proposal for compensatory planting of 62.72 hectares of forestry has not been environmentally assessed. Given that the location of the proposed replanting has not been finally determined, we do not consider that its likely significant effects, if any, are fully identifiable at present. However, proposed condition 35 would prevent the development from proceeding until the compensatory planting plan has been approved by the planning authority.

Consideration by Dumfries and Galloway Council

1.15 On 12 August 2020 Dumfries and Galloway Council submitted its [objection](#) (CD003.005) to the proposed development. Following referral of the case to Scottish Ministers, the council identified an error in its objection where reference had been made to the wrong Landscape Character Unit. This was corrected at a meeting of the council on 24 February 2021 and the updated objection was thereafter submitted to DPEA and published on the DPEA website.

1.16 The [council's formal decision](#) (CD003.006), confirmed in writing on 1 March 2021, objects to the proposal on the following grounds:

- the proposal is located in a landscape incapable of accommodating the development without an unacceptable level of significant and adverse detrimental landscape and visual impacts. The design and scale of development are not appropriate to the scale and character of its setting and development does not respect the main features of the site and as such would be contrary to Local Development Plan 2 Policy IN2: Wind Energy and associated adopted Supplementary Guidance;
- the proposal would not respect the special qualities of the Galloway Hills Regional Scenic Area and as such it would be contrary to Local Development Plan 2 Policy NE2: Regional Scenic Areas;
- the proposal would not respect the landscape character, scenic qualities or scale of Landscape Character Units LCT 4, LCT 9, LCT 19 and LCT 19A and as such, would be contrary to Local Development Plan 2 Policy OP1(c): Development Considerations; and
- the proposed development would not be of a high quality design in terms of its contribution to the natural environment, or contribute positively to the sense of place and local distinctiveness and would not relate well to the scale and character of the

surrounding sensitive landscape and as such would be contrary to Local Development Plan 2 Policy OP2: Design Quality and Placemaking.

1.17 The council carried out internal consultation with its landscape architect, Roads Planning Team, archaeologist, Flood Risk Management Team and access officer, as summarised in the council's committee report accompanying its objection (CD003.005). They raise a number of matters in their responses as set out below.

1.18 The landscape architect objects to the proposed development on the following basis:

- Shepherd's Rig is considered to be an inappropriately scaled development in a sensitive location. Whilst occupying for the most part a less sensitive landscape character type, LCT 19A - the Ken unit of the Southern Uplands with Forest, the scheme would be slightly within, bounding, or immediately adjacent to more sensitive neighbouring landscapes. The Ken unit of Narrow Wooded Valley (LCT 4), the Upper Glenkens unit of Upper Dale (LCT 9), and the Carsphairn unit of Southern Uplands (LCT 19) are all assessed as being more sensitive to development than the main host unit.
- The scale of the turbines and the spread of the wind farm are fundamentally problematic to these relationships and Shepherd's Rig would have a poor fit to these landscape character types / units; as well as being of overbearing scale in relation to the local landscape features including the River Ken, Marscalloch Hill, Stroanfreggan Craig, and Smittons Farm.
- Adverse and complex significant cumulative effects would arise from Shepherd's Rig wind farm in addition to the committed (operational and consented) cumulative baseline, which now includes operational Windy Standard 1 and 2, Wether Hill and Blackcraig as well as the consented Torr turbines, Knockman Hill, Windy Rig, Lorg, Benbrack, and Glenshimmeroch schemes.

1.19 The Roads Planning Team has no objections to the proposed development, subject to conditions to prevent Heavy Goods Vehicles accessing the site using the B729, between the junction with the U141 and Moniaive, and to require the agreement of a traffic management plan to promote the safe and efficient transportation of components and materials to the site.

1.20 The council archaeologist has no objection to the proposed development, subject to agreement by the council of a programme of archaeological works to mitigate any direct effects on archaeological sites at Craigengillan Cairn, Stroanfreggan Cairn fort and Little Auchrae farmstead.

1.21 The Flood Risk Management Team and the access officer have no objections to the proposed development.

Consultation responses

1.22 A range of local and national consultation bodies were consulted on the proposals and the additional and updated information in 2018, 2019 and 2021. The consultation responses set out below are those sent direct to the Energy Consents Unit and, unless otherwise stated, relate to the consultation process carried out on the revised development

layout in the AEI in October 2019. Where necessary, greater detail on these is provided in subsequent chapters of the report.

1.23 The **British Horse Society** (CD002.001) has no objection to the proposed development. The society advises how developers should take horses into account, including a separation distance of at least four times the height of the turbine (to tip of blade) for core paths, nationally promoted routes and other promoted riding routes.

1.24 **BT Networks** (CD002.002, CD003.001, CD004.001) has no objection to the proposed development.

1.25 **Carsphairn Community Council** (CD002.003, CD003.002, CD003.003, CD004.002) strongly objects to the proposed development on behalf of those living in Carsphairn and on the B729 road. It is concerned about the effects on built heritage assets and on road safety on the B729, and effects on visual amenity, in relation to tourists and cyclists on the B729. In particular, it considers that the proposals would be out of scale with the landscape and too centrally placed, rather than tucked away. As a result, they would be seen by everyone on the approach to and from Carsphairn.

1.26 **Carsphairn Community Woodland** (CD002.004) considers that the proposed development would have unacceptable impacts on the landscape, on the local economy and on tourism and is concerned about impacts on the neighbouring Muirdrochwood Forest, which it is seeking to purchase.

1.27 **Crown Estate Scotland** (CD002.005) has no objection to the proposed development.

1.28 **Fisheries Management Scotland** (CD002.010) has no objection to the proposed development, but the developer is advised to consult with the Dee District Salmon Fishery Board and the Galloway Fisheries Trust on the potential impacts on fish, fisheries and fish habitats.

1.29 **Glasgow Airport** (CD002.012, CD003.007) has no objection to the proposed development.

1.30 **Historic Environment Scotland** (HES) (CD002.013, CD002.014, CD003.008, CD004.004) initially objected to the proposed development with regard to an adverse impact on the integrity of the setting of two scheduled ancient monuments at Craigengillan Cairn and Stroanfreggan Craig fort. HES was concerned that, contrary to paragraph 11.3.12 of the EIAR (CD001.003), impacts on setting should not be described as temporary and reversible and that such a description would not accord with Scottish Planning Policy which states that 'areas identified for wind farms should be suitable for use in perpetuity'. Revisions to the proposals in the AEI to remove turbines T7 and T11 and re-site turbine T9 further west, have reduced the impact on the setting of Craigengillan Cairn and Stroanfreggan Craig fort. As a result, HES has withdrawn its objection, although there remains some uncertainty around the effect on views of Craigengillan Cairn.

1.31 **Ironside Farrar's** (Scottish Government advisor on peat landslide hazard and risk Assessment) Stage 1 checking report (CD002.015) considered that the methodology of the applicant's peat landslide hazard risk assessment set out in appendix 12 of the EIAR (CD001.006) needed revision in a number of areas, including the integration of desk and

field surveys, the calculations of risk and the proposed mitigation measures. It was recommended that a revised report be submitted. Following the updated risk assessment in appendix 12 of the AEI (CD001.015), Ironside Farrar confirms in its Stage 2 checking report (CD003.009) that the developer has generally addressed the queries raised at Stage 1, with the exception of one point on scoring which was not considered to affect the outcome of the risk assessment.

1.32 Joint Radio Company Limited (CD002.016, CD003.010, CD004.005) has no objection to the proposed development.

1.33 Marine Scotland Science (CD002.017, CD003.011) has no objection to the proposed development. It recommends an integrated robust water quality monitoring programme takes place at selected sites potentially impacted by the proposal and at control sites (where an impact from the present proposal is unlikely). Also the Ecological Clerk of Works should carry out regular visual inspections of all watercourses. These matters are discussed in Chapter 6 on conditions, with reference to proposed condition 15 (Ecological Clerk of Works) and proposed condition 19 (Construction Environmental Management Plan).

1.34 Ministry of Defence (CD002.018, CD003.012) has no objection to the proposals.

1.35 Mountaineering Scotland (CD002.019) objects to the proposed development due to a significant adverse visual impact on Cairnsmore of Carsphairn and harm to the perceived visual relationship between Cairnsmore of Carsphairn and the Rhinns of Kells. It believes that this impact would unacceptably diminish the quality of the mountaineering experience enjoyed by their members and others who hill-walk in the area. It suggests this would bring consequential impacts on the level of recreation and tourism activity locally and believes that the level of adverse visual impact is such that it outweighs any possible benefits from the proposed development.

1.36 National Air Traffic Services Limited (NATS) initially objected (CD002.020) to the proposed development on the basis of its effect upon the primary radar at Great Dun Fell. The wording of a condition, to ensure that a Primary Radar Mitigation Scheme was implemented before commencement of development, has subsequently been agreed with the applicant and the council. Subject to the imposition of the specified condition (see proposed condition 8) its objection has been withdrawn (CD003.014).

1.37 NatureScot (formerly Scottish Natural Heritage) (CD002.026, CD003.020, CD003.021) has no objection to the proposed development and is broadly content with the proposals in relation to ecology and ornithology. However, it considers that the proposals would cause significant and adverse effects across a number of sensitivities including a localised significant adverse effect on the Galloway Hills Regional Scenic Area, on smaller scale landscapes within the vicinity of the proposal and a significant and adverse cumulative landscape and visual effect on receptors within the upper Glenkens, mostly in conjunction with Longburn wind farm (which was subsequently dismissed on appeal by Scottish Ministers on 14 May 2019). It provides detailed comments on these issues, as set out in Chapter 3.

1.38 Royal Society for the Protection of Birds Scotland (RSPB) (CD002.021, CD003.015) has no objection to the proposed development, subject to the inclusion of a habitat management plan for the restoration of deep peat and associated habitat, to

minimise the impact on black grouse and deep peat habitats. There were concerns around the original positioning of turbines on areas of deep peat, particularly proposed turbines T6 and T8, but this layout was subsequently revised to avoid deep peat. It also recommends a condition requiring a pre-construction survey to check for nest sites, particularly in relation to impacts on red kite and other sensitive raptor species such as goshawk. These matters are discussed in Chapter 6 on conditions, with reference to proposed condition 19 (Construction Environmental Management Plan) and proposed condition 31 (Breeding Bird Protection Plan).

1.39 **Scottish Environment Protection Agency (SEPA)** originally objected (CD002.004) to the proposed development on the basis of a lack of information on the impact on the peat environment. This was based on the original proposed location of 7 turbines positioned in areas of deep peat (proposed turbines T4, T6, T8, T9, T10, T13 and T16). These have been adjusted where possible so that they would now lie outwith areas of deep peat and the objection has been withdrawn (CD002.005, CD003.019). SEPA supports the proposal for a biosecurity plan and recommends that this should be agreed and implemented before works commence – see proposed condition 19 (Construction Environmental Management Plan). No concerns are raised over private water supplies, given that they are outwith the appropriate buffer distances from the proposed infrastructure.

1.40 **Scottish Forestry** (previously Forestry Commission Scotland) initially had concerns (CD002.011, CD003.016, CD003.017) over insufficient information on the compensatory planting that would be required for the permanent removal of 61.1 hectares of woodland, to enable suitable condition or legal agreements to be put in place. It confirms that only felling directly required for the construction and operation of the proposed wind farm would be consented through the planning permission. It offers to advise on suitable mechanisms for ensuring that the loss of woodland is mitigated and that management of the forest is compliant with the United Kingdom Forestry Standard. Following further written submissions, parties agreed on proposed condition 35, requiring 62.72 hectares of compensatory planting, as discussed in Chapter 6.

1.41 **Scottish Water** (CD002.022) has no objection to the proposed development.

1.42 **Scotways** (CD002.023) has no objection to the proposed development, but provides details of relevant rights of way relating to the site. Scotways is concerned about impacts on recreational amenity and the impact that wind farm developments will have on the views from the Southern Upland Way. It also points to the Welsh Assembly Government's Technical Advice Note on Renewable Energy (TAN 8): Proximity to Highways and Railways which recommends setting back all wind turbines a minimum distance, equivalent to the height of the blade tip, from the edge of any public highway (road or other public right of way) or railway line.

1.43 **Transport Scotland** (CD002.027, CD003.022, CD004.008) has no objection to the proposed development, subject to conditions requiring the prior approval by the trunk roads authority of the proposed route and any accommodation measures required for any abnormal loads on the trunk road network, and requiring any additional signing or temporary traffic control measures to be undertaken by a recognised QA traffic management consultant, with the approval of Transport Scotland. See Chapter 6 on conditions and proposed condition 21 (Traffic Management Plan).

1.44 **Visit Scotland** (CD002.028) has no objection to the proposed development although concerns are raised about the impact on visitors and it is suggested that an independent tourism impact assessment should be prepared.

Public participation

1.45 A variety of community engagement activities was undertaken from the early development of the proposals, including distribution of newsletters to local residents and businesses (in 2013 and 2018), engagement with the Carsphairn Community Council and five community open days (in 2013 and 2018). The publication of the environmental reports and the dates for the inquiry were advertised in the local and national press, as set out above.

1.46 A total of 65 objections from third parties was received by the Energy Consents Unit in connection with these proposals. Three letters of support were received.

1.47 Those **objecting** to the development raise the following concerns:

- visual amenity;
- traffic and transportation;
- noise;
- natural heritage effects, including loss of flora and fauna and impacts on raptors, badgers, water voles, pine martens, wild boar and red squirrels;
- the effect on the Galloway and Southern Ayrshire Biosphere Reserve;
- cultural heritage, including impacts on listed buildings and archaeological assets, particularly in the Stroanfreggan area;
- tourism and recreation, including impacts on walkers and cyclists, users of the Southern Upland Way, Cairnsmore of Carsphairn and the other hills in the area;
- local economy, including effects on tourism accommodation;
- private water supply;
- population levels in the area; and
- cumulative impacts with other wind farms.

1.48 The **letters of support** raise the following matters:

- benefits to the environment and tackling the climate change emergency;
- benefits to the local community, including the community benefit fund; and
- increased employment in the area and opportunities for local companies during construction.

1.49 The requirement for a public inquiry is triggered by objection from Dumfries and Galloway Council. A [letter was sent to all parties](#) who had previously commented on the proposal, explaining that the case had been transferred to the Scottish Government's Planning and Environmental Appeals Division (DPEA) for examination. This invited confirmation as to further involvement in the public inquiry process.

1.50 At that stage, parties were invited to submit a position statement. The [applicant's position statement](#) (CD001.017) assisted in the initial stages of preparation for the inquiry prior to the pre-examination meeting. The [note of the pre-examination meeting](#) (CD010.001) of 24 February 2021 confirmed the detailed arrangements for the inquiry.

Statement of agreed matters

1.51 Following the pre-examination meeting and prior to the submission of cases, a statement of agreed matters was sought by the reporters to further specify the scope of evidence to be rehearsed through the inquiry. A complete statement was not able to be agreed by the parties, but a [draft statement of agreed matters](#) (CD016.005) was published on 21 July 2021 which identifies areas of agreement and disagreement.

Key areas of agreement

1.52 There is agreement on the legal and policy context relevant to the proposed development, albeit with some differences around emphasis to be placed on certain policies, which is discussed further in Chapter 2 below.

1.53 Subject to the imposition of conditions where required, the parties agree that the proposed development is acceptable in relation to the following material considerations:

- ecology and ornithology, including impacts on European and other protected species and designated sites;
- peat management, peatland habitats (including any blanket bog), carbon emissions and savings arising from the development, and peat stability;
- military and civil visible and infra-red aviation lighting;
- noise emissions during construction and operation, including acoustic residential amenity impacts;
- socio-economic impacts;
- cultural heritage;
- public safety issues arising from the development;
- loss of good quality agricultural land;
- impact on radar or seismological interests (civil or military);
- geology, hydrology and hydrogeology, including controlled waters, flood risk and surface run-off from the site during construction and operation;
- issues relating to air quality, telecommunications, television reception, on site utilities and health and safety;
- the connection of the development to the grid; and
- human rights under Article 8 of Part 1 of Schedule 1 and under Article 1 of Part 2 of Schedule 1 of the Human Rights Act 1998 (as amended), including diminution in the value of residential property.

1.54 In respect of effects on landscape character, the parties agree that effects on the following landscape character types are relevant:

- LCT 19A Southern Uplands with Forest – Ken unit – proposed development located within LCT and also located c. 900 m to the east;
- LCT 4 Narrow Wooded River Valley – Ken Unit – proposed development (not turbines) located within LCT;
- LCT 9 Upper Dale (Valley) – Upper Glenkens Unit – proposed development (not turbines) located within LCT; and
- LCT 19 Southern Uplands – Carsphairn Unit – proposed development located to the immediate east.

1.55 Of these, the parties agree that the proposed development would result in a direct significant effect on landscape character across two of the character types: the Ken unit of LCT 19A (Southern Uplands with Forest) and the Ken unit of LCT 4 (Narrow Wooded River Valley).

1.56 The parties agree, except in relation to some elevated viewpoints identified by the council, that the significant effects on visual amenity would be localised to within approximately 7 - 8 km of the proposed turbines where the proposed development would be visible from various nearby properties and settlements, as well as the surrounding road network, public footpaths and recreational spaces. While certain residential properties would experience some significant visual effects, the parties agree that such views would not result in the properties becoming an unattractive place to live.

1.57 It is agreed that there would be significant effects experienced on part of Core Path 182/Path DS15, and paths DS16 and DS17, as well as some limited significant effects from part of Core Paths 23 and 199, and part of the Bardennoch Pack Trail. It is also agreed that there would be significant visual effects on receptors on part of the B7000, and users of the B729 between Knockgray Park and Guttery Glen, as well as on Lorg Road and parts of the A713.

1.58 Parties agree that five of the proposed turbines are located within the Galloway Hills Regional Scenic Area, two of which fall on the boundary of the designated landscape within the Ken unit of the Southern Uplands with Forest area, therefore having direct and significant effects on the Regional Scenic Area.

Key areas of disagreement

1.59 It is the applicant's view that significant effects on the Ken unit of LCT 19A (Southern Uplands with Forest) and the Ken unit of LCT 4 (Narrow Wooded River Valley) would occur up to 4.5 - 5 km from the proposed development. The council, however, considers significant effects occur up to 4.5 - 6 km from the proposed development in these areas. The council also considers that there would be some localised effects at up to 6 km from the site in the Stroangassel area.

1.60 There is some minor disagreement around the methodology for the assessment of cumulative landscape and visual effects. There is also some disagreement between the parties on the cumulative effects upon the Galloway Hills Regional Scenic Area. These matters were discussed further in the inquiry session and are expanded on in Chapter 3 below.

1.61 There is minor disagreement between the parties on the distance from the Southern Upland Way from which significant visual effects would be experienced. The applicant considers effects would occur within 4 - 5 km from the proposed turbines, while the council considers they would occur up to 5 km.

CHAPTER 2: LEGISLATIVE AND POLICY CONTEXT

Legislative context

2.1 Section 36 of the Electricity Act 1989 requires that the construction or operation of a generating station whose capacity exceeds 50 MW shall only be undertaken in accordance with a consent granted by the Scottish Ministers.

2.2 Schedule 8(2) of the 1989 Act requires the Scottish Ministers to serve notice of any section 36 application on the relevant planning authority. Where the planning authority objects to the application, Ministers are obliged to hold a public inquiry and to consider the objection and the report of the inquiry before deciding whether to give consent.

2.3 Schedule 9 paragraph 3 of the 1989 Act sets out the obligation to have “regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest”. In addition Schedule 9, paragraph 3(3) states a further obligation, in exercising the relevant functions, to “avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.”

2.4 The power of the Scottish Ministers, on granting consent under section 36 of the Electricity Act 1989 for an operation that constitutes development, and to direct that planning permission for that development shall be deemed to be granted, is reiterated in section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.5 Scottish Ministers’ decision notices are required to provide, amongst other things, a reasoned conclusion on the significant effects of the development on the environment. In the event that consent is to be granted, the decision should also state that the reasoned conclusion on significant effects is up to date. Our conclusions in this regard are found in Chapter 8 of this report.

Policy context

2.6 The applicant sets out its views on the relevant policy and guidance applicable to this case in [Chapter 5 of the EIAR](#) (CD001.003) and [Chapter 5 of the AEI](#) (CD001.012). The [council’s committee report](#) on the proposal (CD003.005) also discusses the relevant policy framework. While a final statement of agreed matters was not achieved, there is significant agreement between the parties on the legislative and policy context. Their agreement on these matters is set out in section 8 of the [draft statement of agreed matters](#) (CD016.005). The key issue between them is the weight to be given to the emerging Scottish Government energy policy framework targets relative to the weight to be given to landscape and visual impacts.

Renewable energy policy and climate change targets

2.7 The UK Government has made a number of international and domestic commitments in respect of reducing emissions of greenhouse gases. It is also required to meet European Union targets and other international commitments for renewable-energy generation and climate-change mitigation.

2.8 Scotland's overarching statutory target is to achieve a 100% reduction in greenhouse gas emissions to net-zero by 2045, with interim targets of 75% by 2030 and 90% by 2040, now provided for in the Climate Change (Scotland) Act 2009 as amended by the Climate Change (Emissions Reductions Targets) (Scotland) Act 2019 ("2009 Act"). These are higher targets, to be achieved sooner, than originally set by the 2009 Act. Parties agree that this means the trajectory, in terms of the scale and pace of action to reduce carbon dioxide emissions, is steeper than before.

2.9 The Scottish Government declared a climate emergency on 14 May 2019. The declaration of an "emergency" is a reflection of both the seriousness of climate change and its potential effects and the need for urgent action to cut carbon dioxide emissions. Parties agree that the declaration is a material consideration.

2.10 Parties agree that key renewable energy policy documents and relevant material considerations are set out as follows:

International Context

- Conference of Parties 21 United National Paris Agreement (2015) (CD007.005); and
- the relevance of EU policy provisions and targets.

UK Context

- Net Zero, the UK's Contribution to Stopping Global Warming, Committee on Climate Change (May 2019) (CD007.007);
- Annual Report to UK Parliament, Committee on Climate Change (2020) (CD007.014);
- Response to Committee on Climate Change Progress Report, UK Government (2020) (CD007.044);
- Achieving Net Zero, National Audit Office (2020) (CD007.027);
- UK Energy White Paper: Powering our net zero future, UK Government (2020) (CD007.028);
- Ten Point Plan for a Green Industrial Revolution, UK Government (2020) (CD007.024); and
- Sixth Carbon Budget, Committee on Climate Change (2020) (CD007.026).

Scottish Context

- 2020 Route map for Renewable Energy in Scotland, Scottish Government (2015 update) (CD007.034);
- Letter to all Heads of Planning in relation to energy targets and Scottish Planning Policy, Chief Planner (2015) (CD005.009);
- Scottish Energy Strategy, Scottish Government (2017) (CD007.002);
- Onshore Wind Policy Statement, Scottish Government (2017) (CD007.001);
- Climate Change Plan, Scottish Government (2018) (CD007.004);
- Programme for Government, Scottish Government (2020) (CD007.020);
- Advice to the Scottish Government on recovery from the COVID-19 crisis, Committee on Climate Change (May 2020) (CD007.013);
- Towards a robust, resilient wellbeing economy for Scotland, Report of the Scottish Government's Advisory Group on Economic Recovery (June 2020) (CD007.015);

- Eight policy packages for Scotland's Green Recovery, Report of the Scottish Government's Climate Emergency Response Group (July 2020) (CD007.018); and
- Securing a green recovery on a path to net zero, update to the Climate Change Plan 2018-2032, Scottish Government (December 2020) (CD007.025).

2.11 The key message communicated in the above documents is the seriousness of: the declared climate emergency; the need to cut carbon dioxide emissions; the Scottish Government's intentions regarding deployment of renewable energy generation; and the urgent action required in order to meet the legal commitment to net zero emissions.

2.12 Following the publication of the draft statement of agreed matters, and prior to the inquiry commencing, the following energy policy documents were published (and thereafter accepted as core documents) which are seen as relevant to the proposed development:

- Press release, Intergovernmental Panel on Climate Change (2021) (CD007.046);
- Climate change 2021 - Summary for Policymakers, Intergovernmental Panel on Climate Change (2021) (CD007.047);
- Statement on release of Intergovernmental Panel on Climate Change report, UK Government Chief Scientific Advisers (2021) (CD007.048);
- Statement on Intergovernmental Panel on Climate Change report, United Nations Secretary-General (2021) (CD007.049);
- Climate Change emergency – representation from Scottish to UK Government, Scottish Government (2021) (CD007.050);
- Draft Shared Policy Programme (Bute Agreement), Scottish Government and Scottish Green Party (2021) (CD007.051);
- Extracts from Scottish Energy Statistics Hub, Scottish Government (accessed 1 September 2021) (CD007.052);
- Onshore Wind Policy Statement Refresh 2021 – consultative draft, Scottish Government (2021) (CD007.053);
- Net Zero Strategy, UK Government (2021) (CD007.054);
- Emissions Gap Report, United Nations Environment Programme (2021) (CD007.055); and
- Report on proposals and policies to reduce greenhouse gas emissions following annual target for 2019 not being met, Scottish Government (2021) (CD007.056).

Scottish Government planning policy

National Planning Framework 3 (NPF3)

2.13 National Planning Framework 3 (CD005.003) published in 2014 is a long-term strategy for Scotland and the spatial expression of the Government Economic Strategy, and the Scottish Ministers' plans for development and investment in infrastructure. Planning decisions and development plans are expected to support its delivery. Amongst its wide-ranging policies, it sets out the need for a strategy to reduce reliance on fossil fuels and emphasises the benefits that this will bring, including in employment creation, as well as the challenges in embracing a renewable and low carbon economy whilst minimising any adverse impacts on important environmental assets.

2.14 NPF 3 is currently under review. A consultative draft of National Planning Framework 4 was published on 10 November 2021, the day before our scheduled hearing

on policy. As a result, we agreed to allow further written submissions on the draft after the close of the inquiry. The Planning (Scotland) Act 2019 means that National Planning Framework 4, when issued, will have statutory status and it will set out a high-level land use plan to 2050.

Scottish Planning Policy (SPP)

2.15 Scottish Ministers' policy on a range of planning matters is currently set out in Scottish Planning Policy (2014) (CD005.001). Scottish Planning Policy is a non-statutory document and does not form part of the development plan. Parties agree that it is a material consideration that, in general terms, carries significant weight for decision-making. Once National Planning Framework 4 is approved, it will incorporate elements of policy currently contained in Scottish Planning Policy and will have the same status as the development plan.

2.16 Changes to Scottish Planning Policy in 2020 (CD005.002) have now been removed following a legal challenge. As a result, the key paragraphs relevant to the proposal are considered to be:

- paragraph 13 which introduces four planning outcomes. Of particular importance to the proposal are Outcome 1: a successful, sustainable place with a growing low carbon economy, Outcome 2: a low carbon place – reducing our carbon emissions and adapting to climate change and Outcome 3: a natural resilient place – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use;
- the summary of the presumption in favour of development under the Policy Principles heading on page 9 between paragraphs 27 and 28 which reads 'this SPP introduces a presumption in favour of development that contributes to sustainable development';
- paragraph 28 which states: 'The aim is to achieve the right development in the right place; it is not to allow development at any cost';
- paragraph 29 sets out the principles by which policies and decisions on planning applications should be guided;
- paragraphs 152-155 that address A Low Carbon Place, including delivering heat and electricity;
- paragraphs 161-166 (including Table 1 - Spatial Frameworks on page 39) that specifically reference on-shore wind and the need for development to be guided by spatial framework complemented by consideration, within a development management process applying the criteria in Paragraph 169, of the environmental, community and cumulative impacts of an individual proposal. The site is within a Group 3 area for the purposes of SPP Table 1;
- paragraph 169 which confirms that in terms of development management, considerations for energy infrastructure will vary relative to the scale of the proposal and site characteristics. Paragraph 169 also states that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and heat maps where these are relevant;
- paragraph 170 which states that areas identified for wind farms should be suitable for use in perpetuity; and
- paragraph 196 which states that, in development plans, the level of protection given to local designations should not be as high as that given to international or national designations.

National planning and other guidance

2.17 The following items of national planning guidance are considered material in relation to onshore wind:

- Scottish Government (online): Onshore Wind Turbines Guidance (2014) (CD005.004);
- Scottish Government: Onshore Wind – some questions answered (2016) (CD005.014);

2.18 The following nationally relevant guidance is also produced by NatureScot:

- Guidance on Spatial Planning for Onshore Wind Turbines – natural heritage considerations, NatureScot (2015) (CD006.011); and
- Siting and Designing Wind Farms in the Landscape, version 3a, NatureScot (2017) (CD006.003).

The development plan

2.19 In the determination of section 36 cases, the development plan does not have the status attributed to it under section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) but it may be a material consideration.

Local development plan

2.20 The current development plan, as far as it relates to the proposed development comprises the Dumfries and Galloway Local Development Plan 2 (October 2019) (LDP2) (CD005.005) and Dumfries and Galloway Supplementary Guidance – Wind Energy Development: Development Management Considerations (CD005.006).

2.21 The council considers that the supplementary guidance on Design Quality and Placemaking (CD005.020), which was prepared in support of LDP2 policy OP2, is also relevant in general terms, while the applicant disagrees and finds that it has no relevance to a wind farm proposal.

2.22 The key development plan policies relevant to the proposal are considered to be:

- OP1 – Development Considerations;
- OP2 – Design Quality and Placemaking;
- NE2 – Regional Scenic Areas;
- IN1 – Renewable Energy; and
- IN2 – Wind Energy.

2.23 Parties consider policies IN1 and IN2 to be the lead policies in this case. The council considers that policies OP1 and OP2 are the overarching policies and are important in their own right, while the applicant considers them to be less relevant when policy IN2 and its related supplementary guidance comprehensively cover the wind farm design issues. Given the location of the Regional Scenic Area, the council emphasises that policy NE2 is also important to the assessment.

2.24 As required by paragraph 161 of SPP, the local development plan (in the supporting paragraphs to policy IN2) includes a spatial framework identifying those areas that are likely to be the most appropriate for onshore wind farms. Parties agree that the site lies within a Group 3 area: an area where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

2.25 Policy IN2 contains the requirements to assess the extent to which: the landscape is capable of accommodating the development without significant detrimental landscape or visual impacts, including effects on wild land; the design and scale of the proposal is appropriate to the scale and character of its setting, respecting the main features of the site and the wider environment; and it addresses fully the potential for mitigation.

2.26 Policy IN2 also states that further details on the assessment process, including more detailed development management considerations, are provided through the supplementary guidance on wind energy development. The supplementary guidance describes the main factors that will be taken into account in reaching planning decisions and details the criteria contained in the policy. The supplementary guidance includes, in Appendix C, the Dumfries and Galloway Wind Farm Landscape Capacity Study (CD005.007). The landscape capacity study assesses landscape sensitivity, the capacity of individual units to accommodate change and provides advice on how the scale, siting and design of development should be informed by local landscape character.

2.27 The application of development plan policies was discussed further at the policy hearing session. In Chapter 7 we address any disagreements and reach our conclusions on the policies that are most applicable to the proposed development.

Reporters' conclusions

2.28 Taking into account the relevant legislative and policy context, we consider that the main issues in this case can be summarised as:

- the significant landscape and visual effects and any mitigation, including effects on the Regional Scenic Area (Chapter 3);
- the effects on traffic and transport (Chapter 4);
- the benefits of the proposal in terms of energy generation and battery storage (Chapter 7);
- the contribution to national energy policy and consistency with national and local planning policy (Chapter 7); and
- the overall conclusions taking into account all of the above (Chapter 8).

CHAPTER 3: LANDSCAPE AND VISUAL IMPACT

Evidence on landscape and visual impact

Introduction

3.1 At the pre-examination meeting it was agreed that our assessment of landscape and visual impacts would proceed on the basis of an inquiry session, following the submission of an updated cumulative landscape and visual impact assessment in March 2021, as set out in Chapter 2 of the [AEI II](#) (CD001.018). This builds on the assessments of landscape and visual impacts in [Chapter 8 of the EIAR](#) (CD001.003) and [Chapter 8 of the AEI](#) (CD001.012).

3.2 The applicant and the council provided evidence at the inquiry from professional landscape architects, Mr Brian Denney for the applicants and Dr Janet Swailes for the council. Evidence was also heard from Dr Dave Gordon representing Mountaineering Scotland and a local resident, Ms Fiona Clubb. The inquiry parties submitted a range of documents expanding upon landscape and visual impact matters:

- Applicant
 - [Inquiry report – Mr Brian Denney](#) (CD011.001.001)
 - [Inquiry report – Appendix 2](#) (CD011.001.002)
 - [Inquiry report – Amended Figure 2 of Appendix 2](#) (CD011.001.003)
 - [Precognition – Mr Brian Denney](#) (CD011.006)
 - [Appendix to precognition](#) (CD011.007)
- Council
 - [Inquiry report – Dr Janet Swailes](#) (CD012.001)
 - [Precognition – Dr Janet Swailes](#) (CD012.014)
 - [Landscape Viewpoint Assessments](#) (CD012.002)
- Mountaineering Scotland
 - [Inquiry report – Dr Dave Gordon](#) (CD013.001)
 - [Precognition – Dr Dave Gordon](#) (CD013.004)
- Fiona Clubb
 - [Inquiry report – Fiona Clubb](#) (CD014.001)
 - [Precognition – Fiona Clubb](#) (CD014.007)

3.3 Other relevant material relating to landscape and visual impact matters include:

- consultation responses and representations, including from Scottish Natural Heritage/NatureScot (see chapter 1 above);
- the draft statement of agreed matters (landscape and visual impacts) (CD016.005);
- Landscape Institute and Institute of Environmental Management and Assessment, Guidelines for Landscape and Visual Impact Assessment, 3rd edition (2013) (CD006.008);
- Scottish Natural Heritage, Siting and Designing Wind Farms in the Landscape, version 3a (2017) (CD006.003);
- Dumfries and Galloway Council, Supplementary Guidance: Wind Energy Development: Development Management Considerations (2020) (CD005.006);

- Dumfries and Galloway Wind Farm Landscape Capacity Study (DGWLCS) (2020) (CD005.007);
- Dumfries and Galloway Council, Technical Paper on Regional Scenic Areas (2018) (CD005.018);
- Dumfries and Galloway Council, Landscape Character Assessment (1998) (CD006.019); and
- Closing submissions from the [applicant](#), the [council](#), [Mountaineering Scotland](#) and [Mr Ade](#).

Consultation responses and representations

3.4 The consultation responses and representations (summarised in Chapter 1) contain concerns and objections in relation to landscape and visual impacts from the proposed development. Most of these concerns were raised in relation to the 2018 proposals. Carsphairn Community Council maintained its objection throughout, but did not wish to participate in the inquiry session, although Ben Ade participated on its behalf in hearing 2 on traffic and transport matters. A summary of Nature Scot's evidence on landscape and visual matters is set out below.

Statement of agreed matters (landscape and visual impacts)

3.5 While a final statement of agreed matters was not achieved, a number of matters relating to landscape and visual effects are agreed between the parties in the [draft statement of agreed matters](#) (CD016.005).

Effects on landscape character types

3.6 The landscape and visual impact assessment contained in the applicant's evidence considers the effects on the different landscape character types (LCTs), based on the Dumfries and Galloway Wind Farm Landscape Capacity Study. The proposed site straddles three landscape character types as described in the council's capacity study, namely: landscape character type 19a – Southern Uplands with Forest, landscape character type 4 – Narrow Wooded River Valley, and landscape character type 9 – Upper Valley (Dale). The proposed turbines are located within landscape character type 19A. The site access and construction compound are located within landscape character type 9. The western boundary of the site is also directly adjacent to landscape character type 19 – Southern Uplands.

3.7 The parties agree on the following effects on landscape character in the relevant LCTs:

- LCT 4 – Narrow Wooded Valley (Ken unit) – direct significant effects to 4.5 - 5 km from proposed development (with the council considering this extends from 4.5 - 6 km);
- LCT 9 – Upper Valley (Upper Glenkens unit) – indirect significant effects to 4.5 km from proposed turbines (with the council considering this extends to 6 km in Stroangassel area);
- LCT 19 – Southern Uplands (Carsphairn unit) – indirect significant effects up to 4.5 km from proposed turbines; and

- LCT 19A – Southern Uplands with Forest (Ken unit) – direct significant effects to 4.5 - 5 km from proposed development (with the council considering this extends from 4.5 - 6 km).

3.8 There is agreement that any effects on character types beyond those LCTs listed above do not require consideration as part of the inquiry.

Visual effects

3.9 The parties agree, except in relation to some elevated viewpoints identified by the council, that the significant effects on visual amenity would be localised to within approximately 7 - 8 km of the proposed turbines where the proposals would be visible from various nearby properties and settlements, as well as the surrounding road network, public footpaths and recreational spaces.

3.10 The nearest settlements to the proposed development are located at distance from the site, and as such, the parties agree that visual effects experienced from within Carsphairn and St John's Town of Dalry would not be significant. They agree that the proposed development would not be visible from Moniaive.

3.11 When considering the Core Paths and other footpaths located within the detailed study area, significant effects would be experienced from Core Path 182/Path DS15 as the route passes between Knockgray Park and the site. There would also be close proximity views of the proposed development from this path on the felling of the plantation at the western site boundary. Significant visual effects would be experienced from route DS16 in the vicinity of Moorbrock, north of the site, and route DS17 as it passes through the Ken Valley to the east of the site. There would be also be some limited significant effects experienced from Core Path 23 at Dundough Hill, Core Path 199, as it passes over open grassland near to Butterhole Bridge, and the Bardennoch Pack Trail as it passes between Bardennoch Hill and Carsphairn.

3.12 There is agreement that there would be major to moderate localised effects which are significant on the Southern Upland Way.

3.13 In terms of effects upon the local road network, there would be significant visual effects upon receptors on the B7000 as they travel a relatively short distance in a northerly direction between White Hill and Ardarroch. There would also be significant visual effects upon users of the B729 between Knockgray Park and Guttery Glen, and Lorg Road up to a distance of 4 km to the north of the site. Further significant effects would also occur for a relatively short distance as receptors travel along the A713 between Carsphairn and Bardennoch.

Designated landscapes

3.14 There is agreement that there would be no effects on any national or international landscape designations, or on any special landscape designations or sensitive landscape areas. Parties agree that the effects on landscape designations would be focussed on the effects on the Galloway Hills Regional Scenic Area.

Residential visual amenity

3.15 It is recognised that certain residential properties scattered within the local landscape, situated between around 2 - 5 km of the proposed turbines, largely located to the east, south-east and west, would experience some significant visual effects as a result of the proposals. The Environmental Impact Assessment Report concludes a high magnitude of change and major, significant effects for residences with an open aspect towards the site between 4 - 5 km from the site, but effects that are not significant where these views are curtailed by vegetation or landform.

3.16 The parties agree that of the 13 properties assessed within 2 km of the proposed development, there would be significant visual effects experienced at two of the dwellings and/or their associated garden curtilage; namely Craigengillan and Strahanna Farm. However, there would be no overwhelming or overbearing effects upon the properties, and each would remain an attractive place to live. Effects on the property at Smittons would increase to become significant after felling of the Smittons forestry plantation, but these effects would be limited to the access track only and would not be overwhelming or overbearing.

Cumulative effects

3.17 The cumulative assessment has considered the effects of the proposed development in relation to the following scenarios:

- Scenario 1 - assumes that other consented (but as yet unbuilt) wind farms are operational;
- Scenario 2 - extends this further to assume that all schemes in planning are also operational; and
- Scenario 3 - cumulative effect of the proposals with schemes that are at the scoping stage).

3.18 The draft statement of agreed matters discusses impacts from the Glenshimmeroch and Troston Loch schemes. The extent of wind energy development within the landscape beyond the Galloway Hills Regional Scenic Area (RSA) boundary would be extended with the introduction of Glenshimmeroch (the original consent from 2019, CD009.047) and Troston Loch (consented, CD009.049). This would be perceived from the Galloway Hills RSA, particularly from the higher ground within the Rhinns of Kells and from Cairnsmore of Carsphairn.

3.19 The 2019 consent of Glenshimmeroch and its inclusion within an updated Scenario 1 cumulative baseline increases cumulative effects upon the Galloway Hills RSA for this scenario. The addition of Troston Loch (now approved), would increase potential for cumulative effects on the Galloway Hills RSA. Wind energy development is already a characteristic of the landscape beyond the Galloway Hills RSA.

3.20 There will be some localised significant adverse combined cumulative effects on visual amenity as a result of the introduction of Glenshimmeroch and Troston Loch to the landscape, alongside all other existing, consented and in planning schemes. In terms of the effects of the Glenshimmeroch and Troston Loch schemes, significant sequential effects would be notably increased for a short section of the Southern Upland Way to the south of the Shepherds' Rig Site, due to their close proximity of the route.

Main points from NatureScot

3.21 NatureScot has no objection to the proposed development but considers that the proposals would cause significant and adverse effects across a number of sensitivities including a localised significant adverse effect on the Galloway Hills Regional Scenic Area (RSA), on smaller scale landscapes within the vicinity of the proposal and a significant and adverse cumulative landscape and visual effect on receptors within the upper Glenkens, mostly in conjunction with Longburn wind farm (which was subsequently dismissed on appeal by Scottish Ministers on 14 May 2019). NatureScot's detailed comments on landscape and visual matters are as follows:

- Fit with strategic pattern of wind development / landscape capacity within the Ken and Carsphairn area. NatureScot considers that the Southern Uplands with Forestry (Ken unit) is at or close to capacity. The siting of the proposal on relatively low ground conflicts with the accepted pattern of wind development, bringing larger scale turbines into this lower lying more transitional landscape. This has the effect of impinging on the setting and composition of the more scenic and smaller scale Upper Valley (Ken unit) and the contribution it makes to the Galloway Hills RSA. The proposal appears to have a far greater effect on the setting of the Cairnsmore of Carsphairn Massif and greater visibility from the A713 and toward Carsphairn across the Glenkens area and valley than other proposals within this unit. The proposal would add to the encirclement by wind development of the Cairnsmore of Carsphairn and the hills with the Striding Arches (represented by Benbrack).
- Significant and adverse effects on the Galloway Hills RSA. NatureScot disagrees with the applicant's finding that there is no significant effect on the RSA, and considers that there would be a locally significant effect by the proposal's indirect effect on the setting of the sculptural form of the Cairnsmore of Carsphairn Massif, when viewed from the Glenkens area. In addition, the proposal's position occupying the lower more transitional foreground of elevated views, for example from Benbrack, would detract from this key panoramic view across the Glenkens to the Rhinns of Kells.
- Poor turbine fit in relation to the scale of the receiving landscape. NatureScot agrees with the applicant that there would be significant and adverse effects upon the narrow wooded valley adjacent to the proposal due to the adverse scale relationship of the turbines to the smaller scale landscape. It finds that this would also affect the setting of the Water of Ken valley and Stroanfreggan Burn. This is considered contrary to NatureScot's guidance on turbine scale, which states that a wind farm should be 'of minor vertical scale in relation to the other key features of the landscape... of minor size compared to other key features and foci within the landscape; or separated from these by a sufficiently large area of open space (either horizontally or vertically) so that direct scale comparison does not occur'.

3.22 Following dismissal of the Longburn appeal, Nature Scot confirmed that, with the exception of the in-combination effects of Shepherds Rig with Longburn which would now not occur, its position on the cumulative impacts from the Shepherd's Rig proposal remains unchanged.

Summary of applicant's position on landscape and visual effects

Introduction

3.23 The proposed development is within a Scottish Planning Policy Group 3 area for the purposes of the local environmental determining issue of landscape and visual effects. The applicant and the council almost wholly agree on the landscape character and visual effects from the published viewpoints. The key matter is the planning balance to be struck between (essentially) the need case, as represented in policy and emerging renewables and planning policy, and the truly material local impacts.

3.24 For Shepherd's Rig there would be locally significant impacts on the Galloway Hills Regional Scenic Area, but no overall significant impact on the qualities of the Regional Scenic Area. No other designations would be impacted. There would be no issue about impacts on the residential amenities of local residents and no Wild Land Area would be in play. The impacts of principal concern to the council are the siting of Shepherd's Rig in relation to the Cairnmore of Carsphairn, the Ken valley and the RSA which the applicant considers do not matter enough to justify a refusal.

3.25 Were any wind farm developer to search for a site in the council's area, the only available strategic advisory starting point would be the Ken Unit of the Southern Uplands with Forest landscape character type (LCT). That LCT is concluded in the landscape capacity study published by the council in 2020, and now part of the local development plan, to be of the lowest landscape and visual sensitivity in the council's area to the typology of development now proposed. Furthermore, the Eskdalemuir unit of the LCT is closed to wind farm development for seismological reasons. The Carsphairn Unit is almost fully developed with not much scope left. Even the Ken Unit has existing wind farm development, and there is more to the south in LCT 18. In addition, the applicant's evidence, that was not challenged, is that other apparently available parts of the Ken Unit are constrained by cultural heritage and topographical concerns.

Landscape effects

3.26 The Environmental Impact Assessment Report sets out in detail the baseline conditions of the site and local landscape (within 2 km) at paragraphs 8.5.30 – 8.5.53 (CD001.003). The primary land cover of the site is forest. The borrow pits would result in the temporary disturbance of the ground, but this would take place within areas of the landscape that have already seen historical disturbance through quarrying, and will be disturbed through the felling of plantation. Once the proposed development has been constructed, the land would be reinstated, as appropriate. Overall, it is considered that there would be a low magnitude of effect upon landscape features as a result of the proposed borrow pits giving rise no greater than a moderate/minor effect which is not significant.

3.27 The proposed development would result in a direct significant effect on landscape character across two of the character types within which the site is located: the Ken unit of character type 19A – Southern Uplands with Forest and the Ken unit of character type 4 – Narrow Wooded River Valley. Such significant effects would occur up to 4.5 - 5 km from the proposed development.

3.28 In addition, it is recognised that the proposed development would have a significant indirect effect in some adjoining character types. Within character type 9 – Upper Dale (Valley), significant effects on landscape character would extend up to 4.5 km from the proposed turbines. There would also be indirect significant effects within character type 19 – Southern Uplands (Carsphairn unit) up to 4.5 km from the proposed turbines and within character type 18A – Foothills with forest (Stroan unit) up to 4 km from the proposed turbines. These effects were summarised in Table 8.2 of the Additional Environmental Information and addressed in detail at paragraphs 8.6.46 to 8.6.144 of the Environmental Impact Assessment Report.

3.29 The site lies outwith any national landscape designation, including National Parks or National Scenic Areas. It also lies outwith any Wild Land Area, Inventoried Gardens and Designed Landscape and the Galloway Forest Park (including the Dark Skies Park).

3.30 The Galloway Hills Regional Scenic Area (RSA) extends predominantly south and west of the site, with the proposed development appearing within many views from within the RSA as set beyond the landform of Marscalloch Hill, and beyond the extent of the RSA. Significant visual effects are identified within the RSA, within 8 - 9 km of the proposed development. Despite the visibility of both the proposed development and the landscape of the RSA from locations within and beyond the RSA's extent, the applicant considers, contrary to the council's opinion, that the proposed development would continue to maintain the special qualities of the RSA as far as they can be interpreted to be, noting that they are not specifically defined in the Regional Scenic Area Technical Paper (CD005.018). No significant effects are anticipated in relation to any other Regional Scenic Areas or Sensitive Landscape Areas.

3.31 The applicant accepts that the proposals would result in a significant change in views towards the RSA, but does not accept that this automatically results in an adverse effect on the special qualities of the RSA. In all views where turbines could be seen in juxtaposition with the Cairnsmore/Beninner massif, they would sit below in the foreground of those views. They would not obscure the views or sit between the observer and the upland hills, hence those factors that are important, as identified on page 20 of the RSA Technical Paper, would not be undermined or compromised. Although there would be a change in the view, in some cases a significant change in the view, because of the location of the development in relation to the massif, the appreciation of the three factors (which comprise the special qualities of the RSA) would remain, because of the way that the wind farm would sit below the hills and not interpose with views towards them.

3.32 While the applicant accepts that the landscape and visual impact assessment does not include a specific analysis of the value of Cairnsmore of Carsphairn, it states that this is included in the assessment of sensitivity, where sensitivity is a function of value and susceptibility. The sensitivity analysis covers both landscape character and viewpoint locations.

Effects on visual receptors

3.33 The proposed development would be visible from various nearby properties and settlements as well as the surrounding road network, public footpaths and recreational spaces. The significant effects on visual amenity would be localised to within approximately 7 - 8 km of the proposed turbines.

3.34 Of the 22 assessment viewpoints considered in the landscape and visual impact assessment, there would be a significant visual effect at 15 viewpoints: 1-7, 10-12, 14-16 and 19-20. At the inquiry, the applicant clarified that there would also be significant visual effects at viewpoint 13 (Beninner) and viewpoint 22 (Carsphairn War Memorial), increasing the total to 17 viewpoints where significant visual effects would be experienced. Visual effects experienced from the nearest settlements of Carsphairn and St John's Town of Dalry would not be significant and the proposed development would not be visible from Moniaive.

3.35 A number of significant effects are assessed in relation to Core Paths and other footpaths. These include from Core Path 182/Path DS15 as the route passes between Knockgray Park and the site and close proximity views of the proposed development from this path on the felling of the plantation at the western site boundary. Significant visual effects would also be experienced from route DS16 in the vicinity of Moorbrock, north of the site, and route DS17 as it passes through the Ken Valley to the east of the Site (represented by viewpoint 2). There would also be some limited significant effects experienced from Core Path 23 at Dundegh Hill (represented by viewpoint 12), Core Path 199, as it passes over open grassland near to Butterhole Bridge, and the Bardennoch Pack Trail as it passes between Bardennoch Hill and Carsphairn.

3.36 In relation to the Southern Upland Way (SUW) (represented by viewpoints 5, 6, 7, 10 and 17), the greatest visual effects would occur within 4 - 5 km of the proposed turbines where there would be major to moderate localised effects which are significant. Beyond distances of 5 km, Zone of Theoretical Visibility coverage becomes intermittent, coniferous forest curtails views towards the site, and the proposed development becomes an increasingly smaller element in the wider views available from the route and effects beyond 5 km would not be significant.

3.37 In terms of the impact from parts of the Southern Upland Way, the applicant distinguishes the proposals at Shepherd's Rig from those at Longburn (refused on appeal). In the case of Longburn, users of the Southern Upland Way would have walked through the proposed turbines. At Shepherd's Rig, the turbines would not sit on the SUW route itself, but would be seen further to the west. The applicant argues that the main hills (Cairnsmore/Beninner) would still be seen.

3.38 In addition, from VP2, which is close to the SUW and a regular detour from it, the applicant states that although the wind farm would be in close proximity and would be dominant when looking directly towards it, the wind farm would be off to the side. While it would be possible to stop and turn to look at the turbines, the experience as a walker of travelling through the landscape is such that the wind farm would not be dominant in the overall view, which from here is a 360 degree panorama.

3.39 In terms of effects upon the local road network, there would be significant visual effects upon receptors on the B7000 travelling a relatively short distance in a northerly direction between White Hill and Ardarroch. There would also be significant visual effects upon users of the B729 between Knockgray Park and Guttery Glen, and also on Lorg Road up to a distance of 4 km to the north of the site. Further significant effects would also occur for a relatively short distance as receptors travel along the A713 between Carsphairn and Bardennoch (represented by Viewpoint 19).

Residential visual amenity

3.40 Of the 13 properties assessed within 2 km of the proposed turbines, there would be significant visual effects experienced at two of the dwellings and/or their associated garden curtilage; namely Craigengillan (873 m from T3) and Strahanna Farm (1,743 m from T3). However, there would be no overwhelming or overbearing effects upon the properties, and the proposed development would not result in the properties becoming an unattractive place to live. The property at Craigengillan is used as a holiday home and thus is not lived in permanently. However, the effects assessed for this property are an assessment based upon its use as a permanent residence.

3.41 It is noted that Smittons Plantation is due to be felled during the lifetime of the proposed development, as depicted on the baseline felling plan (Figure 7.4 (CD001.004)). The felling of the trees will allow for open views towards the site from the property at Smittons. These would be no greater than moderate and not significant effects upon receptors at the dwelling but only as they use the access track to the property. These effects would increase to become significant post felling of the plantation, but would be limited to the access track only, and would not be overwhelming or overbearing.

Cumulative effects

3.42 The landscape and visual impact assessment firstly considers the effects of the proposed development 'in its own right' (sometimes referred to as 'of itself'), against the current baseline situation with other existing wind farms present in the landscape. It then includes a cumulative assessment in which two scenarios are considered:

3.43 In addition to the description of the methodology for the assessment of cumulative effects in the EIAR (as updated in the AEI and then the AEI II), the applicant confirmed at the inquiry that the cumulative assessment has considered the effects of the development in relation to two scenarios:

- scenario 1 - assumes that other consented (but as yet unbuilt) wind farms are operational; and
- scenario 2 - extends this further to assume that all schemes in planning are also operational.

3.44 At the request of the council, a cumulative assessment was also made with regards to the cumulative effect of the proposed development with schemes that are at the scoping stage. The purpose of the cumulative assessment was to identify whether there would be any additional significant cumulative effects that would arise, beyond those identified for the proposed development of itself.

3.45 When the totality of landscape effects is considered, there would be localised significant direct effects on character types 18A and 19A, with some localised significant indirect effects upon character type 19. However, these effects would occur in any event in the absence of the proposed development should other proposed schemes be granted consent. The full assessment of effects is set out at paragraphs 2.2.2 – 2.2.4 of the AEI II (CD001.018).

3.46 In terms of cumulative effects upon the Galloway Hills Regional Scenic Area (RSA), the extent of wind energy development within the landscape beyond the RSA boundary

would be extended with the introduction of Glenshimmeroch (consented) and Troston Loch (consented). This would be perceived from the RSA, particularly from the higher ground within the Rhinns of Kells and from Cairnsmore of Carsphairn.

3.47 The consent of Glenshimmeroch Wind Farm and its inclusion within an updated Scenario 1 cumulative baseline increases cumulative effects upon the RSA for this scenario. The addition of Troston Loch would increase potential for cumulative effects on the RSA; however, this is slightly reduced by the withdrawal of Wether Hill extension scheme. Wind energy development is already a characteristic of the landscape beyond the RSA, and any additional significant effects on the RSA, arising as a result of the introduction of the revised development to the landscape, would arise because of the scheme in its own right rather than due to cumulative effects.

3.48 There would be some localised significant combined cumulative effects on visual amenity as a result of the introduction of Glenshimmeroch and Troston Loch to the landscape, alongside all other existing, consented and in planning schemes. There would also be some significant sequential visual effects on views from the Southern Upland Way to the south of the Shepherds' Rig Site, due to the close proximity of the route to the Glenshimmeroch scheme at that point and beyond it, the Troston Loch scheme. However, for the most part these effects would occur in the absence of the proposed development, due to the combined visibility of these schemes which lie close to one another in the landscape. Overall, the applicant considers that there would be no further significant cumulative effects resulting from the introduction of Shepherd's Rig, beyond the significant effects arising as a result of Shepherd's Rig of itself.

Approach to identifying significant cumulative effects

3.49 The applicant notes the council's concerns about how the cumulative assessment has been carried out. It clarifies that its approach of not identifying all the significant effects of Shepherd's Rig of itself to also be significant cumulative effects, avoids double counting of significant effects and is in line with NatureScot's guidance on Assessing the Impact of Onshore Wind Energy Developments (CD006.009). The differences between the council and the applicant's approaches is largely a matter of how the same information is presented. Whether or not the significant effects of Shepherd's Rig of itself are also considered to be cumulative effects does not change the fact that the significant effects arising have been fully identified in the landscape and visual impact assessment.

Response to the council's reasons for objection

3.50 In relation to the council's issue 1, the applicant does not agree with the council that the design of the development does not respect the main features of the site or its landscape setting. It is accepted that the scheme would give rise to significant effects on the local landscape character in the vicinity of the site. However, that does not mean that the development has failed to respond appropriately to its landscape setting. The proposed scheme is one which would give rise to some localised significant effects but would not be dominant or oppressive in the landscape and rather would be typical in its localised effects of other wind energy developments already operational elsewhere in this part of Scotland.

3.51 Issue 2 relates to respecting the special qualities of the Galloway Hills Regional Scenic Area (RSA). Five of the proposed turbines are located within the RSA, two of which fall on the very cusp of the designated landscape within the Ken unit of the Southern

Uplands with Forest area. The RSA Technical Paper (CD005.018) does not set out a definitive list of special qualities in relation to any of the RSAs within Dumfries and Galloway, and further research has also proven unsuccessful in determining both the reasoning behind the original designation of the Galloway Hills (i.e. the 'factors taken into account in designating the area' as set out in the policy NE2 wording), and the special qualities that the landscape affords. Therefore, the applicant has derived the qualities and reason of designation from the prose stated on page 20 of the RSA Technical Paper, as follows:

- "sweeping and dramatic views of hills";
- "dramatic and sculptural peaks"; and
- "narrow wooded valleys" and their "scenic juxtaposition with the uplands".

3.52 Following further discussion at the inquiry, the applicant accepts that these factors (as identified in paragraph 8.6.272 of the EIA report) are the key areas to be analysed.

3.53 Significant effects on views are identified within the RSA, within 8 - 9 km of the proposed development. Views towards the RSA from the landscape beyond its boundary have also been considered, arising in some significant visual effects. However, these are limited to a small part of the landscape to the east and south-east of the site from where Cairnsmore of Carsphairn can be seen beyond the proposed development.

3.54 The proposed development would be perceived to be located in the landscape beyond the RSA due to its location beyond the ridgeline created by Marscalloch Hill, and to a certain extent Craigengillan Hill, sited within the working coniferous plantation landscape. The proposed development would also be seen set down in the landscape below the horizon created by Cairnsmore of Carsphairn and Beninner in all but the very closest locations to the site.

3.55 The applicant finds that although the proposed development would be seen from, and in views towards, the Galloway Hills RSA, the proposed turbines would not affect an appreciation of the dramatic and sculptural peaks within the designated landscape. In particular, the notable landform of Cairnsmore of Carsphairn would still be distinctive when seen from other parts of the RSA, and from the landscape beyond the designated area, as seen in relation to viewpoint 21 (Corserine) and viewpoint 3 (Guttery Glen).

3.56 Sweeping and dramatic views of hills would remain, both from within and towards the RSA. The presence of the proposed development would not take away from the appreciation of the Rhinns of Kells ridgeline in distant views across the landscape, such as those experienced from hill summits such as Alhang and Benbrack. The hill summits within the north eastern part of the RSA would also still be seen above the valley landscape of the Glenkens, separate from the proposed development, as seen in relation to viewpoint 11 (B7000 at East Ardarroch).

3.57 The scenic juxtaposition between the narrow, wooded valley of the Water of Ken and the surrounding upland landscape would continue to be able to be appreciated and understood with the proposed development present in the landscape. As can be seen in relation to viewpoint 6 (Head of the Ken), located within the narrow, wooded valley, the valley landform and its surrounding hill slopes would be clearly appreciable, with the proposed development set back from the valley floor, and the turbines located away from the highest parts of the site. The sense of scale in the valley, which would be altered by the

temporal nature of the coniferous plantation present within the valley throughout the lifetime of the proposed development, would continue to comprise the key characteristics of this view when seen from the narrow valley north of the site.

3.58 There would be some localised significant effects upon landscape character and visual amenity experienced from a small part of the RSA, and in views towards the RSA from the landscape beyond its boundary. However, there would not be significant effects upon the special qualities of the Galloway Hills RSA as far as they can be identified.

3.59 In relation to the council's issue 3, the applicant does not agree that the proposed development does not respect the landscape character, scenic qualities or scale of Landscape Character Units LCT 4, LCT 9, LCT 19 and LCT 19A. It is accepted that the scheme would give rise to significant effects on the local landscape character in the vicinity of the site, including localised parts of these LCTs. However, that does not mean that the proposed development fails to appropriately respect its landscape context. The turbines would not be dominant, nor diminish the sense of overall scale of the local landscape, either individually or cumulatively in combination with other operational or consented wind farms in the wider landscape.

3.60 The structural form of the proposed turbines is such that there would remain views through and across the site and the local character types and the existing sense of openness within the Southern Uplands would be maintained by the introduction of the turbines. The proposed turbines are relatively slender structures which would not obstruct the longer distance views when experienced from any direction. Whilst undeniably tall structures, the scale of a large proportion of the underlying landscape is medium to large and is dominated by coniferous plantation and upland grassland, creating a simple landscape pattern and which is reflective of the inclusion of this landscape as a Group 3 Area in Scottish Planning Policy.

3.61 In relation to the council's issue 4, the design of the wind farm is the result of an iterative process which is considerate of landscape and visual matters, as set out in Chapter 3 of the Environmental Impact Assessment Report. This results in a proposal which can be accommodated within its local and wider landscape context whilst giving rise to only localised significant landscape and visual effects.

3.62 The design of the turbines themselves is focussed on maximising their energy generating capability, but nonetheless does not close off or prohibit views. The structures would be finished in an off-white colour with a low reflectivity semi-matt finish (or similar as agreed with the local planning authority), a finish which is widely regarded to be the least intrusive in the landscape when seen against the sky in a host of weather conditions typically experienced within the UK.

3.63 In considering the layout of other structures and ancillary features of the proposed development, the design has sought to utilise some of the existing infrastructure such as forest tracks and access to the site. In addition, the substation, construction compound and borrow pits would be located within the existing plantation so would benefit from good screening from the trees, ensuring that the visual impact of these structures would be minimised.

Matters raised by third parties

3.64 While the applicant agrees that there would be a significant visual effect from viewpoint 14 (Cairnsmore of Carsphairn), it does not agree with Mountaineering Scotland that the identification of such a significant visual effect would serve to compromise the integrity of the hill as a hill-walking resource. The view from Cairnsmore of Carsphairn is one which is panoramic in nature and the Shepherds' Rig wind farm would form only one component of this wider overall view, which would remain primarily characterised as an open, undeveloped upland landscape.

3.65 The applicant highlights that the existing visibility of development from Cairnsmore of Carsphairn was considered in the report to the Scottish Ministers concerning the Windy Standard III wind farm which was consented in March 2021 (CD009.026). The report stated that views from Cairnsmore of Carsphairn to the south east had already been partially compromised by the consent for Windy Rig, but that alternative attractive views would remain to the south west, west and south (CD009.026, paragraph 3.65).

3.66 With regard to the overall quality of the experience of hillwalkers to the Rhinns of Kells and the Southern Upland Way, any significant effects would be limited to within 4 - 5 km of the site. This is only a very small proportion of the route as a whole, which runs for more than 340 km in its entirety and is a section where views of other wind energy developments are already available.

3.67 It is acknowledged that the Shepherds' Rig wind farm would be visible from viewpoints 13, 17 and 21, but the visual effect which would arise would not be significant in any case. VP13 represented the summit of Beninver, from which much of the development would be screened by intervening foreground topography associated with the wider massif. It is nonetheless acknowledged that there would be a significant visual effect on the lower slopes of Beninver, when descending down from the summit. Viewpoints 17 and 21 lie at distances of more than 10 km from the site (10.4 km and 12.3 km respectively). In both instances the scheme would form only a small part of the overall broad panorama which is available from the viewpoints.

3.68 Ben Ade's objection refers to the view towards the development from "the main road linking Dumfries to the A713" (CD003.023). The applicant is not clear where the photograph was taken from but it is likely to be on or near the B729. However, the applicant is not convinced that this would be considered a main road, given the A712 route further to the south. Viewpoints were included on the B729 route at Stroanfreggan Bridge (VP1) and Guttery Glen (VP3), where in both cases a significant effect was identified. An assessment of the road as a whole is also provided, where significant effects would be limited to the section of the route between Knockgray Park and Guttery Glen. The identification of such significant effects on a localised section of a B-road within the area surrounding a proposed wind farm is not unusual and the wind farm would only form a minor component of the overall landscape when travelling along the route.

3.69 Mr Ade suggests that the area is proposed as a new National Park, and also refers to the Galloway and Southern Ayrshire Biosphere Reserve, which it is suggested is a "protected natural landscape" (CD003.023). There are no plans being made by the Scottish Government to consider the creation of such a National Park and the Biosphere Reserve is not a landscape protection designation, nor does it have any statutory status in this regard. The Biosphere is not therefore a designation that changes the landscape baseline relating to the development of the Shepherds' Rig wind farm nor the assessment of its potential effects.

3.70 Fiona Clubb's objection includes the overall combined cumulative effect of the Shepherds' Rig wind farm alongside other operational and consented development in the locality, as well as visual effects on the B729. Ms Clubb also refers to views from the Stroanfreggan Iron Age fort. The landscape and visual impact assessment includes a detailed cumulative assessment, updated in the AEI II. The matter of the overall combined cumulative effect of the Shepherds' Rig wind farm alongside other operational and consented development in the locality has been fully considered. The applicant contends that this part of the landscape does have the capacity to accommodate the proposed development, alongside all other operational and consented wind farms, in a manner which would respect the scale and grain of the landscape. Stroanfreggan Iron Age fort is located on Stroanfreggan Craig, close to viewpoint 2 Stroanfreggan Cairn. While a significant visual effect is identified here, the wind farm would not be a dominant feature in the overall view from the Stroanfreggan Craig for those who may be walking in that part of the landscape.

Matters raised by NatureScot

3.71 NatureScot raises no objection to the development, but is concerned that the remaining capacity of the Ken unit of Southern Uplands with Forestry is very limited. It provides further detail with regard to the following three matters: strategic pattern and landscape capacity; effects on the Galloway Hills RSA; and adverse scale relationship. NatureScot has confirmed that in-combination effects of Shepherds Rig with Longburn to which it had previously referred would not now occur, following the dismissal of that scheme on appeal.

3.72 The applicant acknowledges that there would be localised significant effects on landscape character and on the RSA. However, the scheme would not be dominant or oppressive in the landscape and rather would be typical in its localised effects of other wind energy developments already operational elsewhere in this part of Scotland. Each of the matters considered by NatureScot are addressed in further detail below.

Strategic Pattern and Landscape Capacity

3.73 NatureScot is concerned in relation to the strategic development pattern, and considers that this unit of the Southern Uplands with Forestry (Ken) is at or close to capacity. It refers to the location of the site on relatively low ground around 300 m above ordnance datum (AOD), suggesting that this conflicts with the accepted pattern of wind development, and brings larger scale turbines into this lower lying more transitional landscape, directly conflicting with the existing pattern of development that associates with the upper slopes and ridges above this development.

3.74 The applicant considers that each proposal should be judged on its own merits. Whilst potential cumulative effects are a relevant consideration, it is not the case that a scheme which lies in a different part of the landscape from others which have been granted consent should automatically be viewed unfavourably as a result. The matter of strategic development pattern is not therefore discussed further for this reason. Similarly, the matter of capacity is not one which can be considered in isolation from the wider planning balance associated with an individual proposal. Rather, the evidence considers the landscape and visual effects arising from the proposed development such that they can be taken forward for consideration as part of the planning balance. The applicant considers that this part of

the Southern Uplands with Forestry (Ken Unit) does have the characteristics capable of accommodating the proposed development in a manner which would respect the scale and grain of the landscape.

3.75 With regard to the height above ground level of the site, just because other schemes elsewhere may be sited at a higher level AOD, does not of itself mean that this scheme should not be sited at this level. In that regard it is noted that wind energy development is already operational or consented in Scotland at a variety of different heights above ground level, including schemes which have a similar or lower level AOD than this site. For example, the Carscreugh wind farm, elsewhere in Dumfries and Galloway is located at a level AOD of only around 150 m which is at least 100 m lower in the landscape than the Shepherd's Rig site.

3.76 NatureScot also finds that the proposal would appear to visually link the proposals in the Ken Unit to others within the Stroan Unit of Foothills with Forestry (LCT). It suggests that this would be appreciated from more elevated views to the north and in views across the Glenkens from the east. The other operational, consented and proposed wind farms which are located in the vicinity of the site were illustrated on AEI II Figure 2.1 (CD001.019). Those schemes which are located in the 'Ken Unit' of the Southern Uplands with Forest (LCT 19A) are as follows:

- operational – Wether Hill;
- consented – Lorg; and
- planning – Cornharrow (now approved), Eucharhead.

3.77 Those which are located in the 'Stroan Unit' of Foothills with Forestry (LCT 18) are as follows:

- operational – Blackcraig Hill;
- consented – Troston Loch, Glenshimmeroch, Knockman Hill; and
- planning – Margree (now approved), Fell (now approved).

3.78 The applicant maintains that there is already a visual link between the schemes in the 'Ken Unit' of the Southern Uplands with Forest (in particular Wether Hill) and those located in the 'Stroan Unit' of Foothills with Forest (Troston Loch and Glenshimmeroch). The proposed development would not therefore bring about a new visual link of wind energy schemes in these two LCTs which would not already occur as a result of the consented baseline.

3.79 NatureScot then compares the proposed development with other existing and consented wind farms in the local area suggesting that the proposed development appears to have a far greater effect on the setting of the Cairnsmore of Carsphairn Massif and greater visibility from the A713 and toward Carsphairn across the Glenkens area and valley than other proposals within this unit.

3.80 The applicant reiterates that each scheme should be judged on its own merits and whether or not the proposed development would result in greater impact on these areas than other schemes, does not automatically mean that the scheme should be viewed unfavourably as a result. Notwithstanding this, it is considered that whilst there would be views of the proposals in conjunction with the Cairnsmore of Carsphairn Massif, and from sections of the A713, the overall extent of significant effects would be limited and localised.

Effects on the Galloway Hills RSA

3.81 The applicant acknowledges that there would be localised significant effects on both landscape character and visual amenity within the RSA, but concludes that the proposed development would continue to maintain the special qualities of the RSA. This is an important distinction - it is possible for localised significant effects on visual amenity or landscape character to arise from a development, as in this case, without these being such as to compromise the overall qualities of a landscape.

3.82 NatureScot particularly references the indirect effect on the setting of the sculptural form of the Cairnsmore of Carsphairn Massif as appreciated from views from within the Glenkens area. The applicant acknowledges that there would be some locations in the landscape where the wind farm would be seen in the foreground of the view with the RSA landscape of the Cairnsmore of Carsphairn massif also visible in the distance beyond. It is not considered however that such views are an indicator that the special qualities of the RSA would not be maintained and, at all times, the turbines would not harm the overall appreciation of the landscape or of the RSA landscape beyond the site.

3.83 NatureScot is also concerned over the appreciation of the form, scale and scenic composition of the Rhinns of Kells in elevated views, for example from Benbrack, where the proposal would occupy the lower more transitional foreground of the view detracting from this key panoramic view across the Glenkens to these Galloway Hills. The landscape and visual impact assessment does identify a significant visual effect at viewpoint 10 (Benbrack). The Rhinns of Kells would be seen in the distance from this viewpoint, with the wind farm located in the mid-ground, in a clearly separate part of the landscape from the Rhinns of Kells. The applicant maintains that the form, scale and scenic composition of the Rhinns of Kells would continue to be understood and appreciated from Benbrack following the addition of the wind farm.

Adverse scale relationship

3.84 NatureScot considers that the large size of the turbines would adversely affect the setting of the Water of Ken Valley and Stroanfreggan Burn, contrary to its guidance on turbine scale (Siting and Designing Wind farms in the Landscape), particularly paragraph 3.32 of that guidance. The Water of Ken Valley lies within LCT 4 – Narrow Wooded Valley. The Stroanfreggan Burn lies largely within LCT 19A – Southern Uplands with Forest, as suggested by NatureScot, before then running into the southern section of LCT 4 – Narrow Wooded Valley for its final few metres where it joins up to become part of the Water of Ken.

3.85 The assessment of the character of LCT 4 – Narrow Wooded Valley (paragraphs 8.6.78 – 8.6.97 of CD001.003) identifies that the LCT comprises of a relatively slender tract of land that follows the Water of Ken valley floor. The character unit broadens as the valley widens as it follows the watercourse south towards the site from its head located over 5 km to the north-northwest of the site. There is a sense of enclosure at the head of the valley, where the steep valley slopes coupled with the presence of extensive coniferous forest provide a sense of containment. As the watercourse flows south towards the site, there becomes an increasing sense of openness as the valley floor broadens, the valley sides become set back from the watercourse, and there is an absence of coniferous forest due to felling. The lower valley slopes are also increasingly grazed, particularly the south-eastern

tract of the character unit. A significant effect was identified on the LCT, extending to 4.5 km to 5 km from the proposed development, as summarised in the AEI.

3.86 Existing wind turbines are already visible from the Ken unit, as Windy Standard is clearly seen from within the valley, in views to the north and north-west, beyond the landscape features of Beninner and Cairnsmore of Carsphairn. The part of the LCT to which the site is adjacent is much broader in nature than further north within the character unit and the valley slopes sweep up to form a bowl-like valley bottom rather than the 'V' shaped valley further north within the unit. Within this context, although the applicant acknowledges that the proposed turbines would lie within close proximity of the LCT, their presence would not be dominant nor diminish the sense of overall scale of the river valley.

3.87 In terms of concerns over the effect on the LCT 19A landscape in which the Stroanfreggan Burn is located, the assessment identifies a significant effect on this localised part of LCT 19. However, given the proximity of the area to the site, lying largely within 3 km of the turbines, this is not in any way unusual or unexpected for a commercial wind energy development. In a similar manner to the relationship between the turbines and LCT 4, it is not considered that the turbines would be dominant nor diminish the sense of overall scale of the river valley.

Summary of applicant's case

3.88 Shepherds' Rig wind farm is considered to be an appropriate form and scale of development that can be accommodated within its local and wider landscape context whilst giving rise to only localised significant landscape and visual effects. These effects of wind farms are an inherent and inevitable consequence of such development and should not of themselves be considered a justification for refusing a wind farm in a landscape outside of nationally designated landscapes, such as this.

3.89 Having considered the views of other parties, there are no grounds in terms of landscape and visual effects, when considered in their own right, upon which to refuse consent in respect of the proposed development. The landscape and visual effects identified should be judged within the context of an appropriate consenting balance, and not in isolation. In coming to this conclusion, due regard has been had to the relevant policy context relating to landscape and visual matters, and to issues of acknowledged landscape importance, balanced against an understanding of the level and nature of the landscape and visual effects.

Summary of council's position on landscape and visual effects

Strategic location

3.90 Central to the council's case is the nature of the location of the proposed site and the impact that the proposal would have on the surrounding sensitive landscape and views. Cairnsmore of Carsphairn and the proposed Shepherd's Rig wind farm would share a visual prominence towards the head of the Glenkens landscape. Shepherd's Rig is close to the dramatic southern face of Cairnsmore of Carsphairn and the associated Carsphairn hills, an iconic regional landmark, and the nearby valley landscapes of the upper tributaries of the Water of Ken.

3.91 Shepherd's Rig is situated partly within the Galloway Hills Regional Scenic Area and would have a significant impact on its special qualities. Shepherd's Rig has the potential to be especially damaging to this strategic location due to both the overall spread and the scale of the turbines. The location is also visually prominent across surrounding landscapes due to the spatial quality of the valleys, a number of which come together in this area.

3.92 Shepherd's Rig is at odds with the existing wind farm pattern. The Shepherd's Rig site and wider bowl of land around the upper Ken tributary valleys provide a strategic space between the Carsphairn and Stroan clusters of wind farms. If consented, Shepherd's Rig would have a significant landscape effect both in itself and cumulatively, creating a wind farm landscape between the Carsphairn Hills and Culmark Hill. It would compromise the visual distinction between areas where wind farms are a key or defining characteristic and areas outwith them. Viewpoints 2, 3, 7, 10 and 12 best demonstrate how Shepherd's Rig relates to the emerging wind farm pattern in the area.

3.93 National and local guidance obviously have an influence in explaining why wind farm development does not take place in this area but so does the applicant's own evidence which identifies significant adverse effects on the landscape character and key views. The pattern of existing and consented development is consistent with setting schemes back from and avoiding the face of the southern, sculptural slopes of Cairnsmore of Carsphairn and the sensitive valley landscapes. Shepherd's Rig would sit on the southern flanks of Cairnsmore of Carsphairn and impinge on a number of sensitive valley landscapes.

3.94 The applicant fails to set out an assessment of the existing wind farm pattern and does not assess Shepherd's Rig against the key criteria in D11 of the council's wind energy development supplementary guidance which identifies that proposals will be tested to determine potential effects on: clustering/containing development consolidating an existing pattern; strategic space between established clusters of development; distance set back from sensitive landscapes; potential coalescence between existing/consented development and/or clusters of development; and maintenance of the visual distinction between areas where wind farms are a key characteristic or, on occasion, a defining characteristic and areas where wind farms occur as isolated features or not at all.

3.95 Shepherd's Rig fails the tests set out in D11. Figure 1.04 of the council's inquiry report (CD012.001) identifies some of the key factors that make the location of Shepherd's Rig so important in landscape and visual terms and identifies the key recreational routes that are likely to be significantly visually impacted by the proposal. Figure 5.01 of CD012.001 highlights that wind farm development has not extended to this strategic location. NatureScot also identifies that Shepherd's Rig conflicts with the accepted pattern of development.

Cairnsmore of Carsphairn and the Galloway Hills Regional Scenic Area (RSA)

3.96 Cairnsmore of Carsphairn and its associated hills form an iconic regional landmark situated in the Galloway Hills RSA. They contribute to the scenery and experience of the surrounding landscapes. Shepherd's Rig would detract from the appreciation of Cairnsmore of Carsphairn and the associated hills. Shepherd's Rig would become a dominant focal feature either foregrounding the hills or seen alongside them in the majority of representative viewpoints. It is the landscape fit of Shepherd's Rig seen in relation to the Cairnsmore of Carsphairn that is the primary landscape and visual concern. Shepherd's

Rig would assume a prominence in the immediate setting of the hills, and as part of wider views. It would adversely disrupt and detract from key views from within the RSA and to the RSA.

3.97 The views from the Carsphairn hills themselves provide important outlooks down and across the Glenkens to the Rhinns of Kells. As the Scottish Ministers accepted in the Windy Standard 3 application, the key attractive views of Cairnsmore of Carsphairn and associated hills are from the southwest, west and south. The sculptural 'front face' of the hills can be appreciated from these views. In most of the representative viewpoints from the south east, south and south west, the scheme is either directly backdropped by the key features of the Cairnsmore of Carsphairn and associated hills or alongside them. The council considers that VP10 and VP21 illustrate where the extent of the wind farm would be in conflict with the existing focus of the views.

3.98 The applicant's own assessment of impacts accepts that the vast majority of the main representative viewpoints would be significantly adversely affected (VPs 1-7, 10-16, 19-20 and 22). Shepherd's Rig would be a sea change in terms of the influence of wind turbines on the landscape of the Cairnsmore of Carsphairn and associated hills. Shepherd's Rig would be a dominant feature such that the setting of the hills and their value as a landmark would be altered fundamentally.

3.99 The Carsphairn hills uplands comprise an important component of the RSA and also provide context to the character and scenery of the surrounding landscape. It was accepted by both landscape architects giving evidence that the relevant special qualities of the RSA can be summed up as: the landmark and sculptural qualities of the Cairnsmore of Carsphairn; the juxtaposition between the valleys and the hills; and the sweeping and dramatic views of the hills from the valleys. Shepherd's Rig would compromise all those special qualities and there would be significant effects on them. In particular, the council considers that VPs 2-5, 7 10, 12 – 14 show how the proposals would compromise the special qualities of the Cairnsmore of Carsphairn and associated hills.

3.100 Figures 1.03 and 1.04 of the council's inquiry report (CD012.001) identify the main features and views in this area and the key recreational routes. Figures 2.01 to 2.03 of CD012.001 also helpfully set out the key landmark features of Cairnsmore of Carsphairn in annotated sketches. It should be noted that NatureScot disagrees with the applicant's assessment of the effect on the RSA, concluding that there would be significant effects on the RSA by virtue of the effect on the setting of the sculptural form of Cairnsmore of Carsphairn massif as appreciated in views from within the Glenkens area. In addition, it concludes that Shepherd's Rig would affect the appreciation of the form, scale and scenic composition of the Rhinns of Kells.

3.101 Paragraphs 3.40-3.41 of NatureScot's guidance on Siting and Designing Wind Farms in the Landscape (CD006.003) highlight that wind farms often become major focal points. The guidance notes that their interaction with the existing hierarchy of foci needs to be considered in their siting and design, in order to minimise visual conflicts or avoid compromising the value of existing foci. In this regard, as a visual focus, the council considers that the proposed wind farm would compete with the prominence and distinctive characteristics of the Cairnsmore of Carsphairn and associated hills, to a degree that the existing visual hierarchy and composition of the scenery, where the Cairnsmore is the primary visual focus, and underpinning the iconic status and value of the hill, would be fundamentally altered.

3.102 The council refers to other schemes in the upper Glenkens where the setting and views in relation to the Cairnsmore of Carsphairn have been issues in their determination, including: Longburn (application refused); Cornharrow (1) (appeal dismissed); Cornharrow (2) (appeal allowed); and Windy Standard 3 (application granted). Of these, Shepherds Rig is most similar in location, landscape character context, siting and design issues, and potential impacts on receptors with Longburn. With reference to the Longburn decision, the council notes that while Shepherds Rig would raise similar issues in terms of adverse effects to Longburn, Shepherds Rig would be a more prominent scheme in relation to the sensitive 'front facing' and sculptural slopes of the landmark hill. It would also be more prominent in the setting and views to the Cairnsmore of Carsphairn compared to any of the other schemes, Cornharrow (1 & 2), or Windy Standard 3; and therefore effects would be likely to be more harmful.

Upper Tributary Valleys of the Water of Ken

3.103 The height of the turbines and the spread of Shepherd's Rig would dominate the locally distinctive and attractive valley landscape of the Head of the Ken and Stroanfreggan areas and would also be intrusive features in localised areas through the upper Glenkens including Carsfad Loch, Dundegh Hill and stretches of the Water of Deugh valley. Both the height and dynamic nature of the turbines and the overall spread of the proposal would disrupt the scenic juxtaposition of the valleys and the backdrop Carsphairn Hills which rise steeply from them. Shepherd's Rig would be an intrusive, and in places oppressive, feature.

Recreational assets and values of routes in the upper Glenkens

3.104 There is a concentration of popular recreational routes in the upper Glenkens which have developed due to the high-quality scenery of the area and the heritage interest. The distinctive scenery is appreciated in a range of views from recreational routes that whilst varied in character tend to focus on the Cairnsmore of Carsphairn. These routes include the Southern Upland Way (SUW), A713, B729 and B7000, other local minor roads, core paths, a number of heritage trails, and hill tracks. The views from these routes are remarkable and give rise to some striking viewpoints. Figures 1.03 and 1.04 of the council's inquiry report (CD012.001) identify the main features and views in this area and the key recreational routes. Figures 4.01 to 4.06 of CD012.001 helpfully show in sketch form some of the key features seen from the SUW, Benbrack, B729, A713 and the Stroanfreggan Heritage Trail.

3.105 The council considers that in the applicant's landscape and visual impact assessment, the landscape has not been well represented in the round in terms of how it would be experienced, including through movement. For example, VPs 5, 7, 10 and 17 show the SUW but not with adequate frequency or frame of view to illustrate the sequential cumulative visual effects. The dramatic panoramic viewpoints of Culmark Hill (VP7) and Benbrack (VP10) are also not represented in the round through photographic-based visualisations. This also relates to viewpoints from the B729 and A713. As a result, the council has included additional visual material to help analyse and illustrate some of the views from the routes. The council accepts this information is incomplete and imperfect but is aimed at broadening the consideration otherwise possible on the basis of the limited fixed views of the representative viewpoints.

3.106 Whilst the SUW breaks in to a number of distinctive segments and points of interest, the overarching special key quality is of the midrange views towards the Cairnsmore of Carsphairn. Shepherd's Rig would dominate and detract from some of the key viewpoints, and sequentially along the route between Barlaes south of Culmark Hill and Cairn Hill north of Benbrack, for SUW and other walkers. At short range (<5 km) the scheme would be overbearing, and disrupt the characteristic relationship between the foreground valleys and the backdrop hills. The views and outlook northwest, and west from the SUW provide respite from the developed foothills and uplands to the east and north as the route crosses the upper Glenkens tributary valleys around Stroanfreggan. The greater proximity and prominence of the turbines to the SUW in this area of the upper Ken and its tributary valleys would intensify effects there. Taking into account other recently consented schemes, the proposed wind farm could create a corridor effect with wind farms dominant either side of the SUW, seeming to surround the walker.

3.107 The council disagrees with the statement summarising effects on landscape character, and specifically that the proposed turbines would be such as to maintain a "high degree of visual permeability across the character types"... (LCT 4 Ken unit and LCT 19A Ken unit), and that "the existing sense of openness within the Southern Uplands would not be greatly altered by the introduction of the turbines" as stated in paragraph 8.10.7 of the EIAR (CD001.003). This does not represent the nature of effect on landscape character or views. It is noted that Mountaineering Scotland also disagrees with the nature of the visual impacts in paragraph 29 of its consultation response (CD002.019).

3.108 Shepherd's Rig has the potential to be especially damaging to its strategic location due to both the overall spread and the scale of the turbines. In itself, Shepherd's Rig would give rise to sequential cumulative effects along most of the recreational routes as it would be visible for the entire duration and/or at repeated intervals along them. Given the frequency and degree of visibility of Shepherd's Rig along the SUW there is likely to be a significant degree of sequential cumulative visual effect. There would be significant visual effects, cumulative visual effects and sequential, cumulative visual effects.

Effects from the abnormal load route

3.109 The council is concerned about the lack of assessment of potential visual effects arising from the abnormal load route, citing inadequate information in terms of technical survey, assessment and design information for the route. Following further information provided in the AEI II, and further discussion at the conditions hearing, a condition was proposed in this regard (see Chapter 6).

Landscape value

3.110 The applicant's evidence is that the significant visual effects on the Galloway Hills RSA would extend to 8 - 9 km and that the significant effects on landscape character would extend to 4.5 - 5 km. While the applicant argues that this is typical of a proposal of this scale, the council considers that this ignores the value of the particular landscape. Shepherd's Rig would dominate the landscape setting of Cairnsmore of Carsphairn and associated hills, intrude unduly on sensitive valley landscapes, and have significant adverse effects on a landscape with special scenic and recreational value.

3.111 Shepherd's Rig would be situated partially within the Regional Scenic Area and would significantly adversely affect its relevant special qualities. The Cairnsmore of

Carsphairn and associated hills are a key component of the area's sense of place and local distinctiveness, contributing to scenery that is exceptional and iconic in the context of Dumfries and Galloway.

3.112 The council disagrees with the applicant's view that the development would be perceived in the landscape beyond the Regional Scenic Area, instead finding that the site is very closely associated with the key north-eastern area of the Regional Scenic Area, the Carsphairn Hills, in views to and from the hills. As a result, the proposals would detract from the existing focus on the landmark summit of the Cairnsmore of Carsphairn or the other Galloway Hills, as well as detracting from views from the hills, which are key Regional Scenic Area viewpoints.

3.113 Whilst there is recognition in the applicant's evidence that there would be significant adverse effects, there is little analysis of the effect on landscape value in the applicant's landscape and visual impact assessment. There is no specific recognition of the iconic regional importance of Cairnsmore of Carsphairn in the applicant's written evidence. There is no consideration of C14 of the council's wind energy development supplementary guidance. C14 identifies that proposals should be carefully sited to avoid particularly sensitive locations and that sites may be sensitive due to their prominence in the landscape, the sensitivity of the locations from which they are visible, their historic, cultural or recreational significance, locations on prominent horizons or hillcrests or on the perimeters and outward facing slopes of plateaux and upland massifs, and locations that form a significant focus of views from settlements, major routes, scenic drives and recreational routes.

3.114 Having regard to all these points, the Shepherd's Rig site is a particularly sensitive location which is not appropriate for the scale of development proposed. Policies OP1 and OP2 of Local Development Plan 2 identify the concept of local distinctiveness and sense of place. Policy NE2 provides protection to the Regional Scenic Area. Shepherd's Rig is contrary to these policies and policies IN1 and IN2.

Development scale, siting and design

3.115 Shepherd's Rig is an inappropriately scaled development in a sensitive location. In this location the scale and spread of the turbines of the wind farm are fundamentally problematic. The scheme would be sited prominently on a ridgeline, slightly within, bounding, or immediately adjacent to more sensitive neighbouring landscapes and be visible from sensitive recreational receptors.

3.116 Shepherd's Rig would have the following fundamental siting and design issues:

- (i) the spread of the wind farm seen in the context of the Cairnsmore of Carsphairn and associated hills - it would disrupt and detract from the setting and key views of the Carsphairn hills;
- (ii) the turbines are too large in terms of their height and perceived scale in relation to local valley landscapes and landscape features and they disrupt the relationship between the foreground valleys and the distinctive backdrop hills;
- (iii) there are instances of poor wind farm image, where turbines do not form a cohesive group and there are outliers; and
- (iv) the proposed development would not follow the wind farm pattern, or the principles of siting and design, established by the operational and consented schemes.

3.117 The scheme would be at odds with paragraph 3.32 of NatureScot's guidance on Siting and Designing Wind Farms in the Landscape (CD006.003) in relation to finding an appropriate scale for the wind farm that is in keeping with that of the landscape. The proposal would give rise to a number of instances of scale issues in the upper tributary valleys of the Ken. These include: the size of individual and groups of turbines seen in relation to specific landscape features, such as Marscalloch Hill; the spread of the wind farm seen in relation to the Head of the Ken valley; and the wind farm overwhelming key features and foci such as around Smittons Bridge and Farm.

Dumfries and Galloway Wind Farm Landscape Capacity Study (DGWLCS)

3.118 The DGWLCS provides guidance and advice on, among other matters, sensitivity, key constraints and opportunities, cumulative issues, landscape value and context for the relevant landscape character units (LCTs). It has been used by decision makers in all relevant Dumfries and Galloway wind farm decisions. The key constraints identified in it provide a useful checklist for considering Shepherd's Rig. The guidance on the Ken Unit of the Southern Uplands with Forest (LCT 19A) identifies a key constraint as the "potential effects on the setting, and views to and from, the landmark hill of Cairnsmore of Carsphairn...and more sensitive well-defined hills lying on the outer edge of these landscapes, which provide an important backdrop to smaller scale valleys." The DGWLCS sets out detailed guidance and advice which the applicant was required to consider. The applicant's landscape and visual impact assessment indicates that it contains a detailed review of the study but that review is restricted to consideration of sensitivity of landscape character. Comprehensive references to the DGWLCS are not made in the applicant's landscape and visual impact assessment.

3.119 In relation to the host unit for Shepherd's Rig, Southern Uplands with Forest (LCT 19A) Ken unit, the DGWLCS identifies the following at pages 348 to 355:

- "the Ken Unit is more intercut by valleys and features a number of smaller scale local landscape and dramatic corries at the head of glens...The Ken Unit has a higher sensitivity however due to the presence of the SUW and a network of core paths and promoted Heritage Trails" (Introduction p348);
- "additional development located in the Ken Unit which could exacerbate impacts on adjacent Narrow Wooded Valleys (LCT 4)...and effects on the SUW and other recreational routes...cumulative effects would arise on more elevated views from popularly accessed hills such as Cairnsmore of Carsphairn...the SUW...Effects on the setting and views...to the landmark hill of Cairnsmore of Carsphairn ..."
- (cumulative issues – last three bullet points);
- "key constraints...the proximity of the dramatic sculptural hill of Cairnsmore of Carsphairn to parts of the Ken...units. Occasional areas of more complex landform and deeply incised valleys...the upper water of Ken Valley...Potential for cumulative effects to arise with additional wind farm development..." (p349, section 25.2.2, bullet points 3, 5 and 6);
- "capacity for additional development is likely to be very limited within the Ken Unit, although some scope for recovery and/or small extensions to operational wind farms ..." (pages 349 and 350, Section 25.3 Guidance for Development); and
- pages 353 (landscape context), 354 (views and visibility) and 354 (landscape value) are clearly important to the consideration of Shepherd's Rig. Detailed guidance that

is relevant to Shepherd's Rig is set out on these pages. It has not been considered or analysed in the applicant's assessment.

3.120 The Southern Uplands (LCT 19) Carsphairn unit guidance is set out in the DGWLCS at pages 339 to 345. Alongside the Key Constraints on page 340, Guidance on Development on page 340 states that "this landscape is sensitive to indirect effects from wind farm developments sited in nearby landscapes."

3.121 For the Narrow Wooded River Valleys (LCT 4) Ken unit, the DGWLCS sets out guidance at pages 98 to 105, noting on page 98, that "no wind farm development has occurred within these landscape character types". The Guidance on Development (page 102) states that "care should also be taken if setting large turbines on immediately adjacent upland character types, as if poorly sited, these could 'perch above' and easily dominate these valleys".

3.122 For the Upper Dales (LCT 9) Upper Glenkens Unit, pages 142 to 147 of the DGWLCS are the relevant pages. Key Constraints (page 142) include: key views to the landmark hills of Cairnsmore of Carsphairn and the Rhinns of Kells; and the RSA designation which covers much of this landscape. The Guidance on Development (page 143) states that, "this landscape would be sensitive to wind farm development sited in the adjacent...Southern Uplands with Forest (LCT 19A)".

3.123 The council considers that the DGWLCS, and the evidence to the inquiry highlight why this location has remained free of wind farm development and why it is so important that the Shepherd's Rig application should be refused. Contrary to the applicant's suggestion, the DGWLCS is not prescriptive of wind farm development. It highlights where the landscape is sensitive to different typologies and identifies key constraints and opportunities. Decision makers have consistently had regard to the guidance when considering wind farm applications. The applicant has not engaged in a detailed consideration of the key aspects of this guidance.

Cumulative issues

Methodology

3.124 The council has concerns around the methodology for the cumulative assessment and the way in which it has been reported.

3.125 In terms of the methodology, in addition to the assessment of three cumulative scenarios (Shepherd's Rig of itself, Scenario 1 and Scenario 2), the council considers that an initial assessment of cumulative effects should have been made on the basis of a baseline which includes no existing wind farms. The purpose of assessing the effect of a scheme purely of itself would be to explore aspects of landscape fit in terms of topography. Furthermore, such an assessment might demonstrate cumulative sequential effects which, uniquely, can arise from just one scheme. In this respect, the council found that a cumulative sequential effect from Shepherd's Rig was experienced when the scheme was able to be viewed repeatedly on and off along the A713, even when other wind farms were not visible. Nevertheless, the council confirmed that such an assessment has not been carried out for the proposed scheme (the effects of the scheme purely of itself) because it is considered that the baseline already has a negligible effect.

3.126 The council is concerned that the way in which cumulative effects have been reported, results in, for a number of significant effects, the cumulative nature of the additional effects of Shepherds Rig tends being discounted for each of the cumulative scenarios, as these effects have already been reckoned in to the applicant's assessment. For these cumulative effects, the stand-alone effects of Shepherds Rig become the meaningful finding; and additional cumulative effects are not reckoned.

3.127 Also in terms of reporting, the findings of the effects of Shepherd's Rig, which are identified for the scheme in its own right, are only provided in the original EIAR (CD001.003) in Tables 8.11 and 8.12, paragraphs 8.6.153-8.6.254 and 8.6.260-8.6.285. These findings are not carried forwards in to the later reports; and the important reference in paragraph 8.7.55 of the EIAR (that the significance of effects reported in the main LVIA would still apply in cumulative scenario 1) is not reiterated. This makes the findings of the cumulative assessments difficult to interpret. The lack of summary tables of effects taking in the cumulative scenarios, compounds this difficulty.

Assessment

3.128 It is not the cumulative interactions per se that are most problematic in consideration of Shepherd's Rig, it is the poor fit of the proposal to the landscape rather than the interactions it has with other schemes. That said the cumulative effects must not be disregarded. Landscape cumulative effects include those on the overall pattern of wind farm development, landscape fabric, aesthetic aspects, overall landscape character, and landscape value.

3.129 In relation to Shepherd's Rig, the following cumulative landscape effects are the most problematic:

- cumulative landscape effects on the Galloway Hills RSA;
- strategic landscape cumulative effects on wind farm pattern; and
- localised cumulative landscape effects on the Stroanfreggan and Glenkens areas, although the latter are considered principally as cumulative visual effects.

3.130 In relation to Shepherd's Rig the following cumulative visual effects are the most problematic:

- in-combination and in-succession cumulative visual effects on views to and from the Cairnsmore of Carsphairn;
- in-succession effects on views and the visual amenity of the Stroanfreggan and upper Glenkens valley landscapes, which includes views to the Cairnsmore of Carsphairn and associated hills; and
- sequential visual effects along recreational routes, the B729, the SUW, and the A713, which also include views of the Cairnsmore of Carsphairn and associated hills.

3.131 Shepherds Rig would take the cumulative burden for any additional cumulative effects arising in interaction with all operational and consented schemes. The wide context of developments as observed from elevated viewpoints, and experienced along routes include:

- the Windy Standard cluster of wind farm development established north of the Cairnsmore of Carsphairn; operational Windy Standards 1, 2, and Afton, and consented Windy Rig, Benbrack, South Kyle, and Windy Standard 3;
- The emerging cluster of development around Upper Nithsdale; most notably operational Whiteside Hill and Sanquhar Community wind farm, and consented Sanquhar 6;
- more isolated schemes across the Ken-Nithsdale watersheds to the east; operational Wether Hill and consented Lorg;
- the emerging cluster of development in the Stroan foothills to the south; Operational Blackcraig, and consented Knockman Hill, Glenshimmeroch, Troston Loch, and Cornharrow; and
- the two Torrs turbines in the Galloway Hills to the southwest.

3.132 In the local context the most relevant schemes are those closest to Shepherds Rig, or otherwise prominent within the same areas of intervisibility in the upper Glenkens, including:

- operational - Wether Hill;
- under construction - Windy Rig; and
- consented - Glenshimmeroch, Troston Loch, and Cornharrow.

3.133 The council considers that Shepherds Rig would assume greater visual prominence than any other baseline schemes in relation to the setting and key views of the Carsphairn Hills and would be a significant addition.

3.134 Further to the comments on methodology above, the council considers that the nature of cumulative sequential visual effects has been misunderstood in the applicant's landscape and visual impact assessment. As set out in table 7.1 of GLVIA3 (CD006.008), such effects can arise from a single scheme seen from different points along a route, as well as where more than one scheme is seen. The AEI (CD001.012) understates the additional cumulative sequential effects of Shepherds Rig along the SUW that would occur in addition to the 2019 Scenario 1, with particular regard to Glenshimmeroch, but also operational Wether Hill and Blackcraig.

3.135 The applicant finds that there would be some significant sequential visual effects upon views from the Southern Upland Way, but that these would occur in the absence of the revised development by virtue of the proximity of the site to the route. The council disagrees: Shepherds Rig would mean development is seen more frequently and with greater prominence along the route.

3.136 With respect to paragraph 2.2.14 of the AEI II (CD001.018), the council agrees that there would be some significant effects on visual amenity. However, it does not agree that these would occur (to the same degree) in the absence of Shepherds Rig by virtue of the proximity of other operational and consented schemes to the route. This disregards the in-succession effects from schemes either side of the route.

3.137 With respect to paragraph 2.2.15 of the AEI II, the council agrees that the overall totality of cumulative effects on the SUW would be significant, but not that these effects would occur irrespective of Shepherds Rig. This again disregards the significant cumulative visual effects on the general visual amenity and outlook, and some striking views of the

Cairnsmore of Carsphairn and associated hills between the Corseglass area and the open summit ridges to the north of Benbrack.

Conclusions of council's case

3.138 The undisputed evidence is that Shepherd's Rig would cause significant adverse landscape and visual effects. The proposed wind farm, by virtue of its location, siting, extent, scale and inappropriate design would appear as a visually dominant and incongruous development. It would have a significant impact on the special qualities of the Regional Scenic Area. Shepherd's Rig is an ill-conceived scheme which represents inappropriate development in a sensitive location. This is the wrong place for this kind of development.

Summary of Mountaineering Scotland's position on landscape and visual effects

3.139 Mountaineering Scotland objects to the proposed wind farm because it would have a significant adverse visual impact on Cairnsmore of Carsphairn and harm the perceived visual relationship between Cairnsmore of Carsphairn and the Rhinns of Kells. It believes that this impact would unacceptably diminish the quality of the mountaineering experience and bring consequential impacts on the level of recreation and tourism activity locally. Mountaineering Scotland's case is predominantly concerned with views from the mountains but also notes the importance of views from lower elevations to Cairnsmore of Carsphairn.

3.140 The proposed development site is unexceptional. It is its setting that makes it an unsuitable location for such a development. To the north rises the distinctive bulk of Cairnsmore of Carsphairn and its outliers. From Cairnsmore there is a magnificent open view down and across the Glenkens to the Rhinns of Kells. This view is reciprocated, especially north of Corserine where the hill-to-hill distance shrinks to 10 km.

3.141 Mountaineering Scotland has sought consistently to keep the setting of Cairnsmore of Carsphairn free of turbines. The proposed development would perceptually detach Cairnsmore from the Glenkens and the Rhinns of Kells by placing development, for the first time, clearly within the broad basin of the upper Glenkens. A mountain landscape of high value and of national significance would thus have an important limb visually severed. The prime remaining mountaineering resource in the Southern Uplands would, by this single development, be markedly shrunk in size to only the area between the Rhinns of Kells and the Merrick range.

3.142 Cairnsmore of Carsphairn, the Rhinns of Kells and the upper Glenkens are currently seen as a whole, without interruptions or any strong markers of scale. Shepherd's Rig would disrupt and diminish this pleasing relationship between the basin and the hills flanking it to north and west. It would introduce a scale marker that would be misperceived as smaller than it actually would be (both in terms of height of turbines and linear extent of development) and so would not merely shrink the perceived landscape but do so to a very marked degree. Most landscapes in Scotland, even supposedly expansive ones, are actually very small features but feel larger in the absence of scale markers and are thus susceptible to a radical shift in perception if such markers are introduced.

3.143 The basin has a partial halo of operational and consented wind farms from northwest clockwise to south-southeast. Current applications in planning will add to and reinforce this well-established cumulative pattern. The issue now is whether this pattern is

respected or if wind farms are allowed to enter the core of the basin. There is no doubt that others would follow if one is allowed and Cairnsmore of Carsphairn would become surrounded by wind farms, detached visually from the Rhinns of Kells.

3.144 From a mountaineering perspective, the impact of Shepherd's Rig alone would be substantial, adverse and significant at all the relevant viewpoints. This would be compounded by the adverse impact of locating turbines into an area currently without them – increasingly rare in southwest Scotland. Mountaineering Scotland agrees that five of the viewpoints of mountaineering interest would be significantly adversely affected: VP 7; VP10; VP14; VP15; and VP16. It disagrees on the applicant's assessment that another three are not significantly affected; agreeing with the council's assessment of significant effects for Beninner (VP13) and Corserine (VP21) and relying on its own assessment of significant effects for Waterside Hill (VP17). For VP17, it finds that the proposals would present an eye-catchingly messy appearance with overlapping turbines with hubs at varying heights, varying topographical screening and moving blades highlighted by mixed backclothing of dark terrain and light sky.

3.145 The wireline for Beninner appears to be from a different point on the hill or a higher elevation above the summit but inadvertently perhaps gives a better illustration of the effect likely to be obtained immediately above the steep southern and eastern slopes compared with the summit.

3.146 Mountaineering Scotland fundamentally disagrees with the applicant on the importance to be attached to significant findings. It considers that the applicant undervalues the landscape of the upper Glenkens and Cairnsmore of Carsphairn and thereby establishes an unduly low threshold for assessing the acceptability of the proposed development.

3.147 From Cairnsmore of Carsphairn and its associated hills such as Beninner, the view north and east is of an extensive landscape where wind turbines are the predominant feature, nearby and far into the distance. Something similar could be said of the view to the southeast, but with less extensive and lower intensity development, set at lower altitude and not close by. To the south and west, the view is of the low-lying Glenkens and the impressive hill wall of the Rhinns of Kells. It is a total contrast to the view in other directions. At present Cairnsmore retains a wild feel with extensive open views southward and westward. In a panorama that is consented to be nearly three-quarters wind farms, the view without wind farms is of high value to hillwalkers. Looking from the Rhinns of Kells, Cairnsmore of Carsphairn draws the eye across the visually recessive basin of the upper Glenkens. Turbines appear on the rising ground beyond the Glenkens, but the valley and upper basin are inviolate.

3.148 The intervisibility between Cairnsmore and its outliers on the one hand, and the Rhinns of Kells including Corserine on the other, across and along the Glenkens, provides a sense of uninterrupted space and distance generally now lacking in much of the Southern Uplands. This space is not unbounded since the spread of wind farms increasingly gives the impression that the view north and east is fenced by turbines. But the fencing is at a distance and this allows a perception to be maintained of the upper Glenkens as managed, but not intensively so, seemingly 'natural', and large.

3.149 It is this sense of naturalness and the absence of any strong indicators of scale that Mountaineering Scotland has sought to maintain through its objections to Longburn, the

original Quantans scheme of 2014, withdrawn in 2016, and this present application. Any of these schemes would place turbines prominently on or near the southern flank of Cairnsmore. They would change the dynamic between Cairnsmore, the Glenkens and the Rhinns for the worse, introducing development into the upper Glenkens basin divorced from the schemes on the periphery. They would also introduce a 'scale' with both vertical turbines and horizontal spread, shrinking a landscape perceived as large to a more modest size. Particularly from the Rhinns, it would introduce a new and kinetic focal point into the landscape competing with Cairnsmore for attention even when not in direct line between it and the viewer's position. Hillwalkers commonly see turbines against dark terrain, not sky-lined, because they are looking down on them or across to them with rising terrain beyond. This contrast can make blade movement highly conspicuous.

3.150 Cairnsmore of Carsphairn is a Corbett and a deservedly popular hill of significance to Scottish mountaineering as well as to less active admirers of its distinctive profile. So too is the Rhinns of Kells, with the Corbett Corserine, which offers a superb lengthy ridge walk of a type uncommon in southern Scotland. It is not just hillwalkers who appreciate this landscape. It is formally recognised by designation as the Galloway Hills Regional Scenic Area. Looking across the landscape from the Rhinns, there is no line visible to mark the boundary of the RSA. The rising topography that bounds the upper Glenkens basin, increasingly characterised by a cap of turbines, is where a 'boundary' is imagined, not beside an area of undulating forestry within the basin - topography and land cover widespread throughout the Glenkens.

3.151 Wind farms are characteristic of the Southern Uplands. Indeed, over large tracts they are becoming the defining feature of the landscape rather than the underlying or intervening terrain. That is not the case in the Galloway Highlands, though it is undeniable that many operational and consented schemes are visible. The upper Glenkens basin acts as a strategic space, preventing the coalescence of wind farms around Cairnsmore.

3.152 Mountaineering Scotland's members' survey in 2016 showed even then a marked change in behaviour by hillwalkers: 22% were avoiding areas with wind farms and 44% were not, at that time, but preferred not to see turbines on their walks. Only 31% were unaffected and a negligible 2% were encouraged to walk more by the presence of wind farms. The Southern Uplands abounds in places where the minority of hill-walkers who want to walk in proximity to turbines can do so. There is a rapidly diminishing choice of hills in southern Scotland from which turbines are only distantly experienced. The Galloway Uplands are the pre-eminent such place.

3.153 The landscape and visual impact assessment sees Shepherd's Rig set in a landscape with turbines, where more are thus considered acceptable. In contrast, Mountaineering Scotland sees a landscape fringed by wind farms (behind which are more wind farms) where Shepherd's Rig would introduce turbines prominently into an area from which they are currently absent and which is distinctly different from where operational and consented turbines are located. The landscape and visual impact assessment sees wind farms as visually permeable, not interrupting longer distance views. We see them as eye-catching features disrupting longer distance views directly or through competition for attention.

3.154 Inclusion of the scoping Quantans site in the applicant's wirelines (CD001.020, figures A2.1.3-24) downplays the potential impact of Shepherd's Rig by hiding it amongst an even bigger scheme for which no application is current. Providing a cumulative assessment

of Shepherd's Rig as if Quantans already existed is an exercise in fantasy since it is inconceivable that Quantans could overtake Shepherd's Rig in the planning process.

3.155 The reporters at the Windy Standard 3 inquiry found that it would intensify development in a direction "substantially compromised" (CD009.026, paragraph 3.65) by existing development. Mountaineering Scotland shared this opinion and had not objected to the scheme. However, in the same paragraph, the reporters appear to have erred in describing Windy Rig as being southeast of Cairnsmore. It is a fact that the Windy Rig turbines are located northeast of Cairnsmore.

3.156 In paragraph 5.3 of the applicant's inquiry report (CD011.001), this compass direction error is used to argue that Shepherd's Rig is acceptable because it also lies southeast (actually south-southeast) of Cairnsmore and so would not compromise the best views as defined by the Windy Standard 3 reporters. However, Windy Rig would not be seen in the southerly view from Cairnsmore (or Beninner). Contrary to the Windy Standard 3 inquiry report, Shepherd's Rig lies in the direction opposite to the substantially compromised views and towards the key attractive views.

3.157 Only from south-southeast to west does the panoramic view from Cairnsmore not consist of operational or consented wind turbines in close proximity to the viewer. The applicant's inquiry report partially shows this but uses the local topography of Cairnsmore's flat summit to avoid showing the consented Benbrack 2 and South Kyle developments to its west and northwest, occupying the whole of the blank panel C in figure 14, Appendix 2 of the applicant's inquiry report (CD011.001.002). These and other wind farms would have been in sight until the very summit for walkers taking the most common route up Cairnsmore from the Green Well of Scotland. Walkers ascending from Beninner would need to walk only a short distance past the Cairnsmore trig point to the cairn at the north end of the small summit plateau or to the Blue Stones cairn to see the full wide-screen view of the northern wind farms. A panorama that is three-quarters wind farms makes the quarter free of wind farms a valuable asset that should not lightly be weakened.

3.158 Mountaineering Scotland considers that this is not the only site in Dumfries and Galloway, or more widely in southwest Scotland, capable of accommodating large turbines. Furthermore, there is no regional quota for installed wind capacity to be applied at local authority level. If an area has no remaining suitable sites (which Mountaineering Scotland emphasises is not the case in Dumfries and Galloway), there is no requirement in national policy to place development on an unsuitable site.

3.159 Mountaineering Scotland considers that the impact of Shepherd's rig arises from the development itself. Any cumulative effect comes not from visual interaction with existing/consented schemes but from the discordance between the consented pattern and Shepherd's Rig's location. Mountaineering Scotland agrees with the council that the proposals would be a sea change in terms of the influence of wind turbines on the landscape for the Cairnsmore and other Carsphairn hills.

Summary of Ben Ade's position on landscape and visual effects

3.160 As a local resident and business owner, Mr Ade is concerned that the central and prominent location of the proposed site would, in effect, transform the upper Glenkens into an industrial park, rather than the widely appreciated area of outstanding natural beauty that it is today. A number of previous wind farm sites have been very well positioned and

planned, such as the Windy Standard developments, located discreetly and out of any primary focus or communities.

3.161 Mr Ade questions why the site is named 'Shepherds Rig' and suggests that this seemingly subtle ridge is located so centrally that views from upon the hill allow visibility for miles in most directions, meaning that it is very likely the place that shepherds of old walked to in the hope of sighting their wandering flocks. He considers that to construct mammoth electricity generators upon such a spot goes against all previous and sensible landscape planning for wind farms, and is possibly one of the most poorly chosen and inappropriate sites currently in planning.

Summary of Fiona Clubb's position on landscape and visual effects

3.162 As a local resident and business owner, Ms Clubb objects to the proposal due to its adverse effect on the landscape, which she considers would adversely affect the local economy and tourist sector as well as various active travel routes in the local area, including an active travel route through the proposed site. Taking into account other wind farm developments consented in the local area, she considers that the landscape can accommodate no more turbines.

3.163 The nature of the proposed development is alien to its context, a landscape of particular interest to the local economic sector of tourism, and natural general wellbeing. While the existing Sitka spruce plantations contribute to climate change by way of carbon sequestration and deliver a critical local Active Travel Route through the site, the proposed development would not mitigate the damage already done by these harsh commercial forestry operations on the underlying gentle, yet dramatic landscape.

3.164 It is a highly subjective exercise to decide whether the proposed turbines are valued over the monument of cultural natural capital that is the Cairnsmore of Carsphairn, or the monument is valued over the proposed turbines. It is likely that the proposed turbines rely on the crutch of economic gain for their value, while on the other hand Cairnsmore of Carsphairn other stands in glory, delivering wellbeing entirely for free. Cairnsmore is a symbol of place and time which connects the whole community, past, present and future. If the landscape is to change at Shepherds' Rig from forestry, to turbines with forestry, there would undoubtedly be global beneficiaries, but at the direct expense of the local economy.

3.165 The Cornharrow consent has already damaged the network of active travel routes in the area. The local tourist sector which relies on scenic value and an active travel network cannot survive another blow without serious acts of mitigation, by way of conditions imposed by the authority and/or Scottish Ministers.

3.166 The community has invested six years of determined energy to purchase the adjacent woodland (at Muirdrochwood) to afford members the opportunity to enjoy without prejudice the peace of a natural environment. The consent of Shepherds' Rig would change the landscape setting in proximity to the woodland from one of peace and tranquillity to one of continual industrial activity.

Reporters' findings on landscape and visual effects

Methodology for assessing landscape and visual effects

3.167 The parties largely agree over the methodology for assessing landscape and visual effects. The differences relate to which scenarios are assessed for cumulative effects and the style of reporting of cumulative effects.

3.168 Although the council's view, that an assessment should also have been done on the basis of the scheme with no existing wind farms in the baseline, would in theory have some merit, we consider that the applicant's assessment on the basis of firstly the baseline with existing wind farms, then scenario 1, scenario 2 and finally schemes at scoping (effectively scenario 3) is sufficient for us to gain an understanding of the cumulative impacts of the proposed development. Similarly, we are content that sufficient evidence is available to make our assessment of sequential cumulative effects.

3.169 In relation to the style of reporting, we are content that the council's request for the significant effects to be presented in tabular format have been addressed in Table 1 of the applicant's inquiry report.

Landscape effects

3.170 We have considered the assessment of effects on landscape features from the proposed turbines and related infrastructure. Given that the primary land cover is forestry, and the proposed borrow pits would be positioned in areas that have seen historical disturbance through quarrying, we agree with the applicant's assessment that there would be no significant effects on landscape features.

3.171 We have considered the assessment of effects on landscape character. The applicant focuses its assessment on the effect on landscape character types, as set out in the Dumfries and Galloway landscape assessment (CD006.019) and the Dumfries and Galloway Wind Farm Landscape Capacity Study (CD005.007).

3.172 While the proposed turbines are located within the Ken unit of LCT 19A, the site boundary extends into the Ken unit of LCT 4 and the Upper Glenkens unit of LCT 9, through which the site is accessed. The parties are agreed, as are we, that there would be direct significant effects on LCT 4 and LCT 19A, and indirect significant effects on LCT 9 and LCT 19. We agree with the council that the significant effects in LCT 19A extend to 6 km, for example, in relation to views from around the Benbrack area. We also agree with the council that the effects in LCT 4 continue up to and beyond the Corlae area (see discussion on VP 6 below) and therefore significant effects are likely to extend to 6 km. Given the typology and the landscape screening, however, we do not find significant effects in the Stroangassel area (see discussion on VP18 below) and therefore agree with the applicant that the significant effects in LCT 9 extend to around 4.5 km. We agree with the applicant and the council that there would be significant indirect landscape effects up to 4 km in LCT 18A, in relation to the areas around Culmark Hill and Butterhole Bridge.

3.173 The landscape capacity study classes the proposed turbines, at 125 m and 149.9 m, within the 'large' typology (turbines which are 80 – 150 m high). Where turbine heights are close to the upper threshold (i.e. within 5 m for the medium, large and very large

typologies), the study advises that the guidance for both typologies should be taken into account.

3.174 LCT 19A is the host area for the proposed turbines (the site also extends into LCT 4 and LCT 9) in which the study identifies a high-medium sensitivity for very large turbines and a medium sensitivity for large turbines. While the majority of LCT 19A is considered less sensitive due to lack of landscape designations and an absence of recreational use, the Ken unit (where the turbines would sit) is the exception to this, due to the presence of the Southern Upland Way and network of Core Paths and promoted heritage trails. Taking into account the very large typology, this would push development away from the Ken unit and into the Eskdalemuir unit. While we acknowledge in our policy conclusions (Chapter 7) that the Eskdalemuir unit has ongoing constraints, it does not follow that the type and scale of development proposed must necessarily be appropriate in the Ken unit. In fact the study does not identify specific opportunities for any new development in the Ken unit, only 'scope for repowering and/or small extensions to operational wind farms.' In addition, proposals must still be assessed against the detailed considerations in national and local policies.

3.175 The proposed development would be located on a slim finger of LCT 19A, extending down from the main Ken area of LCT 19A, sandwiched between LCT 19 and LCT 4. In terms of effects on these adjacent two LCTs, we agree that there would be significant effects on both, particularly as the Regional Scenic Area extends into LCT 19, and LCT 4 is a small scale landscape, where the study notes that poorly sited large turbines on adjacent areas could 'perch above' and easily dominate the valley. While the topography would result in reduced effects further north in LCT 4, we find that the proposed turbines would dominate the southern half of LCT 4 extending into the Stroanfreggan area, which is more intimate and sensitive due to the presence of residential properties and a number of archaeological assets.

3.176 In relation to LCT 19 (in which Cairnsmore of Carsphairn and Beninner are located and which is largely covered by the Regional Scenic Area designation) we find that the proposals would detract from landmark hills and dominate skylines in this landscape. This would particularly relate to cumulative effects on more elevated views from Cairnsmore of Carsphairn, the Southern Upland Way and the Striding Arches, including at Benbrack.

3.177 In relation to LCT 9 to the south of the site, we find that operational and consented wind farms in LCT 19 and LCT 19A do not currently have a strong influence on LCT 9 mainly due to them being set back from the hill edges. However, similar to the southern part of LCT 4, we consider that the introduction of wind turbines of the size proposed at Shepherd's Rig would have a much stronger influence on the gently undulating and flat valley floor of the upper Glenkens area, and would adversely affect views towards the landmark Cairnsmore hills.

Effects on Cairnsmore of Carsphairn and the Galloway Hills Regional Scenic Area

3.178 The landscape panorama is quite complex in this area, with a mix of lower and higher level hills, forestry and open ground. However, we find that the Cairnsmore of Carsphairn and the related hills form an important landmark and have a strong influence on the landscape character and views of the surrounding area. They are seen from many of the viewpoints, including in sweeping panoramas at VP2, VP3, VP5 and VP7 and from the high tops at VP10 and VP13-17. They are also clearly visible from more distant viewpoints such as VP21 (at over 12.3 km distance).

3.179 We agree with the council's definition of these hills as 'an iconic regional landmark'. We recognise that they are a key aspect of the tourism and recreational resource in the area, evidently one that is valued by the hillwalking community and local residents, within the Galloway Hills Regional Scenic Area (RSA). We find that the sculptural form of the Cairnsmore hills and the distinctive eastern cliff face of Beninner have an importance in the landscape and a prominence in views across a wide area.

3.180 While the applicant has assessed the sensitivity of the Cairnsmore group of hills (in terms of effects on landscape character and viewpoint locations) as part of its assessment of the wider landscape, it accepts that it has not specifically analysed the value of the Cairnsmore hills.

3.181 Given its prominence, and the role it plays in the wider area, we have sympathy with the council's concern that no specific assessment of Cairnsmore's value has been carried out. Without such an assessment, we consider that the value of Cairnsmore and its landscape setting in the upper Glenkens has been underplayed. All parties accept that there would be a significant adverse effect on certain views of these hills (VPs1-3, VP5, VP7, VP11 and VP12, also to some extent VP19, VP20 and VP22). However, given the prominence of Cairnsmore, we place more emphasis than the applicant on the importance of the significant effects identified at certain key views, particularly those where the turbines would interact with the sculptural qualities of the hills e.g. VP2, VP3, VP5 and VP7.

3.182 We disagree with the applicant's opinion that due to their position below and in the foreground, the proposed turbines would not obscure views of the Cairnsmore massif and not detract from views. On the contrary, we consider that the siting of 17 turbines, the vast majority of which would be 149.9 m high, directly in the centre of the view of these distinctive hills, particularly from the east and south east, would inevitably affect the appreciation of the views of these landmark hills and detract from these views.

3.183 Furthermore, we do not accept the applicant's position as discussed further at inquiry, that views of the proposed turbines from the Stroanfreggan area do not detract from the views of the landmark hills. We accept that a wider panoramic view is possible from Stroanfreggan Craig/fort (VP2) and of course it is the case that the hills would be able to be seen in between the turbines. However, given their proximity to the viewpoint, the wind turbines, and not the Cairnsmore hills beyond, would be the eye-catching elements of the descent down through and beyond this viewpoint towards the lower-lying valley floor and from the viewpoint at Stroanfreggan Cairn (VP5). This westward view to the Cairnsmore hills would also be possible from parts of the Southern Upland Way, for example, when travelling south through Manquhill Hill.

3.184 We do not share the applicant's opinion that the turbines would not be dominant because they are off to the side. On the contrary, rather than looking in one direction, we consider that walkers moving slowly along the route would be taking in a wide view from side to side as they find their route and appreciate the wider landscape. We find that this is supported by Mountaineering Scotland's practical experience of wind farms being eye-catching features which compete for attention even when not in a direct line. We find that the proposed turbines would be a prominent feature in this landscape, and given their position in front of the Cairnsmore hills, we find that the views of the hills and their distinctive skyline would be adversely affected.

3.185 We also find that certain views of the proposed turbines, because of their large size (including VP2 but also VP3, VP5, VP7 and VP12), would diminish the dominance and scale of the Cairnsmore hills. While the proposed finish of the turbines may, as the applicant suggests, be less intrusive when seen against the sky, the elevation of the proposed turbines means that they would be seen from many directions against the darker colour of the hills or the land, either from a higher elevation looking down (e.g. VP10, VP13 and VP16), or looking up to or across to the proposed site with the hills in the background (e.g. VP2, VP3 and VP7). The proposed location would therefore increase the visibility of the proposed turbines.

3.186 We therefore find, contrary to the applicant's opinion, that the proposed turbines would detract from the views of Cairnsmore and Beninner and would be contrary to advice at para 3.26-3.27 of NatureScot's guidance on Siting and Designing Wind Farms (CD006.003) which states that wind farms should not detract from the character of a distinctive skyline.

3.187 We find that Cairnsmore's prominence is part and parcel of the designation of this group of hills as part of the RSA. Regardless of whether or not the site would be viewed as being part of the RSA or beyond it (although the site is partly within the RSA and partly directly adjacent to it), we find that the site is an important part of the setting of the Cairnsmore hills and therefore the setting of the RSA.

3.188 In relation to the RSA Technical Paper (CD005.018), although we agree that the special qualities of the RSA are not specifically defined or highlighted in the text, we find that sufficient guidance is provided to identify the special qualities i.e. the factors taken into account in designating the area. Importantly, we also find in relation to this proposal that there is broad agreement between the parties' over the factors which would comprise those special qualities, as set out in paragraph 8.6.272 of the EIA: the sweeping and dramatic views of hills; dramatic and sculptural peaks; and the narrow wooded valleys and their scenic juxtaposition with the uplands.

3.189 We agree with the applicant's assessment that significant visual effects on the RSA would extend beyond the immediate local area up to 8 – 9 km from the site. This includes viewpoints beyond 5 km from the site where the applicant agrees that there would be significant effects (e.g. VP10, VP16 and VP20), as well as others (VP17 and VP21) where we find that the effects also tip into significant. We also agree with the applicant that there would be significant impacts on landscape character up to 4.5 – 5 km from the proposed turbines.

3.190 Because of the proposed wind farm location, we find that the special qualities of the RSA would all be appreciated from within 5 km of the proposed turbines. The proposals would be located between the low level, more intimate valley floor around the Glenkens/Stroanfreggan area, and the dramatic, sculptural peaks of Cairnsmore/Beninner. We find that there would be a significant effect from the proposal's indirect effect on the setting of the sculptural form of the Cairnsmore of Carsphairn Massif, when viewed from these lower lying areas. Therefore, taking into account not just how far the effects would extend but also the particular context of the area that would be affected, we find that the applicant's categorisation of the effects as localised does not fully acknowledge the value and sensitivity of the area around the site as part of the setting of the RSA.

3.191 Recognising that the narrow wooded valleys and their juxtaposition with the uplands forms part of the special qualities, we have also considered the relationship between the proposed turbines and the Head of Ken valley, running north along the eastern side of the proposed site and forming part of the setting of the RSA. The valley is relatively small in scale compared to the surrounding larger open hilltops – a narrow valley, with steep sides in places, formed by the Cairnsmore hills to the west and Cairn Hill and Benbrack to the east. Dodd Hill on the west side of the valley is 496 m AOD while the adjacent valley floor is around 230 m AOD. Similarly, Craigengillan Hill is 401 m AOD and the adjacent valley floor is around 210 m AOD. Therefore the valley sides in this area are around 190 – 260 m high. In this context, turbines of 149.9 m would be disproportionately large in relation to that small scale valley. As a result, we find that the size of the proposed turbines and their location close to the west side of the valley are such that they would create an adverse scale relationship, against this smaller scale valley landscape.

3.192 While there are many existing turbines in the surrounding area, those turbines are at a higher level than those proposed at Shepherd's Rig, and set back from the edge of the hills (we discuss wind farm pattern further below, under cumulative effects). This means that those turbines are not over dominant in relation to, and in many cases are not visible from, the valley floor. As a result, the valley currently retains a feeling of remoteness, for those travelling up and down the Head of the Ken road or those living at several residential properties along the route.

3.193 In contrast, the proposed turbines would be a dominant feature in most views up and down that road, between just north of Smittons Bridge and Corlae, beyond which they would remain visible heading south, across the mouth of the valley. We find that the effects would be slightly less significant further north up the Head of the Ken valley, than at its southern entrance. At the southern entrance, the views of Cairnsmore appear and would become affected by the proposed turbines, as would the more intimate, lower lying valley floor in the Stroanfreggan area. From the Southern Upland Way, due to the topography, the adverse scale issues with the valley would be less obvious, while the effect of the proposed turbines in diminishing the scale of the Cairnsmore hills themselves would be more apparent.

3.194 In summary, we have found above that there would be adverse effects on key views of Cairnsmore and the related hills. We have also found that sweeping and dramatic views of those hills, and their dramatic and sculptural peaks are part of the special qualities of the RSA. While we agree that the dramatic and sculptural peaks would remain (in so far as their landform would not change), we find that from certain angles, the proposed turbines would diminish the scale of the hills and that they would interfere with appreciation of the distinctive skyline formed by the sculptural peaks of the hills. Furthermore, we find that the juxtaposition between the narrow valley to the east and its scenic upland would also be adversely affected by adverse scale issues. Critically, the sweeping and dramatic views of the hills would be significantly adversely affected by the position of the proposed turbines directly in front of those views, in some cases in relatively close proximity. We therefore find that the accepted significant effects on these views would also adversely affect the special qualities of the RSA.

Visual effects

3.195 Looking in more detail at the visual effects, we note that there are some differences of opinion between the professional witnesses regarding visual effects from certain

viewpoints. We acknowledge the council's concerns that individual viewpoints provide a static representation of the proposed view and do not show the full panorama that a viewer would experience while out in the field. Neither do viewpoints capture the wider views experienced by hillwalkers or cyclists on routes to and from summits. We understand that visualisations are a tool to be used to help in our assessment of the proposed development and they are not a substitute for comprehensive inspections of the site and its surroundings. In this regard, our site inspections have assisted us in providing a wider perspective. Our assessment below is therefore based on a review of the parties' most up-to-date evidence, the core documents submitted for the case, including the viewpoint visualisations, and our site inspections.

3.196 Of the 22 viewpoints in the study area, it is common ground between the applicant and the council that there would be significant visual effects at 17 viewpoints (VPs 1-7, 10-16, 19, 20 and 22). They also agree that effects would not be significant at two further viewpoints (VPs 8 and 9) but they do not agree on the likely effects at the three remaining viewpoints (VPs 17, 18 and 21). Parties generally agree that the significant effects on visual amenity would extend to 7 - 8 km from the proposed turbines, although as set out above, the applicant accepts that significant visual effects extend to 8 - 9 km in the context of the Regional Scenic Area. We consider the effects at the 22 viewpoints in more detail below.

VP1: Stroanfreggan Bridge (6 hubs and 2 tips visible, 2.3 km to nearest turbine)

3.197 The proposed turbines would be highly visible from this viewpoint, particularly T16, T17, T18 and T19. The turbines would be large in scale against the residential property (Stroanpatrick) in the foreground from the viewpoint. We find that the view of Stroanfreggan Craig/fort itself would be largely unaffected, with the exception of one blade appearing above the residential property, but the tips of other turbine blades would be seen just over the ridge on which the heritage trail lies. We agree with the parties that there would be significant effects.

VP2: Stroanfreggan Craig/Fort (17 hubs visible, 1.4 km to nearest turbine)

3.198 We find that the proposed turbines would be highly visible here in this wide panorama from the exposed viewpoint on the Stroanfreggan Craig ridge. The southern turbines would be seen against the sky, while T10, T12 and T14 would interrupt views to Cairnsmore and T4, T6, T8 and T9 would detract from the view to the eastern cliff face of Beninner. These turbines, as well as T13, T15 and T17 which appear higher up than the Cairnsmore summit, would have the effect of diminishing the scale of the Cairnsmore and Beninner. T1, T2 and T5 would be positioned across the distinctive U-shaped valley between Beninner and Green Hill/Moorbrock, to which the eye is somewhat drawn, in the centre of the view to the hills. T3 would appear as an outlier to the right of the view, against the steep slope of Moorbrock. There would also be some stacking of T4 and T9.

3.199 While the domination of the view here by the proposed turbines might be expected at close range such as this, this viewpoint lies on the recognised Stroanfreggan Heritage Trail which provides a detour off the Southern Upland Way (which lies slightly further to the east) between Manquhill Hill and the B729. We agree with the council that the visualisations do not fully represent the wide views here which we appreciated on our site visits, noting the commanding position of the Iron Age fort and the prominence of the Cairnsmore hills. The operational schemes at Afton and Windy Standard I and II, and the

under construction Windy Rig are also visible to the right of the Cairnsmore/ Beninner/ Moorbrock grouping, at higher elevations.

3.200 The applicant contends that views to the hills would still be seen through the turbines, in contrast to Longburn (now refused) where an adverse effect was more likely as walkers would be within the turbines themselves. However, given the proximity to the Southern Upland Way, the panoramic views towards the Regional Scenic Area from this exposed position, and the fact that walkers would be taking in this view for some considerable time particularly while descending towards Stroanfreggan, we disagree that the proposed turbines would not detract from the views of the Cairnsmore hills, which would be a focal point in the panorama. As a result, we agree that there would be significant effects.

VP3: B729, west of Carroch (17 hubs visible, 3.5 km to nearest turbine)

3.201 We consider this to be an important viewpoint on the B729 from Moniaive to Carsphairn, where the view travelling westwards opens up to reveal the sculptural form of Beninner with Cairnsmore behind, and Moorbrock and Alhang completing this group of pronounced hills. A number of the proposed turbines (T1, T2, T4, T8 and T9) would be seen against this sculptural form, in particular the rugged cliff face of Beninner which is an eye-catching feature of the hills. The proposed turbines would appear very large in relation to the hills beyond and, as a result, would have the effect of diminishing the scale of the hills from this viewpoint. T3 would also appear slightly as an outlier, sitting in the line of the U-shaped valley between Beninner and Moorbrock. As with VP2, the operational Windy Standard I and II (and Afton, just on the horizon), and under construction Windy Rig are visible to the right of Cairnsmore/ Beninner/ Moorbrock at higher elevations. We agree that there would be significant effects, individually and cumulatively, from this viewpoint.

VP4: Smittons Bridge (no turbines visible (17 hubs visible post felling), 1.3 km to nearest turbine)

3.202 While the existing forestry plantation to the north west largely screens the site, we consider that there would be significant impacts in the foreground post-felling, with the proposed turbines dominating the view. Post-felling, all of the turbines would be visible, at a distance of 1.3 km to the nearest turbine. In particular proposed turbines T17-19 would likely be over-bearing when viewed from the bridge. In terms of existing wind farms, operational Windy Standard I and II are just visible to either side of Moorbrock, and under construction Windy Rig appears to the right of Moorbrock but none dominate the view here. Nevertheless, given the post-felling impacts, we agree that there would be significant effects.

VP5: Stroanfreggan Cairn (16 hubs and 1 tip visible, 2.1 km to nearest turbine)

3.203 From this viewpoint, the hubs of all the proposed turbines would be seen, at a distance of just over 2 km to the nearest turbine, with the exception of T3, where only the blade tips would be visible. The proposed turbines (T4, T6, T8, T9, T10, T12 and T14) would be seen against the sculptural form of Beninner, with Cairnsmore behind. In particular, the tips of T10, T12 and T14 would sit above the ridge of Beninner/Cairnsmore, thereby minimising the scale of the hills. In addition, T13, T15 and T17 would appear from this viewpoint to be significantly higher than Beninner, creating an adverse scale relationship. The proposed blade tips of T1, T2 and T5 would also be visible near to the

cairn on the Stroanfreggan Heritage Trail ridge, which is a notable view from this viewpoint. We agree that there would be significant effects.

VP6: Head of the Ken (11 hubs and 3 tips visible, 4.1 km to nearest turbine)

3.204 The proposed turbines would be positioned at the southern end of the glen and, as a result, would have the effect of closing off the view down this long valley. Cairnsmore and its associated hills are not however visible from this viewpoint. We agree with the applicant that the turbines would mostly be seen further south in the valley where the sides are broader. However, it would still be possible to see seven turbines in full and the hubs of a further 11 turbines from this viewpoint, with the turbines positioned fairly centrally and at relatively close proximity in a small scale valley. As a result we consider that they would make quite an impact and agree that the effects are significant.

VP7: Culmark Hill (17 hubs visible, 3.7 km to nearest turbine)

3.205 This open-topped hill on the Southern Upland Way has panoramic views around the area. All of the proposed turbines would be highly visible at a mid-level height, seen in front of Beninner and Cairnsmore of Carsphairn, at a distance of just over 3.6 km to the nearest turbine. Because of the higher level of this viewpoint, Cairnsmore is more visible than at VP3 or VP5 and the proposed turbines lying across the front of the hills, appearing quite large in relation to them, would diminish the scale of the hills, detracting from their sculptural quality. Also the majority of the turbines in the middle group intervene directly between the viewpoint and Cairnsmore. As with VP2 (and to some extent VP3), T3 appears as an outlier to the right hand side of the view, as do T16, T18 and T19 to the left of the view. T4, T6, T8 and T14 stack together in front of the notable eastern cliff face of Beninner.

3.206 Operational wind farms Windy Standard I and II and Afton are visible either side of Moorbrock, as is under construction Windy Rig, although they sit behind rather than in front of the Carsphairn hills. Nevertheless, the lower level of the proposed site, compared to those other turbines, is quite apparent from this viewpoint. As a result, we agree that there would be significant effects.

VP8: Minor road south of B729 (1 hub and 4 tips visible, 6.4 km to nearest turbine)

3.207 We find that this is not a key viewpoint, it being off a minor road and not forming part of a key recognised walking route. While Cairnsmore and the cliff face of Beninner can be seen from here, only 1 hub and 4 tips would be visible at around 6.4 km distance to the nearest turbine. We therefore find that the effects are much less than from other points along this route, particularly VP3 which is much closer to the site at 3.5 km and provides a more open panorama. Operational wind farm Wether Hill is visible to the right of the view, away from the views of Cairnsmore. We agree with the assessment that effects would not be significant.

VP9: High Bridge of Ken (no turbines visible (6 hubs and 8 tips visible post-felling), 2.2 km to nearest turbine)

3.208 We agree that the current forestry plantation to the north of this viewpoint would effectively screen the view of the proposed turbines, resulting in no significant effects. However, once the plantation is felled in due course, we agree that there are likely to be

significant impacts, with views of the proposed turbines at close quarters (at just over 2.2 km to the nearest turbine), when heading north onto and over the bridge. Given the low elevation of the bridge compared to the proposed turbines, we do not expect any effect on views to Cairnsmore. However, consistent with the approach to post-felling effects at VP4, we find that there would be significant effects, contrary to the applicant's findings.

VP10: Benbrack (17 hubs visible, 5.4 km to nearest turbine)

3.209 All of the turbines would be visible in the south-westerly view from Benbrack, at a distance of 5.4 km to the nearest turbine. We find this to be a key viewpoint, sitting on the Southern Upland Way with a panoramic view across a wide area, and the location of one of the Striding Arch sculptures. The proposed development would be a significant addition to the stunning long-range view to the west, which takes in the long ridge of the Rhinns of Kells and Cairnsmore/Beninner. Given the position of Cairnsmore/Beninner off centre, we find that the proposed turbines would not interfere with the sculptural qualities of those hills from this viewpoint. However, we find that the proposed turbines would introduce turbines into the centre of the view to the west and south-west, where currently no other turbines are visible. The consented Torrs Hill scheme of two turbines lies off to the west in the distance, although we note Mountaineering Scotland's opinion that this is unlikely to be built.

3.210 The 360 degree cumulative wireframe for viewpoint 10 illustrates the panoramic views here and the significant cumulative effects of existing wind farms to the north of Cairnsmore, and also to the east of the site at Wether Hill and the consented Cornharrow and Troston Loch, in filling up much of the view from Benbrack with turbines. We therefore attach particular importance, as does Mountaineering Scotland, to this turbine-free section of the view to the west and south-west.

3.211 Given the many other turbines visible from this viewpoint, the wind farm pattern is clearly evident and we find that the open, mid-level position of the proposed site would be a marked difference from the existing turbines, in particular those to the north of Cairnsmore which are at high-level positions, set back from the hill edges. As a result, we agree that there would be significant cumulative effects. While the applicant has identified high sensitivity at this viewpoint, we find that the importance of the effects on this view is underplayed, given its location on the Southern Upland Way and with the Striding Arch, its panoramic qualities and the fact that the current view towards the proposed site and beyond to the Rhinns of Kells is free from turbines.

VP11: B7000, east of Arndarroch (13 hubs and 3 tips visible, 3.1 km to nearest turbine)

3.212 A large number of the proposed turbines would be visible from VP11 although some would sit behind the curve of Marscalloch Hill. The proposed turbines would largely be seen here against the sky and we find that they would not interrupt the views of Beninner or Cairnsmore. Also the sculptural qualities of these hills are not so evidenced from this direction. However, we agree that the effects would be significant from this viewpoint, as 14 hubs and 2 tips would be visible at just over 3 kilometres to the nearest turbine.

VP12: Dundough Hill (6 hubs and 2 tips visible, 2.9 km to nearest turbine)

3.213 Similar to the view from VP11, we find that the turbines would be seen against the sky, and sitting to the south of Beninner, to the extent that they would not interrupt the views of the key Carsphairn hills. However, the sculptural qualities of this group of hills are more

obvious from here because of the higher elevation of the viewpoint compared with VP11. The turbines would appear very large in relation to the hills and, as a result, they would diminish their scale. A number of existing turbines are visible in the distance, including Wether Hill and Windy Standard I and II, but none dominate from this viewpoint. Nevertheless, we agree that the proposed turbines would give rise to significant effects.

VP13: Beninner (15 hubs and 1 tip visible, 2.1 km to nearest turbine)

3.214 The applicant clarified at the inquiry that there would be significant visual effects from this viewpoint (rather than no significant effects, as had been identified in the EIAR). This brings its assessment into agreement with that of the council and Mountaineering Scotland, who both find the effects would be significant.

3.215 While the proposed wind farm would not have a dominant visual impact from the cairn where the viewpoint is located (as illustrated by sheet C in the VP13 visualisations), we find that the topography of the hill is such that walkers would likely be drawn closer to the south eastern edge of the hill, and the view of the proposed wind farm would be more expansive from that location. The applicant has confirmed that sheet B illustrates the more expansive view that would be seen from about 70 m further forward towards the cliff edge, than is shown in sheet C. As a result, 15 hubs would be seen from nearer the cliff edge, at a distance of around 2 km. The turbines would be obviously backclothed against the valley floor and would continue to dominate the view southwards when walking off the summit to the southwest. We agree with Mountaineering Scotland that this is a view that is currently open, although we note several wind farms which are consented or in the planning stage to the south east.

3.216 Overall however, the cumulative effects are significant here, with a number of existing wind farms visible, including the operational Wether Hill (and consented Troston Loch and Cornharrow) to the east. The under construction Windy Rig and operational Windy Standard grouping would be just visible to the north and northwest. As the proposed site is at a lower level, it would have different effects from the others (see cumulative effects below). We therefore agree with the updated assessment that the visual effects would be significant, individually and cumulatively.

VP14: Cairnsmore of Carsphairn (9 hubs and 1 tip visible, 3.4 km to nearest turbine)

3.217 Nine proposed turbines would be visible from this viewpoint, along with the very tip of a tenth turbine, at a distance of 3.4 km to the nearest turbine. A full view of the proposed site would be somewhat masked by Beninner, but the proposed turbines would be visible when walking off the summit to the southwest, and heading to the summit from that direction.

3.218 In terms of cumulative effects, a significant number of existing turbines would be visible from the summit of Cairnsmore looking to the north west, north and north-east, more so than at VP13 due to the increase in height and position further to the northwest. The view from the south-east, south and south-west is currently free of turbines in the foreground, although operational Wether Hill and consented Troston Loch and Cornharrow (and others at planning stage) would be visible in the distance looking eastwards. Shepherd's Rig turbines would extend views of turbines further to the south. However, from this viewpoint looking westwards, a turbine-free view to the Rhinns of Kells ridge would remain. The higher elevation of this viewpoint highlights the lower position of the proposed

site compared with these other existing wind farms. Taking into account Mountaineering Scotland's concerns and given its Corbett status, we find this to be an important focal point in the area for hillwalking and agree that the effects would be significant, individually and cumulatively.

VP15: Craig of Knockgray (17 hubs visible, 4.6 km to nearest turbine)

3.219 The proposed turbines would all be visible in a long low line which would dominate most of the view here. They would be seen in the context of other turbines in the distance, including operational Wether Hill to the east (and consented Cornharrow and Troston Loch), and even more distant, Blackcraig Hill. In terms of cumulative effects, we find that adding the proposed development to the baseline would be a significant addition, as most of these existing turbines are seen against the sky, while the proposed turbines are backclothed against higher hills and therefore more obvious. The difference in elevations between the existing and proposed turbines is apparent here, particularly when comparing the proposed site with the operational Wether Hill wind farm to the east. With all the proposed turbines in view to one extent or another, we agree that there would be significant effects.

VP16: Alhang (17 hubs visible, 5.8 km to nearest turbine)

3.220 All of the proposed turbines would be seen at a distance of 5.8 km to the nearest turbine, as a significant new addition at a mid-level height in this south-western view. Other existing turbines can be seen to the south-east and immediately to the west (Windy Rig under construction) but no other turbines would be visible across the centre of the view towards the proposed site. The position of the east face of Beninner and the ridge down Green Hill serve to draw the viewer's gaze down towards the site, where the proposed turbines would detract from the view to the Galloway Hills which can be seen across the upper Glenkens when looking south and west. Because of the higher elevation of the viewpoint compared to the site, the turbines would be seen against the darker backdrop of the land and would therefore be more obvious. We note that Mountaineering Scotland identifies this as one of the viewpoints of mountaineering interest that would be significantly adversely affected by the proposals. The difference in site elevation compared with Windy Rig and the Windy Standard wind farms would also be very apparent from here, illustrating the divergence from the existing pattern. We agree that there would be significant effects.

VP17: Southern Upland Way at Waterside Hill (14 hubs and 3 tips visible, 10.4 km to nearest turbine)

3.221 This viewpoint would provide a middle distance view of the turbines, at 10.4 km to the nearest turbine, with turbines mostly sitting against hills – Moorbrock and Alhang – or sitting behind Marscalloch Hill itself. We do not find that the turbines would interrupt views of Beninner or Cairnsmore but they would detract from views of Moorbrock, which from this viewpoint, is seen alongside Beninner and Cairnsmore as a higher group of hills, combining to form a focal point in this direction. As more of the turbines would be seen against the hills than the sky, we find that they would be more obvious. Given the location on the Southern Upland Way we also expect a high number of walkers passing or stopping at this point and we note that this is one of three viewpoints (see also VP13 and VP21) where Mountaineering Scotland disagrees with the applicant's finding that the impacts would not be significant (although the applicant now accepts there would be significant effects at VP13).

3.222 To some extent the difference in site elevation with existing wind farms, for example, Windy Rig, would be seen from here, although given the relatively long distance view, the difference would not be overly marked. Nevertheless, given the location on the Southern Upland Way, we find that the effects would tip into significant and we agree with the council that this is one of the locations where significant effects would extend beyond 7 - 8 km.

VP18: Stroangassel (7 hubs and 4 tips visible, 5.8 km to nearest turbine)

3.223 From this viewpoint on the A713, the proposed turbines would be seen against the sky and therefore appear less obvious. They would also appear alongside the power station tower, which contributes to an industrial feel. Views of significant hill tops would not be disrupted. We note the council's view that the effects are marginally significant, due to the prominence of turbines T16, 17 and 19. But given the intermittent views from the road and the backdrop of the sky, we agree with the applicant that the effects would not be significant from this viewpoint.

VP19: A713, south of Carsphairn (14 hubs and 3 tips visible, 3.8 km to nearest turbine)

3.224 A long line of turbines would be seen from this view, as a significant addition to this open view to the east. However, views of Cairnsmore of Carsphairn would not be disrupted and most of the turbines would be seen against the sky rather than hills, so the turbines would be less obvious and their impact would be lower. Given that the viewpoint is from the road, views would also be more fleeting than if it was a walking route. That said, given that all of the turbines or their blades are visible at 3.8 km distance, we find that the effects would tip into significant.

VP20: Woodhead Mines (11 hubs and 3 tips visible, 8.6 km to nearest turbine)

3.225 The proposed turbines would be seen in the mid-distance, at around 8.6 km to the nearest turbine, running along the ridge line with distant hills seen beyond. While the southern-most turbines would be seen against the sky, the majority would be seen against this higher land, so would be more obvious. Craig of Knockgray and the Cairnsmore hills would be seen to the left of the view, but would not be obscured by the turbines. Views to a number of other wind farms are possible from here, including Wether Hill, Troston Loch and Knockman Hill but they are long-range views with turbines largely against the sky so that in most weather conditions they would not be clearly visible. Overall we find that the effects would be significant, but agree with the council's assessment that the effects would only be marginally significant, given the distance from the viewpoint and the topography.

VP21: Corserine (17 hubs visible, 12.4 km to nearest turbine)

3.226 The turbines would be a significant new addition at the mid-level height in this easterly view from the Rhinns of Kells. At around 12.4 km to nearest turbine, the site is seen in the distance but the elevated position of the viewpoint looking across the upper Glenkens area, gives very good views of the proposed site. The proposed turbines would fill a gap between Wether Hill/Cornharrow and the northern grouping of existing turbines (e.g. Windy Standard/Windy Rig). The existing turbines are mostly seen against the sky, while the proposed turbines would be backclothed against hills and would therefore be more obvious. We find that the lower height of the proposed turbines, compared to these

other existing turbines including the Wether Hill/Cornharrow grouping, would be quite pronounced from this viewpoint, indicating a discord with the existing wind farm pattern.

3.227 We also find that visitors are likely to be attracted to Corserine due to its status as a Corbett and its position on the Rhinns of Kells ridge walk, described by Mountaineering Scotland as superb and uncommon in southern Scotland. We therefore agree with the council and Mountaineering Scotland (and disagree with the applicant) that the effect here would be pushed into significant.

VP22: Carsphairn War Memorial (10 hubs and 7 tips potentially visible, 4.6 km to nearest turbine)

3.228 Turbines T13-T19 would be seen from here, at a distance of 4.6 km to the nearest turbine. The remainder of the turbines would sit down behind Marscalloch Hill or be screened by trees, none of which are planned for felling. The proposed turbines would not obstruct views of landmark hills. The council suggests there would be a marginally significant visual effect here. Turbines 13, 16 and 18 would be fairly dominant in this view. The war memorial is a public viewpoint in the local area, with interpretation boards, increasing the sensitivity of the receptor. As a result, we agree with the applicant (revised at inquiry) that the effects are tipped into significant.

Effects on core paths and other recreational routes

3.229 We consider the section of the Southern Upland Way from around Benbrack south to Stroanfreggan and from Culmark Hill north to Stroanfreggan to be an important part of the area's recreational resource, with Stroanfreggan Craig, Stroanfreggan Cairn and other cultural heritage assets in this relatively small area and prominent views of the Cairnsmore hills. We recognise that walkers using the Southern Upland Way in this area would be immersed in the views for some time, and that the proposed turbines would dominate a large section of those views. Views of the turbines would be screened by topography from part of the SUW north of Stroanfreggan Craig. However widespread views to the site and the Cairnsmore hills would be available from the ridgeline path of the Stroanfreggan Heritage Trail to the west of the SUW, which is closer to the proposed site and a regular detour from the SUW.

3.230 We agree with the council's opinion, and therefore disagree with the applicant, that in views towards the site from parts of the Southern Upland Way and the Stroanfreggan Craig/fort particularly at VP2, VP5, VP7 and VP10, the scheme would detract from the skyline and the sculptural qualities of Cairnsmore of Carsphairn and Beninner.

3.231 There would be significant visual effects on rights of way DS15, DS16 and DS21 which pass along or near to the site boundary. There would also be significant effects on parts of other routes, including DS17 to the east of the site, Core path 23 at Dundough Hill, Core Path 199 near Butterhole Bridge and the Bardennoch Pack Trail. The active travel route identified by Ms Clubb, running north through the site from the B729 south of Smittons Bridge and meeting the Lorg Road near to the Black Burn, would also be in very close proximity to the proposed turbines and would therefore have significant visual effects.

3.232 We find that the location of the proposed development would site turbines in the broad basin of the upper Glenkens, where currently there are none, introducing views of turbines into areas that are currently free of turbines, particularly in views from Cairnsmore

(VP14), Beninner (VP13), Alhang (VP16) to the south-east and south towards the site. Given the preponderance of wind farms to the north, north-east and east of the site, which are currently or would be visible from these hills, we consider this to be a significant adverse impact. In addition, the proposed turbines would distract from views to the Cairnsmore hills and the Rhinns of Kells (both within the Galloway Hills Regional Scenic Area), which are important recreational resources in Dumfries and Galloway.

Effects on roads

3.233 We find that there would be significant sequential visual effects on views from roads, particularly the section of the B729 between Knockgray Park and Guttery Glen. Due to the topography and landscape screening, effects on views from the A713 on the northward stretch between St John's Town of Dalry and Carsphairn would not be significant. However, heading southwards on the A713 from Carsphairn there would be significant sequential visual effects, particularly at and around VP19.

3.234 The proposed turbines would be highly visible from the B7000, particularly when heading north around White Hill and Arndarroch (at and around VP11) and also when passing the site on Lorg Road travelling north up the Head of the Ken valley, and again when travelling south towards the site. We find that there would be significant effects on parts of both of these roads.

3.235 While effects on the B729 from works to accommodate the abnormal load route were found in the AEI II report to be not significant, a condition is proposed to ensure that any necessary mitigation is agreed in advance with the planning authority (see Chapter 6).

Residential visual amenity

3.236 The applicant's residential visual amenity study concludes that there would be significant visual effects at two dwellings in the vicinity of the proposed development: Craigengillan/Craigengillan Cottage and Strahanna Farm. We agree with the assessment that there would be no overwhelming or overbearing effects on these properties because of what would be visible. We agree with the applicant that post-felling visual effects at the property at Smittons would be significant but would be limited to the access track only.

3.237 Beyond these residential properties, the proposed wind farm is distant from most other residential properties. We agree that the proposals would not affect settlements, including Carsphairn, St John's Town of Dalry and Moniaive, given their location and distance from the site.

Cumulative effects

3.238 The applicant's assessment of the baseline scenario (the effects of Shepherd's Rig with existing wind farms) is then considered against Scenario 1 (existing and consented), Scenario 2 (existing, consented and at planning) and Scenario 3 (existing, consented, at planning and at scoping). This is updated in the Additional Environmental Information II report (CD001.018) from March 2021. Further to that report, scenario 1 now includes the following schemes which, at the time, were assessed as at the planning stage – Windy Standard III, Cornharrow, Margree and Fell. It also includes a revised tip scheme at Glenshimmeroch which at the time was at scoping stage. Scenario 2 now includes a further revised tip scheme at Cornharrow.

3.239 Taking into account all of the scenarios, we find that there would be significant cumulative visual effects, including in-combination and in-succession effects, particularly at VP2, VP3, VP7, VP10 and VPs12-15, as well as sequential effects in relation to key walking and driving routes (particularly parts of the Southern Upland Way, the B729, the B7000 and the A713).

3.240 The addition of Shepherd's Rig to the baseline with consented schemes at Glenshimmeroch, Cornharrow, Troston Loch and Margree would have a significant cumulative impact on views from the Southern Upland Way travelling southwards from Benbrack through Manquhill Hill, although some of the route is screened by vegetation. When heading north on the SUW from the Barlaes area, Glenshimmeroch, Troston Loch and Margree would largely be to the side and then behind the viewer when taking in the notable view north-westwards to Cairnsmore. However, Glenshimmeroch's close proximity to the line of the route would have a significant effect on the overall experience of the view from the approach to Butterhole Bridge and around Culmark Hill (VP7), when combined with Shepherd's Rig. From Culmark Hill down into Stroanfreggan, the proposals would have a significant cumulative visual effect on views of the landmark Cairnsmore hills with Cornharrow, Wether Hill and the existing wind farms to the north of Cairnsmore.

3.241 We find that the particular location of the proposed turbines means that they would assume greater prominence than any baseline schemes in relation to the setting and key views of Cairnsmore of Carsphairn and the Regional Scenic Area. In terms of views from the Cairnsmore hills, we have also found that the proposed turbines would appear in views that are currently free of turbines (to the south-west and south of the site), in an area which has a preponderance of turbines in views to the north, north-east and east of the proposed site, to the detriment of hillwalkers and other recreational users. The approval of schemes at Glenshimmeroch, Troston Loch, Margree and Knockman Hill, which would emerge in the south-easterly view from Cairnsmore, serve to place a higher premium on these turbine-free views.

3.242 In relation to the emerging wind farm pattern in the area, Shepherd's Rig would be located on mid-level ground, formed by the stretch of land between and including Marscalloch Hill (381 m AOD) and Craigengillan Hill (401 m AOD), at a similar height to Stroanfreggan Craig and Culmark Hill to the east and south east respectively. The proposed site lies below the higher peaks of Cairnsmore of Carsphairn (797 m AOD) (a listed Corbett), Beninner (710 m AOD) and Moorbrock (650 m AOD) Green Hill to the north west. There is an incomplete bowl effect formed by these higher peaks, combined with the Rhinns of Kells ridge out to the west and the hills to the north east and east of the site, including Black Hill and Benbrack. This effect is particularly visible from viewpoints to the north, south and east of the site, such as VP16 (Alhang), VP10 (Benbrack) and VP7 (Culmark Hill).

3.243 We find that the existing pattern of wind farms in the area is to set back turbines from the edges of the higher peaks to the north-west, north and north-east of the site. The operational or consented wind farms at Windy Standard I, II and III, Windy Rig, Afton and Lorg sit to the north-east, north and north-west of the site. Other operational or consented wind farms are located to the east and south-east of the proposed site, including at Cornharrow, Wether Hill, Troston Loch and Glenshimmeroch. Whilst this eastern/south-eastern grouping occupies slightly lower ground compared to those to the north-east, north

and north-west of the site, we consider that they are set back from, and do not generally impose on, the lower lying, central area around Stroanfreggan.

3.244 In this context, we find, as does the council and NatureScot, that the proposed development does not have a similar relationship to the hill tops as the existing wind farms. The introduction of turbines at this more central position at the mid-level is a marked departure from the emerging pattern in this area. The emerging pattern has helped to reduce the turbines' visibility and impact from the lower levels where the roads and recreational routes converge. The emerging pattern of existing and consented wind farm development does not interfere with views of the skyline of Cairnsmore or Beninner, or diminish the scale of those hills.

3.245 In contrast, we find that the proposed development would not be set back and would, at the lower level, be more visible as well as interfering with the views of the sculptural peaks and the distinctive skyline. We therefore find that the proposed location would not be consistent with paragraph 4.9 of NatureScot's Siting and Designing Wind Farms Guidance (CD006.003)) which states that existing landscape scale and pattern should be respected. Furthermore, we do not consider that the existing pattern should be respected for its own sake, but because it illustrates that the proposals would have more significant adverse effects than those which follow the existing pattern. Views of the existing schemes and their contrast with Shepherd's Rig are represented by the views from VP7, VP10, VP13, VP14, VP16, (VP17 to a lesser extent) and VP21.

3.246 We also agree with NatureScot's view that bringing larger scale turbines into this lower lying more transitional landscape would impinge on the setting and composition of the more scenic and smaller scale narrow wooded valley landscape character unit, around the Stroanfreggan area. We find that the introduction of the proposed development alongside Glenshimmeroch (with higher turbines), Troston Loch and Cornharrow would exacerbate the cumulative landscape effects with Shepherd's Rig by closing in on the Stroanfreggan area and creating a wind farm landscape between the Cairnsmore hills and Culmark Hill.

3.247 Finally, because of the proposed site's position relative to Cairnsmore and the apparent divergence of the proposed site from the emerging wind farm pattern, we agree with the council that some of the significant cumulative visual effects would not necessarily occur in the absence of Shepherd's Rig. In this respect, we consider that views of Cairnsmore would not be affected to the same extent by the other baseline schemes, and the other baseline schemes largely consolidate the emerging pattern of development focussed on the higher elevations and set back from the central position of the Stroanfreggan area.

Reporters' overall conclusions on landscape and visual effects

3.248 In conclusion, we find the following:

- there would be no significant effects on landscape features;
- the proposed development would have significant landscape and visual effects, both individually and cumulatively;
- there would be significant effects on LCT 4, LCT 9, LCT 19 and LCT 19A;
- although landscape effects are focussed on the area <5 km from site, as might be expected for a development of this type, significant visual effects extend to 8 - 9 km in the context of the RSA, and given the concentration of sensitive receptors in the

Stroanfreggan area and the nearby location of the Cairnsmore hills, we agree with the council that such effects are not unimportant;

- the importance and prominence of views of the Cairnsmore hills and the value of those hills as a regional landmark and regional recreational resource has been underestimated by the applicant;
- there would be significant adverse effects on views from the Cairnsmore hills, especially by adding turbines into views where currently none are visible;
- there would be significant adverse effects on views to the Cairnsmore hills, particularly from the south and east, from the sensitive area of Stroanfreggan and from recognised walking routes including the SUW and the Stroanfreggan Heritage Trail;
- given the prominence of the Cairnsmore hills and their key role in designation of this part of the RSA, the significant landscape and visual effects identified would also adversely affect the special qualities of the RSA, in particular the sweeping and dramatic views of the hills;
- there would be an adverse scale relationship between the proposed turbines and the Head of the Ken Valley, particularly in the context of views from the Stroanfreggan area and from the Stroanfreggan Heritage Trail;
- from the SUW, these adverse scale effects would be less visible due to the nature of the topography, while the effect of diminishing the scale of the Cairnsmore hills would be more apparent;
- the proposals would create a wind farm landscape between the Cairnsmore hills and Culmark Hill;
- the siting and design of the proposed turbines is inconsistent with the emerging wind farm pattern in the wider area and, as a result, the proposal would have more significant adverse landscape and visual effects than existing and consented wind farms; and
- landscape and visual effects from the abnormal load route can be addressed via condition.

CHAPTER 4: TRAFFIC AND TRANSPORT IMPACTS

Introduction

4.1 [Chapter 15 of the EIAR](#) and [Chapter 15 of the AEI](#) assess the effects of vehicle movements to and from the proposed site associated with the construction, operation and decommissioning phases of the proposed development. They studied the effect on all routes to be used by construction vehicles between the site and the nearest trunk road, the A77.

4.2 The assessment of traffic effects considers that there is sufficient residual capacity on the routes to the site to accommodate the proposed construction traffic. Traffic associated with operation and decommissioning (where effects are much reduced due to there being no concrete deliveries) is not considered significant.

4.3 A potentially significant effect is identified in relation to pedestrian amenity at the schools in Carsphairn, Dalmellington and Patna. Mitigation measures are proposed in this respect, including scheduling deliveries outside of school opening and closing times; briefing drivers of the presence of these schools and lack of formal pedestrian crossing facilities; and briefing drivers of the part-time 20 mph speed limits in Dalmellington and Carsphairn.

4.4 An assessment of the route for abnormal loads from the Port of Ayr to the site is provided in [Appendix 15.1 to the EIAR](#). This assessment includes an indication of proposed mitigation works that might be required. It does not include detailed plans for, or an assessment of landscape and visual impacts of, the proposed mitigation works.

4.5 [Chapter 3 of the AEI II](#) provides an assessment of the offsite roadworks along the B729 between Carsphairn and the site entrance ('B729 Offsite Roadworks') required to facilitate turbine delivery for the proposed development. This was provided in response to a view expressed by the council (in response to the consultation on the AEI), that such an assessment was lacking. The assessment is focused on the matters where potential environmental effects may occur, which include: landscape and visual; ecology; cultural heritage; traffic and transport; and hydrology and hydrogeology. The assessment concludes that there would be no significant effects on any of these matters.

4.6 An [outline traffic management plan](#) (TMP) and draft conditions were submitted to Scottish Ministers on 11 May 2021. Comments were received on the outline TMP from the council and Ms Clubb. We held a hearing into traffic and transport concerns on 11 November 2021, attended by the applicant, the council, Ben Ade (on behalf of Carsphairn Community Council) and Fiona Clubb. Hearing statements were provided by all the participants:

- [Applicant](#)
- [Council](#)
- [Ben Ade on behalf of the Carsphairn Community Council](#)
- [Fiona Clubb](#)

Main points for the applicant

4.7 The applicant makes the following general points in written and oral evidence:

- the development of Shepherds' Rig wind farm would not result in any long term or any significant traffic impacts;
- the access route would be suitable for the delivery of all loads, be they bulk materials or abnormal loads;
- the transport impacts of the project would be short term, manageable, limited to the construction period, and could be addressed at this stage by planning conditions;
- the development of a robust construction Traffic Management Plan (TMP), to be secured by condition, would ensure the safe and efficient operation of the agreed access route from the A713 to the B729 for all road users, with incorporation of lessons from the comments made in the inquiry submissions and from recent operations to construct Windy Rig wind farm;
- key to implementation of the TMP would be the development of a robust management and review process (suggested additions to the TMP are set out below); and
- there were no objections to the proposals from statutory transport bodies and the council did not object on transport grounds.

4.8 A major source of concerns from objectors arises from a poor experience with the construction process for the nearby Windy Rig wind farm, primarily related to the use of a blade lifting technology which slowed the speed of delivery of the abnormal indivisible loads along the road network sufficiently to cause undeniable and irritating difficulties for local road users. The applicant notes that while a blade lifting trailer can reduce oversail (and therefore reduce mitigation works required such as removal of boundary walls, verges etc.) it is much slower than more conventional types of blade trailer. When in self-propelled mode, the trailer travels at walking pace. It accepts that the use of this trailer exacerbated delays for existing road traffic in the area during the turbine delivery phase of the Windy Rig project. However, a more conventional "Superwing Carrier" trailer is proposed for Shepherd's Rig, thereby reducing delays. In addition, wind-based delays, which had affected the Windy Rig arrangements, would not affect the type of trailer proposed for Shepherd's Rig.

4.9 We raised the idea of adding a condition to prevent the use of a blade lifting trailer, with a view to avoiding delays. While generally considered acceptable in principle, the applicant is concerned about wording such a condition to ensure that it encapsulates the rapidly developing technology around trailer design, for example, to allow for 'hybrid' trailers which are much faster than conventional styles. Windy Rig had been the first time that a tilting trailer had been used in the UK and therefore lessons have been learned from that. Port access arrangements in Ayr could also affect the type of trailer that could be used. The applicant agreed to work with the council to try to find suitable wording for a condition. Further discussion on this is provided in Chapter 6, alongside our proposed condition 22, set out in Appendix A.

4.10 To address the range of residents' concerns, the applicant has identified 15 additional measures that the TMP could include, beyond those already noted in the outline TMP, as follows:

- a) adjusting the site access junction to physically guide existing traffic away from turning left out of the site and thus being able to turn onto the B729 east of the site access junction;
- b) the creation of a Traffic Management Group to involve stakeholders, elected members, the community council and a sole point of contact for the applicant's team;

- c) a sole point of contact for the TMP who would have the responsibility to implement, review and maintain the TMP and ensure that it is fully and correctly implemented;
- d) a vehicle identification scheme to allow easy recognition of wind farm Heavy Goods Vehicles (HGVs);
- e) contractual clauses to force the use of the agreed access route and the use of disciplinary measures to self-enforce the plan and its measures;
- f) voluntary (i.e. those without a blanket Temporary Traffic Regulation Order) HGV speed limits within Carsphairn and along the B729, to be set in agreement with Carsphairn Community Council and Dumfries and Galloway Council;
- g) use of GPS trackers in HGV vehicles to review adherence to the agreed access route;
- h) wheel cleaning at the site access and the use of a road sweeper to keep the wider access route clean;
- i) regular tool-box talks for all drivers;
- j) enhanced signage package across the access network and regular maintenance to keep sign plates effective;
- k) specific Abnormal Indivisible Load (AIL) operations signs to help advise on movements;
- l) the use of a Section 96 agreement under the Roads (Scotland) Act 1984 to ensure the public road is maintained properly and that any damage is remedied by the developer without cost to the public;
- m) measures to address the needs for non-motorised road users including pedestrians, cyclists and equestrians;
- n) the provision of an AIL contingency plan; and
- o) a detailed review, management and implementation plan.

4.11 The applicant suggested a condition to support the creation of a Transport Monitoring Officer, whose role would be to monitor compliance with the Traffic Management Plan and report to the planning authority on works undertaken and on any incidence of non-compliance with the Traffic Management Plan. This would be addressed by our proposed condition 36.

4.12 The applicant suggests a condition to allow for the creation of a Community Liaison Group, as a vehicle for the community to be kept informed of project progress, should the community so wish. It is aimed at helping to minimise adverse impacts on local residents and businesses. This would be addressed by our proposed condition 37.

4.13 Overall the applicant considers that the council is broadly supportive of the applicant's evidence on transport. Transport issues can be adequately covered and the interests of the community all local road users sufficiently protected at this stage by the imposition of conditions in the form discussed in the hearing session on conditions.

Main points for the council

4.14 The council's hearing statement clarifies that the council as roads authority does not object to the proposals, subject to appropriate road-related conditions. The council's transport witness appeared at the hearing at our request.

4.15 The council indicates that an amount of accommodation works has already been carried out along the proposed route for previous wind farm developments and, as a result, it would generally be deemed suitable for wind farm traffic. Any further accommodation

works would require to be implemented to the satisfaction of the roads authority. The council acknowledges that although every effort would be made to keep delays to a minimum, there would be some delay to the travelling public during the escorting of abnormal loads.

4.16 The council proposes a condition requiring the appointment of a Planning Monitoring Officer. This is distinct from the proposed condition requiring a Transport Monitoring Officer. The council considers a Planning Monitoring Officer to be beneficial in providing a level of comfort to the community and providing a mechanism to resolve any traffic and transport issues during the lifespan of the development in an efficient manner. The council also suggests additional conditions relating to roads post-construction work, compliance of roads post-construction work and extraordinary damage to roads (see Chapter 6).

4.17 As a result of issues arising from the Windy Rig wind farm, the council highlights the ward event held in May 2021 to provide residents in and around Carsphairn with an opportunity to discuss the management of and communication regarding the road network with representatives of Windy Rig wind farm, their ward councillors and council staff. Recommendations from the ward event were reported to the relevant officer, area or Service committee for consideration.

4.18 The council discussed its role in inspecting roads during the construction phase of a development. Once a week a member of staff would travel the route to inspect road condition, as well as responding to customer-reported defects. Usually it would take around a month to rectify any issues identified. Cumulative issues were also discussed, where more than one wind farm might be using the same roads at the same time. The council emphasises that restrictions could be put in place to ensure vehicle movements do not coincide. However, on the basis of current information, no cross-over has been identified between Shepherd's Rig and other proposals.

4.19 We asked about any experience of situations elsewhere, where road repairs had not taken place following completion of a wind farm. The council was content that the necessary works have been undertaken in this area, with the completion of resurfacing of the C35 and major works to the B729 in connection with Windy Rig. The issue of causing mud to be left on roads, which the council confirmed is an offence, is also being addressed. Where this is caused by timber lorries, the council is able to contact the timber companies directly or through the Timber Transport Forum.

4.20 In terms of TMP enforcement, the council emphasises that the police is the over-arching enforcing authority. There is communication between the police and the council over the TMP and the council has advised the police about what is required in terms of TMP compliance. The council is content with the proposed introduction of a Community Liaison Group and supports the development of a comprehensive Communication Plan to assist in providing resolution to any issues identified by the community.

4.21 In terms of the detail of the TMP, the council is in agreement with 11 of the 15 additional measures proposed by the applicant for inclusion in the TMP. The four measures which are not agreed are (using the relevant references, as set out above):

- f) the council does not consider that voluntary HGV speed limits would work in practice and suggests omission of this proposed measure;

- j) the council does not wish to see a preponderance of signage and is content with the existing temporary signage proposals;
- k) the council is content that a vehicle messaging system approach, if that was considered necessary, would cover this measure and that a separate measure is not required; and
- m) the council is unable to agree this proposed measure due to lack of available details.

4.22 In addition to those matters discussed at the hearing, the council has the following detailed comments on the outline TMP dated May 2021:

- while the TMP does highlight the excluded routes (i.e. B729 from site towards Moniaive, B7000, etc.), it would assist if excluded routes were also shown on a plan to ensure they are completely clear to hauliers/drivers;
- the TMP contacts page should be updated with contractors, site managers, etc., including 24 hour / out of hours / emergency site contacts;
- the TMP should refer to Amey (not Scotland Transerv);
- a route survey and trial run should be undertaken by the haulier if the components are larger than those brought into adjacent sites using this route;
- if development is consented and more thorough route assessments are carried out, the TMP should be updated to include any findings of those assessments and to consult with the relevant authorities (Planning, Roads, Transport Scotland, Police Scotland).

Main points for Ben Ade (Carsphairn Community Council)

4.23 Carsphairn Community Council raised strong objections to the proposed development on 25 March 2019, 14 March 2020 and 24 May 2021. Mr Ade seeks to represent the community council's views with specific reference to traffic and transport.

4.24 Concerns are raised that the lower overall reduction in peak traffic movements in the AEI II is simply the result of the removal of two turbines in the revised layout (from 19 to 17 turbines). The revised development would have little difference in terms of traffic and transport to people living or driving along the B729.

4.25 The suggestion in the Environmental Impact Assessment Report that traffic impacts were 'not significant' in environmental terms is considered misleading and underplays the impacts on local residents and businesses. Mr Ade considers that impacts in terms of noise and fumes are in fact significant, and that his experience with other wind farms in the area is that wind farm traffic has increased not just in volume but also is more intrusive and potentially more dangerous, especially on the narrow winding B729 which is considered totally unsuitable for the type of transport proposed. He refers to the example of the two giant cranes relating to the Windy Rig development which had tipped over, owing in his opinion to inadequate road widening construction, causing road closures and disruption to residents for some weeks.

4.26 Mr Ade is concerned about what control the council or police have over the developers, for example, if transport-related conditions are ignored. He explains how his business had been adversely affected by last-minute cancellations of the abnormal load deliveries to Windy Rig due to wind. Mr Ade is supportive of more/better communication with the community, including the proposal for a Community Liaison Group, but wants to

know how this would work in practice. He suggests traffic monitoring cameras could be installed along the routes to the site, to assist with monitoring and also with litter.

Main points for Fiona Clubb

4.27 In advance of the hearing, Ms Clubb commented on the outline TMP from May 2021. She has significant concerns about the implementation and enforcement of the TMP. She strongly believes in taking into account first-hand experience of wind farm construction and listening to the experience of people in the affected community. She emphasises that those negatively affected by such developments expect far greater consideration prior to planning permission being consented, and that the mental health, lives and livelihoods of local residents depend upon it.

4.28 At the hearing session, Ms Clubb reflected in more detail on her experience around current and previous wind farm construction in the area and discussed her thoughts on why traffic problems had been experienced in this area and not elsewhere she had lived that was also affected by wind farm construction. She argues that the particular nature of the road network in and around the proposed site on the B729 and B7000 offers limited detour options, and that the twisty, narrow roads with overgrown verges in places, combine to result in very long delays if roads are blocked. She highlights the range of businesses operating in the area, including logging, haulage, livestock services, hay deliveries and other deliveries, resulting in a lot of traffic and significant knock-on effects in the wider area if blockages or delays occur. She refers to an incident when a child had been abandoned by the school bus at the side of the road because it was unable to complete its normal route. Taking into account other consented schemes at Glenshimmeroch, Troston Loch and Lorg, she argues that the whole road network in the area has been affected and she considers that the road network is not suitable for these developments.

4.29 She is particularly concerned about the ability to enforce the TMP, either by the council or by the police. In the past, the details of the TMP didn't appear to filter down to the contractors or lorry drivers, resulting in vehicles using unauthorised routes, or damaging or leaving mud on roads. She suggests that police patrol cars escorting abnormal routes are only seen in front of the delivery lorry and not behind, meaning that there is little awareness of delays building up behind the lorry. This, combined with insufficiently large passing places, contributes to significant delays for local residents and businesses.

4.30 Ms Clubb is supportive in principle of all measures to increase communication between the developers and the community. She supports vehicle messaging systems but argues that they rely on knowing when the vehicle has set off, to help establish whether or not there is time to avoid the delivery lorry. Often it is not possible to make the necessary route in time. She is supportive of the proposed Community Liaison Group, with a caveat around the capacity of local groups to engage effectively. She suggests that there are a large number of liaison groups in existence and the community council has already had to respond to over 40 wind farm proposals.

Reporters' conclusions

4.31 The applicant and the council have reached considerable agreement over the transport measures to accompany the proposal. Neither Mr Ade nor Ms Clubb have suggested specific conditions, although are generally supportive of the measures proposed. Mr Ade and Ms Clubb are particularly concerned over the enforcement of the traffic

management plan. We discuss the traffic management plan and the other transport-related proposed conditions below.

Traffic management plan

4.32 There is substantial agreement between the parties over the applicant's suggested additional measures to be included in the traffic management plan (TMP). The four items where there was disagreement are set out as follows, along with our findings. On item f), we note the council's position that voluntary HGV speed limits are not practicable. However, while they may not be effective for some drivers, they might be effective for others and they would bring to the attention of all drivers the need to be considerate and we therefore recommend that this forms part of the TMP. On item j), we note that the council is content with the existing temporary signage proposals. No other parties suggested additional signage (other than the separate discussion around vehicle messaging systems). We therefore propose not to add this measure.

4.33 On item k), we agree with the council that a proposed condition on a vehicle messaging system approach would cover the need for specific abnormal route signage, if necessary. The use of vehicle messaging systems in general was supported by the applicant, who emphasised that the TMP is a live document and where lessons have been learned, for example from Windy Rig, then measures can be added into the TMP. On that basis, we find that vehicle messaging systems could be introduced in agreement between the council and the applicant if required, and do not find it necessary to include a specific condition requiring them. On item m), while we note the lack of detail available, we consider that the range of proposed measures in the TMP would allow the needs of non-motorised roads users to be addressed.

4.34 We find that the enforcement of the traffic management plan is primarily a matter for the council and the police. We have not been made aware of any further measures or conditions that could be introduced to further enhance their roles in that respect, beyond those measures discussed in this chapter. Nevertheless, we note the council's efforts to enforce traffic management plans relating to other schemes in the area and to monitor road conditions and ensure damage is rectified. We also note its involvement in supporting the police to effectively enforce the TMP as required.

4.35 In light of the above, and given the proposed condition would allow the council to agree the final content of the TMP, we propose to add only a reference to voluntary speed limits. No other additions are proposed to the TMP.

Transport Monitoring Officer

4.36 The parties agree, as do we, on the benefits of appointing a Transport Monitoring Officer, to support enforcement of the traffic management plan. Our proposed condition 36 would require this.

Community Liaison Group

4.37 The council, Ms Clubb and Mr Ade are all in support of the applicant's suggestion to create a Community Liaison Group. We consider this to provide a useful means of community liaison. We anticipate some cross-over with the applicant's suggested creation of a Traffic Management Group (one of the 15 measures the applicant proposes to add to

the TMP) but find that proposed condition 37 would provide sufficient flexibility to the parties by allowing, rather than requiring, a community liaison group to be formed, helping to support the implementation and enforcement of the measures in the TMP. We therefore add this proposed condition.

Abnormal Load Route

4.38 Following the close of the inquiry, the parties sought to agree two additional conditions relating to the abnormal load route. First, a condition is proposed to control the type of trailer to be used for turbine deliveries. Secondly, a condition is proposed relating to the approval of mitigation works for the offsite roadworks relating to the Abnormal Load Route. As discussed further in Chapter 6, we recommend that the two conditions are attached to the consent, in proposed conditions 22 and 23.

Other matters

4.39 In addition to a Transport Monitoring Officer, the council considers there is a broader need for a Planning Monitoring Officer, while the applicant disagrees. As the scope of a Planning Monitoring Officer would extend beyond traffic and transport matters, we consider this suggestion in Chapter 6.

Overall conclusions

4.40 The applicant's evidence, as agreed by the council, indicates that construction traffic associated with the proposed development would cause no significant effects on roads in the vicinity of the proposed site. We acknowledge, however, the lived experience of local residents and business owners and recognise that the nature of the road network in the area can mean that blockages and slow-moving vehicles can cause significant delays and inconvenience for those residents and businesses. Experience from other wind farm projects has shown that heavy vehicles can also cause significant damage to narrow roads such as the B729 and the C35.

4.41 Nevertheless, a range of mitigation measures has been proposed, going beyond the applicant's initial suggestions. The mitigation measures also build on the council's recent experience with delays and damage to roads arising from other nearby wind farm developments. With the exception of the wider proposal for a Planning Monitoring Officer (which is discussed in Chapter 6) we accept the council's suggested additional conditions on post-construction road works and extraordinary damage. The proposed measures therefore include a requirement for a detailed traffic management plan to be agreed by the council, combined with a range of related measures, including proposed conditions on:

- Hours of construction;
- Roads post-construction work;
- Roads post-construction compliance;
- Roads extraordinary damage;
- Transport Monitoring Officer;
- Community Liaison Group;
- Abnormal Load Route – type of trailer; and
- Abnormal Load Route – mitigation.

4.42 In addition, there is scope for the applicant and the council to agree on the implementation of vehicle messaging systems, if necessary.

4.43 We recognise that there would be inevitable disruptions and inconvenience resulting from the construction and decommissioning phases of the proposed development. However, with the inclusion of a detailed TMP and related mitigation measures, we find that traffic and transport effects would be minimised. We also find that the proposed Transport Monitoring Officer and Community Liaison Group would provide local residents and businesses with clear avenues to raise concerns and seek speedy resolution of issues.

CHAPTER 5: OTHER RELEVANT MATTERS

5.1 This chapter covers those aspects of the development, as set out in the Environmental Impact Assessment Report and the subsequent additional environmental information, which were not subject to further oral procedure.

Forestry

5.2 The effects of the proposed development on forestry are assessed in [Chapter 7 of the EIAR](#) and [Chapter 7 of the AEI](#). This section of our report also considers the consultation responses from Scottish Forestry and the applicant's response to them, including the applicant's technical note (CD003.029.002), which clarifies aspects of the methodology for calculating the necessary compensatory planting.

5.3 Our report takes into account the applicant's response (CD010.002) to our request for further information on the extent and location of compensatory planting, and comments from Scottish Forestry (CD010.004) and the council (CD010.003) on the applicant's proposed approach. Scottish Forestry also suggests model conditions which are considered in Chapter 6 below.

Main points for the applicant

5.4 The proposal (as revised by the Additional Environmental Information report), is to provide 53.4 ha of compensatory planting. In response to our request for further information, and taking on board Scottish Forestry's comments, the applicant suggests the inclusion of a condition which would require the prior approval by the planning authority of a woodland planting plan to compensate for the removal of 62.72 ha of existing woodland.

Main points for SEPA

5.5 In relation to forest waste, SEPA advises that the applicant should contact the local SEPA office to discuss authorisation requirements and appropriate working practices. It notes that the bottom layers of brash can be reused using waste exemptions, otherwise all brash should be removed from the site. The site waste management plan must include forestry waste as well as any other waste arising from the construction works.

Main points for Scottish Forestry

5.6 On the basis that 53.4 ha of compensatory planting was being proposed, Scottish Forestry indicated that there was insufficient information on compensatory planting required for the removal of 61.1 ha (proposed at that time) of permanent woodland, to enable suitable conditions or legal agreements to be put in place. It advised that only felling directly required for the construction and operation of the proposed wind farm is consented through planning consent.

5.7 Following further submissions from the applicant, Scottish Forestry advised that the calculations for compensatory planting did not use the methodology in the published guidance on the Control of Woodland Removal Policy. It suggested that the shortfall was largely due to proposed compensatory planting on existing open ground in the forest, whereas its guidance stated that areas of open ground should not be considered for on-site replanting. Following our request for further information, the applicant proposed an

increase in the amount of compensatory planting, and Scottish Forestry now confirms it is content with the proposed condition that would require 62.72 ha of compensatory planting (see Chapter 6 below).

Main points for the council

5.8 The council indicates that it is content with the applicant's proposed condition to require 62.72 ha of compensatory planting, subject to additional wording to require that the proposed woodland planting plan was implemented.

Reporters' conclusions

5.9 Subject to proposed condition 35 on compensatory planting which takes into account the council's comments, we are content that the amount of such planting is commensurate with the amount of woodland to be lost through the proposals and therefore that the approach is consistent with the Control of Woodland Removal Policy. The requirement for a site waste management plan (which forms part of proposed condition 19 on a Construction Environmental Management Plan), addresses SEPA's concerns.

Ecology

5.10 The predicted effects on ecological features (excluding birds) are set out in [Chapter 9 of the EIAR](#), [Chapter 9 of the AEI](#), and Chapter 3.4 of the [AEI II](#) (on the potential ecological effects of the proposed B729 offsite roadworks) and in written responses to consultation responses from NatureScot, Fisheries Management Scotland, Marine Scotland and SEPA. Effects on hydrology and on peatland habitats are considered later on in this chapter.

Main points for the applicant

5.11 The assessment follows guidance for ecological impact assessment published by the Chartered Institute of Ecology and Environmental Management. It considers the direct, indirect, secondary and cumulative impacts on habitats and species arising during the all phases of the proposed development, including decommissioning and site restoration.

5.12 Mitigation measures have been incorporated into the design. The project also encompasses mitigation by practice, to ensure the safeguarding of protected species during construction and operation. The detail of several of these measures would be finalised through a Construction Environmental Management Plan (CEMP), which would be overseen by an Ecological Clerk of Works (ECoW). The assessment has not identified any potential significant effects of the proposed development including the B729 offsite roadworks, either alone or in combination with other schemes, on any receptors (even in the absence of mitigation) during construction, operation and decommissioning.

Main points for Marine Scotland

5.13 Subject to the appointment of an ECoW, the development of a North American signal crayfish construction biosecurity plan and the consideration of fish movements in the design of culvert crossings, Marine Scotland has no objection to the proposed development.

Main points for NatureScot

5.14 NatureScot is broadly content with the various survey methods and assessment of results as set out by the applicant. Subject to the appointment of an ECoW, the implementation of the construction method statement and environmental management plan, and appropriate site decommissioning, restoration and aftercare, NatureScot considers that there would be no long-term adverse impacts on non-avian habitats or species.

Main points for Fisheries Management Scotland

5.15 The developer is encouraged to consult the local district salmon fishery board (Dee District Salmon Fishery Board) and fisheries trust (Galloway Fisheries Trust) on the impact on fish, fisheries and fish habitats.

Main points for SEPA

5.16 The site would require a construction site licence in relation to the water environment, accompanied by a robust pollution prevention plan. SEPA welcomes the proposal for a biosecurity plan, and requests a condition to require this to be produced and implemented before works commence on site. It seeks to avoid development on blanket mire/bog, otherwise appropriate mitigation and compensation habitat enhancement should be put in place. Marshy grassland could be indicative of ground water dependent terrestrial ecosystems (GWDTEs) and mitigation to maintain hydrological connectivity should be provided for any infrastructure proposed within this habitat. GWDTEs may also be present in springs and flushes in forested areas and the ECoW should assess these areas post-felling and provide information on avoidance or mitigation, should GWDTEs be present.

Reporters' reasoning

5.17 Conditions are proposed requiring a Construction Environmental Management Plan (CEMP) and monitoring by the Ecological Clerk of Works. The CEMP would comprise a range of robust measures to address the consultees' concerns, including prior approval of an environmental management plan, pollution prevention plan, biosecurity plan, species protection plan(s) and water construction management plan. As a result, subject to proposed condition 15 and proposed condition 19, we are content that no further mitigation measures would be required.

Ornithology

5.18 The effects of the proposals on birds are included in [Chapter 10 of the EIAR](#) and [Chapter 10 of the AEI](#). This section of our report also considers the consultation responses on the EIAR and AEI from NatureScot and RSPB Scotland, and the applicant's response (CD003.025) from 22 July 2019 to the points raised in the RSPB consultation response, in relation to assessment methodology and effects on black grouse.

Main points for the applicant

5.19 The ornithology assessment methodology includes desk-based assessment, a variety of bird surveys, vantage point watches, collision risk analysis and cumulative assessment. The applicant states that all survey work has been undertaken in accordance with relevant NatureScot guidance. The likely effects of the proposed development on all bird species are not considered to be significant.

5.20 In response to concerns from RSPB Scotland, the applicant clarifies the following: the assessment methodology for calculating the radius of the buffer area; that the locations of the black grouse registrations are beyond 1.5 km of individual proposed turbines (as opposed to a measurement from the site boundary); and sets out the lack of need for further assessment of effects on black grouse as their reliance on habitats in the vicinity of the proposed development is found to be extremely low.

Main points for NatureScot

5.21 NatureScot broadly agrees with the applicant's conclusions that the proposed development would not have significant ornithological impacts. It advises that a revised version of its guidance on Recommended Bird Survey Methods to Inform Impact Assessment of Onshore Wind Farms was published in March 2017 (updated from the 2014 version).

Main points for RSPB Scotland

5.22 RSPB Scotland disagrees with the assessment of black grouse status in the area. It questions how the geographical radius of the 1.5 km buffer zone is derived and suggests that lekking males have been recorded within 1.2 km of the project boundary and therefore within 1.5 km of the proposed development. This is seen to warrant the inclusion of black grouse as a target species for consideration for mitigation measures and it strongly recommends the addition of a condition that habitat enhancement measures to benefit black grouse are included in management and design plans. It also recommends a condition to require a pre-construction survey to check for nest sites of red kites and other sensitive raptor species including goshawk within the project boundary, to inform any mitigation measures which may be necessary to avoid impact and disturbance to these species through construction activity.

Reporters' conclusions

5.23 With the applicant's clarifications on the assessment methodology, we are satisfied that RSPB Scotland's concerns over effects on black grouse have been addressed. We note that RSPB Scotland offered no further comments on the AEI. We find that proposed condition 31 on a Breeding Bird Protection Plan, requiring agreement from the planning authority, in consultation with NatureScot and RSPB, would minimise impacts on birds during the construction phase. We note NatureScot, as the Scottish Government's adviser on ornithology, finds no significant impacts. As a result, we are content that no further mitigation is required.

Cultural Heritage

5.24 [Chapter 11 of the EIAR](#) and [Chapter 11 of the AEI](#) are concerned with the effects of the proposed development on cultural heritage. Sections 3.5 and 4.4 of the AEI II deal with the cultural heritage impacts from the B729 offsite roadworks and the Lorg grid connection respectively.

5.25 Historic Environment Scotland (HES) initially objected to the proposed scheme on the basis of adverse impacts on the integrity of the setting of two scheduled ancient monuments: Craigengillan Cairn (within the site) and Stroanfreggan Craig/Fort (to the

southeast of the site). Following discussion with the applicant, revised layouts were proposed, to which HES's comments of 5 July 2019 refer. The applicant's preferred layout was then published and subject to consultation in the AEI. HES has subsequently confirmed that it has withdrawn its objection. This section of our report focuses on comments on the revised proposed layout and the applicant's response to those comments.

Main points for the applicant

5.26 The proposed development is considered to have likely significant effects, both direct and indirect, upon heritage assets within the site and at range beyond it. When combined with Longburn and Cornharrow, the proposals would result in Stroanfreggan Fort effectively having turbines across the entire north half of its viewshed, considerably changing its current setting and causing a significant cumulative additional effect. However, any effects on setting are considered fully reversible on decommissioning of the proposed development.

5.27 Mitigation embedded in the redesign of the proposed development resulted in the deletion of two turbines (T7 and T11) and the relocation of seven others (T4, T6, T8, T9, T10, T13, T16). The deletion of T7 and T11 and the relocation of T9 was agreed following consultation with HES in July 2019 (Table 11.1). HES also encouraged the relocation of T1, T2 and T5. However, to accommodate turbine spacing requirements as a result of moving other turbines due to peat depth, it was not possible to achieve the relocation of these three turbines.

5.28 With the redesign of the scheme, and with Longburn being dismissed, there are not predicted to be any significant effects on Craigengillan Cairn, or on the heritage assets in the outer study area: Stroanfreggan Craig/Fort and Little Auchrae farmstead and their settings. The applicant considers that, subject to implementation of archaeological mitigation measures, there would also be no significant effects on cultural heritage arising from either the B729 offsite roadworks or the Lorg grid connection in combination with the proposed development.

Main points for Carsphairn Community Council

5.29 Existing and consented wind farms should not encroach on local heritage sites and features in the ancient Galloway landscape and enjoyment of these sites would be spoilt by the presence of turbines in their view. A scheme of archaeological work should be implemented (in agreement with the council and HES) to preserve any unknown surviving remains. The community council disagrees with the concept of reversibility of effects after 25 years and considers that any effects on setting are immediate.

5.30 The community council considers that the bronze age burnt mound (MDG27135) near to Craigengillan Cairn is intended to be viewed and appreciated as part of the wider ritual landscape and should not be excluded from assessment. It is concerned that other heritage assets within the outer study area have not been considered, including burnt mounds on the Cornharrow Burn, a Northumbrian cross recovered from the nearby Image Pool, another medieval farmstead Meikle Auchrae, and at least six or seven more still extant medieval and/or earlier Ferm-toun properties within 5/6 km of Shepherds Rig.

5.31 The community council considers that there is a lack of practical mitigation measures relating to effects on Stroanfreggan Craig/Fort, which is one of Carsphairn's most important

and frequently visited cultural heritage sites. Also there is a lack of information on mitigation in relation to effects on field boundary walls and a lack of visitor-related, interpretive, education and/or site enhancement features that might mitigate the proposals' adverse visual impacts on the historical landscape.

Main points for Historic Environment Scotland

5.32 HES is broadly content with the methodology used to assess impacts, although the references to temporary and reversible impacts are not considered appropriate in the context of a 25 year timeframe for development. Also, references to whether or not sites are visited by the public is not considered relevant, as public viewing does not change a site's inherent value or its sensitivity to alterations in its setting.

5.33 HES objected to the original scheme on the basis of adverse impacts on the integrity of the setting of two scheduled monuments: Craigengillan cairn and Stroanfreggan Craig/Fort. It considers that the removal of turbines 7 and 11, and the relocation of turbine 9, reduces the impact of the proposed development on the settings of Stroanfreggan Craig/Fort and Craigengillan Cairn to a level where the project no longer raises issues of national interest. The proposals for forestry management in this area would open up views outwards from the cairn, although they would not fully mitigate impacts on views of the cairn. HES considers that the impact on the cairn remains potentially significant, allowing for a lack of certainty relating to impacts on views of the cairn, but withdraws its objection.

Main points for Scotways

5.34 Scotways highlights a Heritage Paths project which promotes a route to the east of the application site for its historic interest – the drove road from Sanquhar to Stroanpatrick which in part uses right of way DS17 – but does not object or suggest any conditions to attach to the application in relation to that route.

Main points for Dumfries and Galloway Council

5.35 Following revision of the scheme, the council does not expect the proposed wind farm to have significant indirect adverse impacts on, nor directly affect, designated cultural heritage assets with the application site or the local area.

Reporters' conclusions

5.36 We recognise the sensitivity of the Stroanfreggan area in the vicinity of the proposed development, given the location of several cultural heritage assets, and the convergence of the Southern Upland Way and the Stroanfreggan Heritage Trail. However, we consider the requirement for prior approval of a programme of archaeological work would ensure the protection of the relevant archaeological assets.

5.37 We agree that the impact on the setting of Stroanfreggan fort has reduced with the revised scheme (and the dismissal of the Longburn proposal) but that the effect on the setting of the fort and on Craigengillan Cairn would continue to be significant. We have discussed in Chapter 3 the adverse landscape and visual effects on Stroanfreggan Cairn/fort as represented by VP2.

5.38 We are content that the revised turbine layout and, in due course, the felling and the proposed replanting scheme, would reduce the impact on views outwards from Craigengillan cairn. Long-range views to the cairn from the southern and eastern approaches would continue to be restricted by surrounding forestry to the south and east, but the proposed replanting scheme would help to open up shorter-range views. While the closest proposed turbines are likely to affect the views of the cairn post-felling, taking into account the improvements to the setting via the replanting scheme and the withdrawal of HES's objection, we find that the effects would not be significant enough by themselves to justify refusal of the scheme. Subject to the proposed condition 27 on archaeological works and a replanting scheme in the vicinity of Craigengillan Cairn, we therefore propose no further mitigation measures.

Geology and Peat

5.39 [Chapter 12 of the EIAR](#) and [Chapter 12 of the AEI](#) provide an appraisal of the proposal's impact on geology and peat. Appendix 12.1 and Appendix 12.2 of the AEI provide an updated outline peat management plan and peat landslide hazard and risk assessment respectively, taking into account the revised turbine layout.

5.40 SEPA originally objected on the grounds of lack of information demonstrating minimal impact on the peat environment and on the basis that some of the proposed turbines would be placed in areas of deep peat. The redesign of the scheme was intended to address these concerns, as set out by the applicant in its letter to SEPA on 26 July 2019, found in Appendix 2 of the [outline peat management plan](#) (CD001.015). Following the applicant's intention to redesign the scheme, SEPA has confirmed the withdrawal of its objection. SEPA provided further comments on 27 January 2020 (CD003.019) in relation to the proposed new position of the substation.

5.41 Our report takes into account the concerns raised by SEPA. It also considers the matters raised by Ironside Farrar in assessing the peat landslide hazard and risk assessment on behalf of Scottish Ministers (Energy Consents Unit), as set out in Ironside Farrar's [stage 1 checking report](#) (CD002.015) and [stage 2 checking report](#) (CD003.009) and the applicant's responses to those reports (CD003.026, CD003.027). In addition, our report takes into account the consultation response from RSPB Scotland (CD002.021) and the applicant's response (CD003.025) to that.

Main points for the applicant

5.42 Following the scheme redesign (involving the removal of two turbines, re-location of five turbines to thin peat and re-location of two turbines to thinner peat), the revised development is not considered to result in any significant effects with regards to peat disturbance. The updated outline peat management plan documents the peat excavation and reuse volume calculations for the revised development. The updated peat slide risk assessment confirms that the risk of peat slide associated with the revised development is negligible. Matters raised by Ironside Farrar's stage 1 and stage 2 checking reports have been addressed and the outstanding issue relating to the re-evaluation of values does not affect the overall assessment outcome, including the Hazard Rank Zonation areas. On this basis, in the absence of mitigation, no significant effects are anticipated in relation to geology and peat.

Main points for Ironside Farrar (on behalf of Energy Consents Unit)

5.43 Energy Consents Unit commissioned Ironside Farrar to technically assess the applicant's Peat Landslide Hazard and Risk Assessments. The consultants raised a number of questions over the methodology for the assessments, including the effectiveness of the desk study and the reporting and mapping of certain findings. A series of recommendations was made, including the submission of a revised report taking on board the points raised. Ironside Farrar is content with the applicant's revised report, subject to an outstanding issue requiring re-evaluation of the value given for 'not proven' ground in the substrate co-efficient table.

Main points for RSPB Scotland

5.44 RSPB Scotland is concerned over the proposed original siting of a number of turbines on areas of peat from 3 - 4.5 m in depth. It suggests that the area of deep peat supporting blanket bog habitat in the south-west corner of the northern project area, which is partially designed as mixed low-density native broadleaves and open ground, should be left entirely as open ground and extended northwards to incorporate an additional area of blanket bog habitat, for the benefit of black grouse. It advises that a habitat management plan should be made a condition of any planning consent, to mitigate impacts on peat and ensure protection of blanket bog habitat. Following the scheme redesign, no further comments have been received on geology and peat from RSPB Scotland.

Main points for SEPA

5.45 SEPA was initially concerned that turbines would be placed in areas of deep peat (T16, T4, T6, T8, T9, T10 and T13). It requested a combined constraints and infrastructure plan to demonstrate that peatlands and other sensitive environmental receptors had been avoided. The applicant should demonstrate that the proposed micro-siting of up to 75 m was capable of mitigating impacts and that it was acceptable to the determining authority and other statutory consultees as suitable mitigation. The peat management plan should be modified to limit peat reuse on access track verges to areas where peat is already present.

5.46 Following the redesign of the scheme, SEPA has confirmed the withdrawal of its objection. It remains concerned that the revised location of the substation might affect the amount of peat that would be excavated and reused. As a result, it requests that the outline peat management plan be updated to reflect the revised totals for excavation and reuse.

Reporters' conclusions

5.47 Taking into account the consultation responses and the amendments to the outline peat management plan, and in view of the proposed conditions (see conditions 15, 16 and 19) that would ensure updating and monitoring of the peat management plan and micro-siting arrangements by the Ecological Clerk of Works (as agreed by the planning authority), we are content that there would be no significant effects on geology and peat.

Hydrology and Hydrogeology

5.48 The effects of the proposed development on hydrology and hydrogeology resources are assessed in [Chapter 13 of the EIAR](#) and [Chapter 13 of the AEI](#). Effects relating to the

B729 offsite roadworks are set out in section 3.7 of the AEI II. Our report takes account of the consultation responses from Marine Scotland, SEPA and Scottish Water.

Main points for the applicant

5.49 Key issues for the assessment of potential effects, include: chemical pollution; erosion and sedimentation; stream flow; private and public water supplies; soil and peat interflow patterns; compaction of soils; hydrological function of GWDTEs; acidification of watercourses; peat destabilisation and disturbance; and increase in runoff and flood risk. No significant effects are found in relation to these issues.

5.50 The revised scheme would remove one and add two other watercourse crossings, but the effects on hydrology and hydrogeology would continue to be not significant. Effects on hydrological resources associated with the B729 offsite roadworks are considered to be not significant.

Main points for Marine Scotland

5.51 Marine Scotland welcomes the proposed water quality monitoring programme. It recommends the type of monitoring programme that should be used, with monitoring to be carried out at least 12 months prior to construction commencing, during construction and for at least 12 months after construction, and the same sites used for both biological and hydrochemical sampling. A map outlining the proposed monitoring locations and the location of the turbines and associated infrastructure should accompany the monitoring plan. It recommends that the appointed ECoW carries out regular visual inspections of all watercourses, paying particular attention to watercourses where construction activities are taking place, where traffic is frequenting, during and after prolonged periods of precipitation and downstream of watercourse crossings.

Main points for SEPA

5.52 SEPA indicates that the site would require a Construction Site Licence under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR). The construction site licence would require an application accompanied by a robust Pollution Prevention Plan. The construction site licence does not negate the need for a construction environmental management plan (CEMP). SEPA welcomes the proposal for a biosecurity plan, which should be produced and implemented before works commence on site, and which should be secured by condition. CAR licences may also be required for water crossing, borrow pit discharges and concrete washout areas. There are no concerns regarding unacceptable impacts on private water supplies.

Main points for Scottish Water

5.53 While the site falls within a drinking water catchment, it is a relatively large catchment and as the activity is in the middle of the catchment, the activity is likely to be low risk. Scottish Water points to guidance it has produced on the protection measures to be taken within a drinking water protected area or wider drinking water catchment.

Reporters' conclusions

5.54 Taking into account the consultation responses, and subject to proposed condition 19 requiring a Construction Environment Management Plan (including a biosecurity plan), and monitoring of these by the ECoW as required by proposed condition 15, we are content that there would be no significant effects on hydrology and hydrogeology.

Noise

5.55 [Chapter 14 of the EIAR](#) and [Chapter 14 of the AEI](#) evaluate the effects of noise from the proposed development on nearby noise-sensitive receptors during construction, operation and decommissioning.

Main points for the applicant

5.56 Construction noise would be limited in duration and confined to working hours, and can be adequately controlled through embedded good practice measures and planning conditions. Noise during decommissioning is expected to be of a similar nature to that of construction and would be managed through best practice as required. As a result, no significant effects are predicted during construction and decommissioning. Operational noise effects (individually and cumulatively with other wind farms) have been assessed as complying with the relevant requirements in ETSU-R-97 at all receptor locations.

Main points for the council

5.57 The council's committee report (CD003.005) highlights Scottish Government advice in PAN1/2011 that advises planning authorities to apply noise criteria set out in ETSU-R-97. For wind farms, ETSU recommends that noise limits be set at 5 dB(A) above background for both day and night with an absolute fixed limit of 43 dB(A) for night time. The standard noise condition applied by the planning authority in accordance with advice from the council's Environmental Health Officer generally follows this guidance but goes further by reducing the noise emission level to 35 dB LA90 10 minute. The council is content that the proposal would comply with this condition, based on the predicted operational noise limits.

Reporters' conclusions

5.58 We are content that the methodology for assessing the noise effects on the nearest noise sensitive properties is in line with relevant guidance. Subject to proposed condition 30 on noise, we agree that there would be no significant effects.

Aviation

5.59 [Chapter 16 of the EIAR](#) and [Chapter 16 of the AEI](#) assess the potential for the proposed development to affect aviation communications, navigation and surveillance infrastructure in the vicinity of the site.

Main points for the applicant

5.60 The proposed development would have no residual effect on any military or civil aviation airport, communications, navigation or surveillance systems. A single turbine (T13)

would be visible to the Great Dun Fell radar, operated by NATS. The applicant recognises the need to resolve the impact of T13 through negotiation with NATS. In this regard, the applicant proposes a condition to require agreement of a Primary Radar Mitigation Scheme before the erection of any part of a turbine above ground.

Main points for NATS

5.61 NATS carried out a Technical and Operational Assessment dated 15 January 2019 which predicts that for T13 the terrain screening available would not adequately attenuate the signal, and therefore this turbine would be likely to cause false primary plots to be generated. A reduction in the radar's probability of detection, for real aircraft, is also anticipated. As part of this assessment, Prestwick Air Traffic Control indicates that this would result in an unacceptable impact on their operations. Following the identification and agreement of mitigation measures with the applicant, NATS has confirmed the withdrawal of its objection (30 November 2020), subject to the inclusion of a condition to mitigate the effects on the primary radar.

Main points for MoD

5.62 The Ministry of Defence has no objection to the proposed development, subject to the fitting of MoD accredited aviation safety lighting. In its consultation response of 24 January 2019, it notes the height of the proposed turbines as 15 turbines at 149.9 m to blade tip, and two turbines at (incorrectly) 152.00 m to blade tip. To make sure that military aircraft avoid the area, MoD also requests to be advised of the following prior to commencement of construction;

- the date construction starts and ends;
- the maximum height of construction equipment; and
- the latitude and longitude of every turbine.

Main points for Glasgow Airport

5.63 The proposed site is noted to be outside the safeguarding area for Glasgow Airport and as a result there is no objection to the proposals.

Reporters' conclusions

5.64 We note the typographical error in the MoD's response – the two lower turbines are proposed at 125 m in height, rather than 152 m. As all the turbines would be below 150 m, we are satisfied that accredited aviation safety lighting would not be required. However, we support proposed condition 28 to include a requirement to advise the planning authority, the MoD, the Defence Geographic Centre and NATS with regard to construction dates, heights of equipment and exact positions of turbines and masts.

Socio-economics, tourism and recreation

5.65 [Chapter 17 of the EIAR](#) and [Chapter 17 of the AEI](#) assess the proposal's effects on local tourism and recreation activity and on employment generation, including any indirect economic effects. Ms Clubb suggested at the pre-examination meeting that further information may be required on various topics, including on socio-economic impacts, tourism and recreation, and that these should be considered at the inquiry or hearing. It

was agreed that Ms Clubb would provide further detail on these issues, which she did in her statement dated 29 March 2021 (CD014.002).

5.66 Taking into account the applicant's evidence, and the other evidence on this topic, including Ms Clubb's statement, we consider that a key concern is the traffic and transport effects of the proposals. We therefore held a hearing session on traffic and transport matters on 14 November 2021, which Ms Clubb and Mr Ade (on behalf of Carsphairn Community Council) attended, alongside the applicant and the council. Further details of this are set out in Chapter 4. Effects on tourism and recreation arising from landscape and visual effects of the proposals were considered during the inquiry session, as set out in Chapter 3.

Main points for the applicant

5.67 The applicant projects a low (positive) economic impact for Dumfries and Galloway from the construction and development of the proposed wind farm, estimated at 204 job years and £19 million. Economic effects from the operation and maintenance phase is considered negligible, as are the effects on national, regional and local recreational attractions and paths and trails in the area. There is no evidence to suggest serious negative economic impacts of wind farms on tourists. In terms of tourism accommodation, there would be a low (negative) impact on the River Ken Cottage (approximately 2 km to the east of the proposed site), but negligible effects on the remaining 23 accommodation facilities in the assessment area.

5.68 The Economic Impacts of Wind Farms on Scottish Tourism (2008) study by Glasgow Caledonian University is perhaps the most comprehensive on the impacts of wind farms on tourism in Scotland. The findings of the literature review include little evidence of negative outcomes in sensitive areas and no evidence to suggest serious negative economic impacts of wind farms on tourists. The study also found that although 25% viewed wind farms negatively, the majority had either a positive or neutral view, and negative views were less widely held among hill walkers. Furthermore, respondents who had seen a wind farm were less likely to be hostile to them. Although a significant minority (20-30%) preferred landscapes without wind farms, very few would change their future intention to revisit Scotland based on them.

5.69 The most recent study undertaken of the effects of constructed wind farms on tourism in Scotland was the Wind Farms and Tourism Trends in Scotland report completed by BiGGAR Economics in October 2017. The study concludes that published national statistics on employment in sustainable tourism demonstrate that there is no relationship between the development of onshore wind farms and tourism employment at the level of the Scottish economy, at the local authority level, nor in the areas immediately surrounding wind farm development.

5.70 The applicant notes Mountaineering Scotland's 2014 survey that found that wind farms had an adverse effect on Scottish mountaineering. However, it highlights that the survey attracted criticism, including from its own members, some of whom felt that it was difficult to express positive attitudes about wind farms and that questions were biased in favour of negative opinions. Given Mountaineering Scotland's history of opposition to wind farms, it may not be considered independent, and the survey was conducted without independent oversight.

5.71 The majority of respondents (75%) to Mountaineering Scotland's further survey in 2016 answered that wind farms have no effect on their plans, although some expressed that they may decrease their enjoyment. Some (22%) responded that they go as often, but avoid areas with wind farms, while 1% go to the mountains less. However, 2% of respondents said they go to the mountains more often and like to see wind farms. This would suggest that the development of wind farms in Scotland would have an overall positive impact on the number of people who participate in hill walking; however, it may change which parts of the country that recreational walkers utilise.

5.72 A community benefit fund is proposed, based on £5,000 per MW installed capacity per annum, which would raise £393,000 annually for the local community. The applicant is also offering the community the option of a 10% shared ownership arrangement in the proposed development. The applicant considers that the scheme would offer benefits in terms of meeting policy objectives in relation to renewable energy. These are considered in Chapter 7.

Main points for Mountaineering Scotland

5.73 Mountaineering Scotland acknowledges that a wind farm produces some financial benefits. However, in a dynamic energy economy, achieving construction and operation benefits for the region and nation is not reliant upon the consenting of any one proposal.

5.74 In terms of tourism and recreation, Mountaineering Scotland does not disagree with the general proposition that well-sited wind farms have no effect. However, the planning system is not concerned with generalities but with the specific impacts of specific proposed developments in specific locations. That requires a properly focused approach to tourism and recreation impacts both in research and in practical application. This is almost entirely lacking in the available research and totally lacking in the broad-brush application of the applicant's desk-top assessment, that could be rolled out for any onshore wind proposal in Scotland.

5.75 From a review of the evidence undertaken for Mountaineering Scotland, the hypothesis that best fits the available, limited and far from perfect, evidence is that wind farms do have an effect on some tourism and recreation. The effect is experienced predominantly in areas where large built structures are dissonant with expectations of desired attributes such as wildness or panoramic (supposedly) natural vistas, and where a high proportion of visitors come from the 25% of tourists who are particularly drawn by the quality of upland and (seemingly) natural landscapes, with hillwalking visitors prominent amongst these. In short, tourism impact from wind farms is a consequence of visual impact from wind farms in the wrong places. In much of Scotland, and for most tourists, wind farms are no serious threat to tourism: the nature of the local tourism offer and good siting of wind farms mean they can co-exist.

5.76 The main adverse effect of wind farms on hillwalking recreation and tourism, thus far, is self-reported net displacement from areas perceived as being sullied, to areas seen as still retaining the desired sense of naturalness and space. Displacement from a border area such as Dumfries and Galloway might be to England, where the Lake District, Northumberland and Yorkshire Dales National Parks all provide accessible alternatives to Galloway.

5.77 An analysis of the tourism and recreation implications of a particular proposal needs to consider the nature of visitors to the area and the quality of landscape they are visiting. In areas of higher quality landscape, both the landscape and those choosing to visit might have higher sensitivity to wind farms than would be expected in areas of more modest landscape quality. There is no analysis of either in the applicant's assessment. The assessment does not apply a differentiated approach to landscapes or visitors. This failing is also evident in its empirical research on impacts in areas local to wind farms in which wind farms in all types of landscape were entered into a single unstructured analysis.

5.78 Analysis using BiGGAR Economics' own data and a list of wind farms consented in local landscape designations (such as Regional Scenic Areas) shows a negative impact on tourism from wind farms operational in such areas. This is the only attempt to date to analyse wind farm impact on tourism in Scotland in relation to the quality of host landscape. Mountaineering Scotland states that "it can be cautiously concluded, from the limited evidence available, that wind farms in locally designated landscapes have an adverse impact upon tourism-related employment in their local area. All three wind farms in such areas in this study lost employment (averaging 7%), compared with a Scottish increase of 15% between 2009 and 2015, and an increase of 35% in the vicinity of wind farms in non-designated areas" (Mountaineering Scotland, Supplementary to Wind Farms and Tourism in Scotland: a review with a focus on mountaineering and landscape, December 2017). This result is relevant because the great majority of the mountaineering tourism interest and activity that would be impacted by the proposed development – Cairnsmore of Carsphairn and the Rhinns of Kells – lies in the Galloway Hills Regional Scenic Area. The application site sits alongside and slightly within the Regional Scenic Area.

5.79 The applicant's assessment ignores the landscape quality of the impacted area, it also ignores the people most likely to be impacted. The applicant's description of the current tourism baseline includes three upland 'locations' (Galloway Forest Park, the Striding Arches and the Southern Upland Way) but does not link them to hillwalking and contains no mention of Cairnsmore of Carsphairn. Conversely it assesses a road-side tourist attraction in Gretna Green more than 60 km away from the proposed development.

5.80 In the EIAR, the applicant's assessment of impact on the upland attractions offers no substantive evidence but only opinion. For example, in relation to the Southern Upland Way it asserts "there is no reason to think that the visibility of this particular wind farm, in this section of the SUW, will have any additional positive or negative impact on the existing number of individuals choosing to walk this route" (paragraph 17.9.10 of CD001.003). It offers no evidence for this supposition and ignores the evidence of surveys of recreational walkers in Scotland that would suggest otherwise.

5.81 The applicant's assessment includes misleading information, including repeating a drafting error in the Glasgow Caledonian study of 2008 which finds, contrary to the applicant's assessment, that negative views of wind farms are no less widely held among hill walkers than other tourists. Similarly, the comparison in the Mountaineering Scotland survey of the number of visitors that had increased or decreased their hill visits in reaction to wind farms is not statistically significant and should not be used.

5.82 A proper understanding of the evidence on tourism and wind farms applied to the specific nature of the local landscape and the visitors attracted to it, leads to the conclusion that an adverse effect on hillwalking recreation and tourism from a wind farm at Shepherds' Rig cannot be excluded. It cannot be stated as a certainty because of the paucity of robust

relevant research. The nature of the local landscape and the generic attitudes of hillwalkers are known, but there is very little information on the visitors attracted specifically to this landscape or how important they are to the overall local tourism/recreation market locally or regionally. This information is not found in the Environmental Impact Assessment Report.

Main points for the council

5.83 In paragraphs 4.70-4.75 of its committee report (CD003.005) on the proposed development, the council notes the assessment of effects on socio-economics, tourism and recreation and finds that they have broadly been satisfactorily addressed in the applicant's assessment.

Main points for Carsphairn Community Council and Carsphairn Community Woodland

5.84 Carsphairn Community Council states that the Carsphairn hills are increasingly important to the local economy as a tourist and recreational asset. If the development were to include practical measures such as the creation of new paths and maintenance and improvement of existing routes, then this might be an additional attraction to the area. However, the enjoyment of local heritage sites and features in the ancient Galloway landscape would be spoilt by the presence of turbines in their view. It has a range of concerns over the impact on local roads, both to residents and businesses, and finds that the roads to be used during construction are highly unsuitable. It finds that the proposals would not support the sustainability of the Carsphairn community and further wind farms may deter new residents.

5.85 Carsphairn Community Woodland is working hard to address rural depopulation and social isolation through the purchase of Muirdrochwood Forest for community and visitors, bringing much needed jobs to the area. The location of the proposed development next to the forest would have a negative impact due to noise disturbance and visual impact, jeopardising its tranquil feeling. This is one area in the local environs that is not yet saturated with wind turbines and is recognised for its rugged landscape, through which the Southern Upland Way passes.

Main points for Ms Clubb

5.86 Ms Clubb is concerned about the viability of this remote, rural community and the effects on tourism, recreation and businesses operating in the area. She considers that the landscape and road network in the area combine to provide a perfect socio-economic base for recreation and tourism. The B729, which would be the transportation route to the site, is used extensively by camper vans, motorbikes, cyclists and horse riders and there is more tourist accommodation available than described. There are also many other businesses and farming enterprises active in the vicinity of the wind farm and which rely heavily on the road network.

Reporters' conclusions

5.87 From the evidence, we conclude that there would be economic benefits locally and nationally arising from the construction and operational phases of development. We address the wider policy benefits in terms of delivering renewable energy in Chapter 7.

5.88 The applicant's assessment notes that there are relatively few formal tourist facilities or attractions in the vicinity of the proposed site. We agree that the proposals would have no significant effects on formal tourism facilities or accommodation. This remote, rural area does however include important recreational resources, including routes for walking, cycling and horse-riding, e.g. the Southern Upland Way and other recognised routes such as the Stroanfreghan Heritage Trail.

5.89 While there is no evidence that wind farms have an adverse impact on tourism or tourism employment, we have found in Chapter 3 that the landscape and visual impacts of the proposed development would be significantly detrimental. These detrimental effects would be experienced in areas that are important to hillwalkers, including the Cairnsmore of Carsphairn and its associated hills, and the Southern Upland Way, particularly between Culmark Hill and Benbrack. While the applicant suggests Mountaineering Scotland has a history of objecting to wind farms, we note from its inquiry report (CD013.001) that Mountaineering Scotland has not objected to a large number of wind farm proposals situated in the extensive uplands north and east of Cairnsmore, and further south on the eastern side of the Glenkens. We therefore acknowledge the value that Mountaineering Scotland places on the area's hillwalking resource.

5.90 The applicant's proposals for a community benefit fund and shared ownership arrangements are not material planning matters and have not formed part of our consideration of the socio-economic effects of the proposal.

Shadow Flicker

5.91 Shadow flicker, which can arise inside a building when the moving shadow of a rotating wind turbine periodically passes over a constrained opening, such as a window, is considered in [Chapter 18 of the EIAR](#) and [Chapter 18 of the AEI](#).

Main points for the applicant

5.92 The Scottish Government's planning advice for Onshore Wind Turbines (CD005.004) suggests that where separation is provided between wind turbines and nearby dwelling (as a general rule, 10 rotor diameters) then shadow flicker should not be a problem. Two properties (Craigengillan and Craigengillan Cottage) are identified within the 10 rotor diameter study area where effects might occur, although the applicant considers that the effects, if they did occur, would not be significant. The next closest properties are generally located to the south of the proposed development, at a distance of around 1300 m. Given the distance and direction of those further properties from the turbines, it is considered that adverse shadow flicker effects outside the 10 rotor diameter study area are unlikely.

5.93 Potential mitigation measures are highlighted, relating to the two potentially affected properties, which could be controlled through planning conditions. These are: control at receptor (the provision of blinds, shutters or curtains to affected properties); control on pathway (e.g. screening planting close to an affected property; and control at source (e.g. shutdown of turbines at times when effects occur). Proposed conditions on such mitigation measures were not included in the draft conditions on 11 May 2021. However, in advance of the hearing on conditions, the applicant proposed a condition to require prior approval by the planning authority for (and implementation of) a scheme for the avoidance of shadow flicker effect.

Main points for the council

5.94 While the council notes that no significant effects are predicted on shadow flicker, it suggests the need for a suitably worded planning condition to require a mechanism to investigate any complaints on the matter and to mitigate any adverse effects as necessary. At the hearing on conditions, the council indicated that it was content with the applicant's proposed condition on shadow flicker.

Main points for Carsphairn Community Council

5.95 Carsphairn Community Council is concerned about the potential strobe effect on neighbouring properties, particularly from the proposed northernmost turbine in the height of summer.

Reporters' conclusions

5.96 The assessment of likely impacts is consistent with the Scottish Government's planning advice on onshore wind turbines, leading to two properties where effects are possible. On the basis that the applicant has identified three types of possible mitigation if effects occur, we are satisfied that proposed condition 38 would allow the planning authority to agree and enforce appropriate mitigation measures if necessary.

Telecommunications and utilities

5.97 [Chapter 19 of the EIAR](#) and [Chapter 19 of the AEI](#) deal with impacts from the proposed development on telecommunications and utilities, including below ground infrastructure, electromagnetic signals and television reception.

Main points for the applicant

5.98 Consultations have indicated no effects on existing telecommunications or microwave links, or on relevant utilities. In terms of television reception, the area surrounding the proposed site currently receives digital television signals. Digital signals are not generally affected by the operation of wind turbines. However, if a property already receiving a weak digital signal experiences additional blocking or reflections from wind turbines, the signal level may drop, causing the television to pixelate or cut out intermittently. Simple measures to boost the signal through an improved receiver are usually sufficient to correct the issue. While signals in houses close to the proposed development are not expected to be affected, in the event of interference directly attributable to the proposed development, the applicant would endeavour to implement a suitable mitigation solution. Nevertheless, the applicant maintains that a condition is not required as no potential issues have been identified.

Main points for the council

5.99 At the hearing on conditions, the council discussed the possibility that adverse effects on television reception could occur and the need to ensure mitigation if the situation arose. The council proposes a condition to require a baseline television reception survey and appropriate mitigation should effects be experienced.

Main points for the consultees

5.100 BT, the Joint Radio Company Ltd and Scottish Water all have no objections to the proposed development.

Reporters' conclusions

5.101 While we note the council's concerns, there is no evidence that the proposed turbines are likely to affect television reception in this location. While similar conditions may have been used elsewhere, in the absence of any significant issues being identified, we find that a condition requiring detailed survey work is unnecessary and we do not propose to include such a condition.

Health and safety

5.102 [Chapter 20 of the EIAR](#) and [Chapter 20 of the AEI](#) describe and assess the expected effects deriving from the vulnerability of the proposed development to risks (relating to the development) and to health and safety, including natural disasters and major accidents.

Main points for the applicant

5.103 Due to its location, the proposed development is not prone to natural disasters. Whilst adverse weather conditions, most notably high windstorms, ice-producing conditions and lightning strikes, do occur within Scotland, wind turbines are designed to withstand extreme weather conditions. Brake mechanisms, vibration sensors and lightning protection measures are installed on turbines allowing them to be operated under optimal conditions and inhibited during extreme weather events. The risk of construction accidents as they relate to human health and safety are detailed and managed through the Construction (Design and Management) Regulations 2015 and in the Construction Environmental Management Plan. Therefore, no significant effects are predicted in relation to health and safety.

Reporters' conclusions

5.104 No significant issues are identified by the applicant or consultees in relation to health and safety matters. Subject to proposed conditions to manage the construction and operation of the proposed development, including the Construction Environmental Management Plan, we are content that the proposals would be acceptable in health and safety terms.

Climate change and carbon balance

5.105 [Chapter 21 of the EIAR](#) and [Chapter 21 of the AEI](#) evaluate the effects of the proposed development on climate change and carbon balance, and AEI Appendix 21.1 includes updated carbon balance calculations based on the revised development (17 turbines).

Main points for the applicant

5.106 In terms of vulnerability to climate change, the turbines are designed and built to withstand extreme climatic conditions. In the near-term (i.e. 2040-2069) there would be no detectable significant change in the wind resources of northern Europe. As a result, the minor predicted changes in wind speeds during that timeframe would be highly unlikely to affect the operation of the proposed development.

5.107 In terms of the influence of the proposals on climate change, AEI Appendix 21.1 provides a balance of total carbon savings and carbon losses over the life of the wind farm (assessed at 25 years). The potential annual carbon emission savings for the proposed development (excluding proposed battery storage) would be 40,444 tonnes compared to grid-mix electricity. Over the lifetime of the wind farm, the expected overall carbon losses for the proposed development would be 99,483 tonnes. Carbon emissions are forecast to be cancelled out within approximately 2.4 years, compared to grid-mix electricity. The carbon emission savings for the operational lifetime beyond that (now proposed as 30 years) would result in a net benefit of the development to reducing climate change. The outline peat management plan demonstrates that all the excavated peat would be reused on site and the plan would be updated prior to construction, taking into account more detailed site investigation data.

Reporters' conclusions

5.108 We agree with the applicant's assessment of the vulnerability of the development to climate change and its finding that climate change would be highly unlikely to affect the operation of the proposed development over its proposed timeframe for operation and decommissioning.

5.109 In terms of effects on climate change, in the context of a 25 year development, we find that a 2.4 year payback period is reasonable and would be similar, in our experience, to other comparable wind energy proposals. For the remaining 22.6 years of the proposed development's lifetime, it would contribute positively in terms of carbon costs which we find to be a substantial net benefit. In Chapter 6 we also discuss proposed changes to the lifetime of the wind farm from 25 to 30 years, which would improve the scale of the net benefit. In addition, proposed conditions would require the updating of the peat management plan and its monitoring by the Ecological Clerk of Works. As a result we do not consider that further mitigation or changes to the design of the development to improve the expected payback period would be required.

CHAPTER 6: PLANNING CONDITIONS

Introduction

6.1 The council and the applicant sought to agree a set of conditions. The applicant circulated an [initial set of draft conditions](#) (CD016.001) dated 11 May 2021, containing comments from the council. A [second set of draft conditions](#) (CD016.006) was published on 4 August 2021, showing further agreement between the parties on a number of matters. A [third set of draft conditions](#) (CD016.008) was submitted on 5 November 2021, prior to our hearing session with the applicant and the council on 12 November 2021 to discuss the outstanding matters, and to help inform our conclusions and recommendations. Three [additional conditions](#) (CD016.009) were also proposed by the applicant at that time.

6.2 The council and applicant have reached agreement on many of the terms of the conditions. We discuss below the conditions which were not agreed between the council and the applicant. We also highlight those conditions where agreement was ultimately reached, either during or immediately after the hearings.

6.3 Our assessment below refers to the conditions as numbered in the three draft sets of conditions prepared by the council and applicant. All of our recommendations below (as well as other minor edits we recommend for clarity and consistency) are incorporated into a revised set of conditions at Appendix A, with revised numbering resulting from our assessment.

6.4 These proposed conditions would, subject to our comments below, deal with the matters raised by statutory consultees which we consider are necessary and appropriate to be incorporated into the conditions, even if not always in the same terms as suggested. They would also secure the mitigation measures discussed throughout the report. Should Scottish Ministers be minded to grant the application, we recommend the conditions at Appendix A are imposed.

Draft condition 1: Duration of the consent

6.5 The applicant requests that the duration of the consent be set at 30 years. The council maintains that, for the benefit of third parties and consultees, 25 years should be the duration of the consent as this is the time period throughout the documentation and the time period on which the environment impact assessment has been based.

6.6 We have considered the benefit of maintaining consistency between the application documentation and the consent. However, given that the proposals are assessed for their suitability in perpetuity, and the lack of any evidence of adverse practical implications in extending the duration of the consent, we find the longer period reasonable and amend the draft condition to state 30 years.

Draft condition 6: Approved details

6.7 The applicant is concerned that the draft condition is too imprecise and unenforceable. It suggests that the contents of Table 4.8 of the EIAR and Table 4.4 of the AEI could form the basis of a more precise condition. The council considers that conditions similar to the draft condition existed in other consents. Both parties agreed to discuss further and to seek to agree a revised condition, which was submitted on 3 December 2021.

The revised draft condition, agreed by both parties, includes specific references to the suggested tables in the EIAR and AEI and, as such, we are content to include the proposed condition.

Draft condition 7: Redundant Turbines; Draft condition 8: Failure of Development to Generate Electricity; Draft condition 13: Supply of Energy to the National Grid

6.8 The council suggests amended wording for draft condition 7 to ensure written approval by the planning authority within 3 months, of a scheme for dismantling and removing any necessary turbines and related site restoration, which is supported by the applicant. At the conditions hearing, we queried whether the removal of foundations to a depth of 1 metre below ground, as suggested by the council, was more or less effective in the interests of nature conservation and peat preservation, than removal of infrastructure only to ground level. The applicant confirms that removal of foundations to a depth of 1 metre below ground is best practice and that the condition has sufficient flexibility to allow for change if best practice was to evolve.

6.9 In addition the parties agree that draft condition 8 and draft condition 13 are unnecessary in light of the revised wording for draft condition 7. We accept the revisions to draft condition 7 (correcting a reference to 12 months, which should read 6 months) and delete draft conditions 8 and 13.

Draft condition 9: Design and operation of wind turbines

6.10 The applicant agrees, as do we, with the council's addition of 'been submitted and approved in writing' to the end of clause (1). We add this to the proposed draft condition.

Draft condition 11: Design of Sub-station, Ancillary Buildings and other Ancillary Development

6.11 The council agrees, as do we, with the applicant's proposed minor amendment to ensure that the approved details shall be implemented. We make this amendment to the proposed condition.

Draft condition 12: Site Decommissioning, Restoration and Aftercare

6.12 Following agreement on the duration of the consent under draft condition 1 (from 25 to 30 years), the parties agree to the consequential amendment to proposed draft condition 12, sub-section (1). The council also makes minor amendments to sub-section (2), accepted by the applicant, to ensure removal of above ground elements. Sub-section (3) of this draft condition refers to the submission of a detailed decommissioning, restoration and after plan, no later than 18 months before decommissioning of the development. The council initially requested that the 18 months should be replaced with 3 years, but concludes that 18 months is acceptable. As a result, we accept the agreed amendments within each sub-section.

Draft condition 14: Financial guarantee

6.13 The applicant is concerned that the proposed condition does not provide for an independent professional to be appointed if the original value of the guarantee is not agreed with the council. In addition, it is concerned that the requirement for an independent

professional to always be appointed does not allow for the possibility of agreement with the council at the review period and the requirement for the council to approve the independent professional's reviewed value, would give the council the final say. The council is content with the wording – in the event of a worst case scenario, the council does not wish to be left with a large financial liability. The council indicates that this approach had been used in other consents, such as Troston Loch (CD009.049).

6.14 We acknowledge the council's concerns over financial liability while recognising the opportunity for the provision to be more fairly balanced between the parties' interests. We therefore propose alternative wording which allows for the original and review values to be independently determined and to allow for the possibility that the parties agree over the review value and/or its frequency.

Draft condition 15: Micro-siting

6.15 The council suggests changes to the proposed draft condition to: tie the micro-siting back to the proposed turbine locations in Figure 4.2 of the AEI; to add a new section 1(b), which seeks to avoid moving turbines to locations where the peat depth exceeded that shown in Figure 4.1 of the AEI and the peat depth is more than 1.5 m; and to avoid micro-siting within areas hosting Ground Water Dependent Terrestrial Ecosystems (GWDTEs). The council also proposes a change to allow for amendment to the scheme with the approval of the planning authority. The applicant is content with the changes. We agree that these are helpful amendments to strengthen the protection of peat and GWDTEs and have incorporated those into the proposed condition.

Draft condition 16: Borrow pits – Scheme of Works

6.16 The council proposes changes to provide further detail on what the scheme of works should contain, including an assessment of the potential for and mitigation of effects on nearby buildings from air over pressure or ground vibration, and a requirement for a publicity scheme in relation to any necessary blasting. The applicant is content with the proposed wording. We agree that the council's proposed changes clarify what the scheme of works shall contain and we therefore accept the council's proposed condition.

Draft condition 18: Ecological Clerk of Works

6.17 The applicant suggests it is not necessary for the ECoW to continue to be appointed beyond the post-construction restoration works and suggests wording to clarify that the appointment term would be end on completion of the post construction restoration works aftercare phase. The council is content with this proposed change. We agree that the amendment would provide clarity on the terms of the ECoW's appointment and therefore make the relevant amendment to the proposed condition.

Draft condition 19: Construction Method Statement; Draft condition 20: Construction Environmental Management Plan

6.18 Parties agree that draft condition 19 is not required. There is debate around whether draft condition 20 should set out the parties to be consulted by the council - the applicant considers it unnecessary and the council states that it provides clarity and precision, for the benefit of all parties including members of the public. The council suggests that this approach had been used in the Troston Loch decision (CD009.049).

6.19 The council also proposes a more detailed list of requirements in the draft condition, and to move the bird protection plan requirements into a standalone condition. In consultation responses, Fisheries Management Scotland and Marine Scotland Science discuss the type and frequency of water quality monitoring and the need for visual inspections of watercourses by the ECoW. SEPA requests a condition on a biosecurity plan.

6.20 We agree there is some benefit to wider stakeholders in setting out the consultation bodies, without creating any additional burden on the applicant. Similarly, we note the applicant's view that the reference to best practice methods is not strictly necessary, but find no practical difficulty with its inclusion. We therefore propose to incorporate these two elements to proposed condition 19.

6.21 For the sake of clarity we agree with and incorporate the council's more detailed list of requirements into proposed condition 19. To ensure consistency with proposed condition 15 we also propose to add references in proposed condition 19 to species protection plan(s), a water construction environmental plan (including water quality monitoring programme), a construction biosecurity plan and a peat management plan. We consider that these would effectively address the concerns raised by Fisheries Management Scotland, Marine Scotland Science and SEPA, and avoid impacts on relevant habitats or species. Bird protection matters are covered separately in the proposed condition 31 relating to a Breeding Bird Protection Plan. We therefore delete the previous draft condition 19 on the construction method statement, and propose that these changes are made to the proposed condition 19 on the construction environmental management plan.

Draft condition 21: Hours of construction

6.22 In addition to operating hours for construction work in general, the council suggests an additional element, to set operating hours specifically for Heavy Goods Vehicle (HGV) movements. The applicant is content. We therefore add this element to the proposed condition.

Draft condition 22: Traffic management plan

6.23 The council suggests amendments to the form and content of the draft condition, in the interests of clarity and consistency. The applicant is content with the proposed changes, which we find make no substantive change to the condition, and which we therefore accept. While the council considers they would not be practicable, we consider that the applicant's suggestion for voluntary Heavy Goods Vehicle speed limits would help to encourage considerate driving, and we therefore propose that this forms part of the Traffic Management Plan. Although the applicant has suggested a number of other additional items that the TMP should cover, we do not find that these need to be inserted into the proposed condition, given that the council has the ability to approve the TMP. The only exceptions are the proposed additional conditions on post-construction works and compliance, which we deal with below.

Draft condition 24: Biodiversity plan

6.24 Following the submission of a proposed condition on compensatory planting (see proposed condition 35), parties agree that the reference to compensatory planting in 2(b) of

the draft condition should be removed. We agree the reference is no longer necessary and make that amendment to the proposed condition.

Draft condition 30: Planning Monitoring Officer

6.25 The council seeks a condition requiring the appointment of a planning monitoring officer. The applicant disagrees, considering instead that this should be a function carried out by the council. The council cites Scottish Ministers' approach to require planning monitoring officers in recent decisions, such as Troston Loch (CD009.049), suggesting this indicates that their inclusion is seen as beneficial. While we note the previous example of the Troston Loch application, we are not convinced that it is appropriate to require the developer to fund the costs of a planning monitoring officer in this case, particularly since we propose to include conditions requiring a Transport Monitoring Officer and an Environmental Clerk of Works. We are content that these roles would work effectively alongside the council in enforcing the requirements of the consent.

Draft condition 31: Aviation Safety

6.26 The parties agree that, subject to the inclusion of draft condition 27 on Air Safety, draft condition 31 is not necessary. We agree and include proposed condition 28, with the deletion of the reference to aviation lighting, which is not required as the turbines are under 150 m in height.

Draft condition 33: Final commissioning

6.27 The applicant considers that this condition is not necessary, since a developer already has responsibility to carry out the development in accordance with the terms of the consent. The council supports the inclusion of the condition, citing its inclusion in the Troston Loch permission. It suggests the title of the condition should be revised to 'site investigation plan'. We are not convinced that this condition is necessary, given the legal requirement to implement the terms of the consent. We do not propose to include this condition.

Draft condition 34: Television Reception

6.28 The applicant notes that this condition is sometimes seen in other consents, but only where there is potential for there to be a reception issue, which it considers is not the case here. The council has no specific concerns over reception, but considers it necessary in the interests of consistency and points towards Chapter 19 of the EIA report which deals with impacts on telecommunications and utilities. We find that Chapter 19 does not identify any likely issues. We therefore find that the proposed condition is unnecessary in this case, and do not propose to include it.

Draft condition 35: Roads Post Construction Work; Draft condition 36: Roads Post Construction Work Compliance

6.29 There was discussion around whether these conditions should be dealt with as part of the Traffic Management Plan or as standalone conditions. The applicant considers it to be more efficient to deal with it in the TMP, while the council feels it is not the common approach and points to the approach in conditions 23/24 of the Troston Loch consent (CD009.049). We note the approach in the Troston Loch permission and consider that

these are distinct matters which are important to include, given the issues arising from the construction of other wind farms in the area, and should be dealt with separately from the TMP. We therefore add proposed conditions 32 and 33 in this regard.

Draft condition 37: Roads extraordinary damage

6.30 The applicant considers that a condition is not necessary but the council states that a condition is needed to require the payment to be made, under the terms of section 96 of the Roads (Scotland) Act 1984. We consider it normal practice for such a condition to be included to ensure payment in the event of damage, and we therefore include proposed condition 34 to address this.

Draft condition 38: Compensatory planting

6.31 Parties agree on the inclusion of the draft condition. Scottish Forestry suggests the inclusion of a clarification that the definition of ‘commencement of development’ shall include ‘commencement of any felling works consented through the planning permission’. Parties agree on this. Scottish Forestry also provided on 21 September 2021 more detailed model conditions (CD016.007) but parties consider that these are too long and the requirement in paragraph 4 of the model condition to have all consents in place before commissioning is not considered by the applicant to be practical and could render the proposal unviable. We accept the views on the model conditions and therefore add proposed condition 35, with the clarified definition from Scottish Forestry.

Proposed additional draft conditions

6.32 In advance of hearing 3 on conditions, three additional conditions were proposed by the applicant relating to a Transport Monitoring Officer, a Community Liaison Group and Shadow Flicker. As discussed in Chapter 4, during the course of the hearing there was discussion around the need for two further conditions on the type of trailer for and landscape mitigation works relating to the Abnormal Load Route.

Additional draft condition: Shadow Flicker

6.33 Paragraphs 4.59-4.60 of the council’s committee report dated 5 August 2020 (CD003.005) suggest a need for a condition on investigation and mitigation of shadow flicker effects. The applicant has recommended a condition to address this matter, with which the council is content. We agree this is would provide recourse if issues arise and therefore add proposed condition 38 to address this.

Additional draft condition: Abnormal Load Route – trailer type

6.34 In relation to the abnormal load deliveries, the parties discussed the benefits and disbenefits of traditional trailers versus tilting trailers. It is the intention of the applicant to use a traditional trailer, which could go at faster speeds than the tilting trailer and is therefore likely to cause less delays. However, due to its design, the traditional trailer is likely to require more accommodation works and mitigation, including removal of verges and walls. We queried whether the planning authority should, through a condition on the type of trailer, hold some control over the type of trailer to be used in the proposed development, in the event that the developer wished to move to a different type of trailer (with different impacts) later.

6.35 Substantial agreement has been reached between the parties on the wording of a proposed condition. They have not been able to agree on the use of the word ‘minimising’ or ‘avoiding’ in relation to conflicts with other traffic movements:

“No development shall commence for the delivery of abnormal indivisible loads to the site until a scheme has been submitted to and approved in writing by the planning authority. The scheme, which shall be implemented as approved, shall include provisions for avoiding [council] / minimising [applicant] conflict with other traffic movements.”

6.36 We note that the abnormal indivisible loads are one part of the total traffic movements related to the proposed development. We have taken into account the fact that this condition would give the planning authority additional control over the type of trailer to be used and therefore over potential delays that might occur for these traffic movements. The proposed condition should also be seen alongside other traffic and transport related conditions, including those on the Traffic Management Plan, the Traffic Monitoring Officer and the Community Liaison Group, which together seek to mitigate impacts on the local environment and community. We note, in particular, that the proposed condition on the Traffic Management Plan is required to include measures to ‘minimise’ traffic impacts on existing road users. We therefore find the applicant’s wording to be reasonable and consistent with other conditions, and we include proposed condition 22 on that basis.

Additional draft condition: Abnormal Load Route – offsite roadworks

6.37 As the details of the landscape mitigation works for the abnormal load route were not yet finalised, the parties agreed to develop a condition that would allow the planning authority to approve the final details of the mitigation measures before the offsite roadworks commence. The parties agree on the proposed wording and that this should be a separate condition, rather than an additional sub-section to the condition on the Traffic Management Plan. We consider that the proposed condition would allow the planning authority to agree in advance any necessary mitigation and we therefore add proposed condition 23 in this regard.

Other conditions

6.38 This chapter deals with the proposed conditions which are the subject of debate between the parties or where we consider that changes are required. We have no comments on the remainder of the proposed conditions and we are content that they would comply with Circular 4/1998 (CD008.003) on the use of planning conditions.

Reporters’ conclusions on conditions

6.39 Following on from the discussion above, we are satisfied that the full list of conditions as set out at Appendix A are reasonable and necessary if the consent is granted, having regard to the likely impacts, the mitigation required to offset these, all considered in detail in this and the preceding chapters.

CHAPTER 7: POLICY EVIDENCE AND CONCLUSIONS

Introduction

7.1 Chapter 2 of our report sets out the legislative and policy context for our assessment. Our assessment is made in the context of Schedule 9 of Section 36 of the 1989 Electricity Act. However, Schedule 9 is not a policy test. While the development plan is a consideration, Section 25 of the Town and Country Planning (Scotland) Act 1997 is not applied.

7.2 A hearing was held on policy matters on 11 November 2021, with the applicant, the council and Mountaineering Scotland. Their hearing statements on policy are as follows:

Applicant – [policy statement](#)
Council – [policy statement](#)
Mountaineering Scotland – [policy statement](#)

7.3 Links to the parties' further submissions on the draft National Planning Framework 4 are set out below:

Applicant - [submission on draft National Planning Framework 4](#)
Council - [submission on draft National Planning Framework 4](#)
Mountaineering Scotland - [submission on National Planning Framework 4](#)

7.4 For ease of reference, and with the exception of Ms Clubb who did not submit a closing statement, the parties' closing submissions (insofar as they include summaries of their party's policy position) are set out below:

Applicant – [closing submissions](#)
Council – [closing submissions](#)
Mountaineering Scotland – [closing submissions](#)
Mr Ade/Carsphairn Community Council – [closing submissions](#)

Summary of the applicant's position

Legislation

7.5 The applicant does not yet hold a generation licence and therefore the statutory duties set out in paragraph 3 of Schedule 9 to the 1989 Act do not apply to the applicant when formulating proposals for consent under Section 36 of the 1989 Act. Nevertheless, the applicant has, through the EIA process, had full regard to the matters set out in paragraph 3(1)(a) of Schedule 9. Section 25 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) is not engaged in Section 36 cases but that is not to say that the development plan may not be a significant material consideration in a particular case.

7.6 Section 44 of the Climate change (Scotland) Act 2009 requires public bodies to act in the way best calculated to contribute to the delivery of the targets set out in the Act and in a way that it considers is most sustainable. The targets referred to in Section 44 of the Climate Change (Scotland) Act 2009 are to be found in Section 1 of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. Section 1 places a duty on the Scottish Ministers to ensure that the net Scottish emissions account for the net-zero emissions target year of 2045 is at least 100% lower than the baseline, with binding interim targets for 2020, 2030 and 2040.

7.7 Section 3A of the 1997 Act requires the creation of a National Planning Framework. This will be National Planning Framework 4 in due course. Under Section 3A, the National Planning Framework must contain a statement about how the Scottish Ministers consider that development will contribute to each of the outcomes listed in sub-section (3A). Those outcomes include (in Section 3A(3A)(e)) “an assessment of the likely impact of each proposed national development’s life cycle greenhouse gas emissions on achieving national greenhouse gas emissions reduction targets (within the meaning given in the Climate Change (Scotland) Act 2009)”. It is clear that National Planning Framework 4 is intended to be the policy instrument to ensure that the legally binding interim and 2045 net-zero targets are met and the draft contains the national outcome quoted above within Annex 5.

7.8 Until the National Planning Framework 4 is approved by Parliament and issued, the legal obligations are for the Scottish Ministers to observe. In terms of the planning balance, Scottish Ministers must act in the way specified in Section 44 of the 2009 Act. This does not mean that every application for a wind farm must receive a consent, but in the applicant’s view it means that every single relevant decision must have specific regard to the performance of Scotland against the net-zero targets. The reporters’ duty is to give appropriate weight to the legal duties and it is suggested that at least the following factors come into play.

7.9 Firstly, are the 2030 targets, being those which are most immediate, a continuing challenge? If they were going to be met with ease whatever the decision on Shepherd’s Rig then less weight might be attributed to the targets in the planning balance. But if, as is clear from the applicant’s evidence on policy, the challenge for 2030, and so for 2045, is immense and getting harder, then the weight given to this matter should be very great. It alters perceptions of the planning balance in the particular circumstances applying now – a Climate Emergency with consequent legal environmental duties of the utmost seriousness. Secondly, if the council is to play its part by contributing more onshore wind generation then the primary focus for new projects should to be within the area which the council has itself said would be the “least objectionable”.

7.10 The applicant is concerned that some reporters are failing to give appropriate cognisance to key legislation (and to related policy) in their decisions and in reports to the Scottish Ministers. In this respect, they consider that greater weight should be given to the benefits of the proposals in light of the other legislative interventions and statements of Government policy that have arisen since Scottish Planning Policy and National Planning Framework 3 were published in 2014. Examples of approaches by reporters are set out in paragraphs 2.5.1 – 2.5.13 of the applicant’s policy hearing statement (CD011.002).

National energy policy

7.11 The urgent need for onshore wind has been set out: an increase of this renewable energy technology is supported through a number of policy documents and by Scottish Government commitments. The technology was already viewed and described as vital to the attainment of targets in 2017. This imperative has only increased since a Climate Emergency was declared by the First Minister in April 2019. Furthermore, the drive to attain net zero emissions is now legally binding at the UK and Scottish Government levels by way of amendments to the Climate Change Act 2008 and in Scotland with the provisions of the Climate Change (Scotland) Act 2009 and the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.

7.12 Overall, the renewable energy policy framework is a very important consideration and one that should attract great weight in the balance of factors in the determination of the application. It also needs to be acknowledged that the need case with regard to renewable generation as set out in NPF3 and SPP was predicated on emissions reduction targets that are now superseded by more challenging targets, to be achieved sooner. The documents are under review and the targets referred to in them have to a large extent been overtaken by new renewable energy targets and statutory emissions reduction targets.

7.13 Commercial scale wind turbines are by necessity large structures. It is not therefore surprising that some significant landscape and visual effects have been identified. The design of the wind farm has had landscape and visual effects as a key design influence from the outset, and the resultant effects are not considered unacceptable. The effects arising are not disproportionate for a renewable energy project of this size.

7.14 The socio-economic benefits are also now of particular importance given the unprecedented current economic crisis. The letter from the Chief Planner on Planning Procedures and COVID-19 (CD005.010) is clear in stating that “planning has a crucial part to play within and beyond the immediate emergency” and makes reference to the planning system’s critical role in our “future economic and societal recovery”. When this is considered alongside the policy imperative in response to the Climate Emergency – great weight should be placed on the benefits that would arise from the development.

7.15 While the Onshore Wind Policy Statement Refresh (CD007.053) signals a need for an additional 8 - 12 gigawatts (GW) of onshore wind by 2030, it is not possible to rely on the figures in the statement for schemes in the pipeline. As little as 1.5 GW of the 4.64 GW consented schemes may ultimately come into operation, as the tip height of many consented schemes will no longer be viable (following the loss of subsidies), and some consents will lapse. Furthermore, perhaps only 2.5 GW of the 4.69 GW of schemes in planning may come forward. In total, the applicant’s figures for consented (1.5 GW), in planning (2.5 GW), under construction (0.5 GW) and repowering (1.5 GW) would contribute 6 GW. Adding this to the 8.4 GW of current capacity, the applicant considers that a further 6 GW of installed onshore wind will be needed to meet the target in the Onshore Wind Policy Statement Refresh for 20.4 GW capacity by 2030. The applicant points to parts of the statement which highlight the need for decisive meaningful action over the next 12 months and the need to go further and faster than before on increasing capacity.

National planning policy

7.16 National Planning Framework 3 and Scottish Planning Policy set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource that can be provided by onshore wind. This is clearly not at any cost and environmental effects need to be judged to be acceptable in the overall planning balance when set against the benefits.

7.17 Scottish Planning Policy requires consideration of a wind farm's contribution to renewable targets and climate emission reductions. Onshore wind was described by Scottish Ministers as vital in the Onshore Wind Policy Statement (CD007.001) prior to the climate emergency declaration and before the introduction of the 2045 net zero target. Furthermore, each of the relevant sustainable development principles introduced through paragraph 29 of Scottish Planning Policy have been considered and the development would be consistent with these and should benefit from the presumption in favour of sustainable development.

7.18 The development is in an appropriate location and it is considered that the development is consistent with the relevant provisions of national planning policy and advice. The policy provisions at a national level have been satisfactorily addressed. Furthermore, in Scotland, in terms of planning policy provisions set out in Scottish Planning Policy, there is now a clear shift from what was then (in 2014) termed the move to a "low carbon economy" – there is now an ambitious policy imperative to move to a "net zero economy and society". The development can help achieve that clear policy objective.

7.19 The National Planning Framework 4 Position Statement is an expression of the Government's clear direction of travel of policy involving a rebalance of the planning system so that climate change is a guiding principle for all plans and decisions. Moreover, onshore wind is the specific renewable technology referenced in the key opportunities and is expected to play a significant role in the plan for net-zero emissions.

7.20 The draft National Planning Framework 4 is a material consideration, setting out draft policy, not simply an indication of direction of travel. Draft policy 2 is identified as the universal policy of particular relevance to the proposal, affording substantial policy support to proposals making a substantial contribution towards combatting climate change. In particular, part (c) of draft policy 2 notes that the scale of the contribution of proposals to emissions in relation to emissions reduction targets should be taken into account. The draft National Planning Framework 4 does not include any reference to landscape capacity in the 17 criterion in part (k) of draft policy 19, in contrast to paragraph 169 of Scottish Planning Policy.

7.21 A key change in National Planning Framework 4 is the removal of the Scottish Planning Policy's spatial framework. The localised impacts that would arise from the proposal in an area free from national level designation constraints (current Group 3) and which is proposed as being of national importance, would not outweigh the force of the positive policy and guidance position in either the current or draft new policy framework. Furthermore the proposal would make an important and valuable contribution to outcome (e) in Section 3A(3A) of the 1997 Act and the delivery of the Scottish Government's net zero target.

7.22 At the time of the submission of evidence, Scottish Planning Policy (2020) (CD005.002) was extant and amended Scottish Planning Policy (2014) (CD005.001) in terms of the advice given on sustainable development. However, in July 2021 the Outer House of the Court of Session quashed Scottish Planning Policy (2020) and restored Scottish Planning Policy (2014).

7.23 Scottish Planning Policy (2014) includes a presumption (as a policy principle) in favour of development that contributes to sustainable development. Scottish Planning Policy paragraphs 32 and 33 go on to consider the role of the presumption in terms of the primacy of the development plan (not relevant in this case) and where development plans are out of date or more than five years old. In this case, the local development plan is less than five years old and can be considered to be up to date. Therefore, the only question to be addressed is whether or not the proposed development attracts the presumption, based on the application of those principles in Scottish Planning Policy paragraph 29, relevant in this case to the facts. This is addressed at Table 3.1 of the applicant's hearing statement.

7.24 Scottish Planning Policy paragraph 169 lists development management considerations to be taken into account in decision making. Only a few will be relevant to the key issues in any given case, but the converse in this case is that so many of the local environmental considerations give rise to no material concern. The issues in this inquiry are very narrow. Only landscape and visual (including cumulative) and perhaps transport considerations are in issue.

7.25 In terms of the spatial framework, the site contains some carbon rich soils, but the council agrees that this would not prevent Shepherd's Rig being within a Group 3 area since there are no issues relating to impacts on such soils. The proposed site is not within a Group 2 area for any other reason, and therefore is clearly in a Group 3 area which SPP identifies as being an area where "wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria". In considering landscape and visual effects it is important to have this starting point in mind.

7.26 Scottish Planning Policy paragraph 170 advises that areas identified for wind farms should be suitable for such use in perpetuity. In the applicant's view it means the impacts which will last for the lifetime of a development to which a decommissioning provision applies, should not be given less weight because a wind farm development will not be permanent. However, that does not mean that the reversibility of wind energy development, if secured through a decommissioning provision, is not a material consideration to which appropriate weight may be given.

Development plan

7.27 Noting that section 25 of the 1997 Act is not engaged, the key policy in this inquiry is policy IN2 of the local development plan which is broadly compliant with Scottish Planning Policy. The supplementary guidance (CD005.006) is part of the development plan and expresses a spatial framework in accordance with Scottish Planning Policy. Otherwise, policy IN2 is positive and self-explanatory. The council's landscape capacity study (CD005.007) comprises Appendix C to the supplementary guidance.

7.28 Policies OP1 and OP2 are of no material use in the assessment of the application. Policy NE2 advises on the siting of the development within Regional Scenic Areas, and so is applicable to the proposed development since a small number of turbines is proposed

within the Regional Scenic Area. However, policy NE2 contains no balancing mechanism such as there is within policy IN2. Nevertheless policy NE2 is relevant. The supplementary guidance gives no further policy guidance, simply containing further information to aid the application of policy IN2. Overall, the revised development would be consistent with policy IN2 and with the plan when read as a whole.

Conclusion

7.29 The proposal would accord with local and national planning policy, and there is a substantial need for this type of development in order that pressing future targets in relation to the global heating crisis and renewable energy generation and greenhouse gas emission reductions can be met in time.

Summary of the council's position

7.30 National and local land use policies are key to the consideration of the proposal. They are designed to identify the main issues relevant to considering development and land use. They incorporate key aspects of all relevant government policy. Energy policy identifies the importance of renewable energy and wind energy development and that policy support is incorporated into the relevant land use policies and is reflected in the local development plan. Scottish Government policy provides considerable support for the protection of the environment. Development in the right place remains central to Scottish Government policy. Shepherd's Rig cannot be considered development in the right place. The development plan is up to date and distils government policy and puts it in a local context. Accordingly, the local development plan identifies all the main material considerations for the determination of the application.

7.31 Policies IN1 and IN2 are important in assessing the proposal. Shepherd's Rig would be significantly contrary to these policies. The text supporting policy IN2 identifies that further guidance and advice is contained in the supplementary guidance. Section 3 of the supplementary guidance provides details of the various issues to be taken into account in the assessment of wind energy proposals. The applicant has not carried out a detailed assessment of Shepherd's Rig against the key parts of Section 3 of the supplementary guidance. If the applicant had carried out such an assessment, it would have been obvious that Shepherd's Rig is contrary to this guidance. In addition, C3 of the supplementary guidance identifies that "potential wind energy development will be required to demonstrate they have taken account of and responded to the assessment and guidance on the Dumfries and Galloway Wind Farm Landscape Capacity Study."

7.32 The landscape capacity study forms part of the development plan as an appendix to the supplementary guidance. The landscape capacity study identifies the sensitivity of the landscape and the key constraints in the relevant landscape character units. Shepherd's Rig would be at odds with the landscape capacity study guidance. Decisions on wind farm proposals in Dumfries and Galloway, both under the Planning Act and the Electricity Act, have consistently relied on the guidance in the landscape capacity study to assist in the consideration of proposals. Policies OP1 and OP2 are overarching policies of the local development plan and have relevant criteria for the consideration of Shepherd's Rig. Shepherd's Rig would be contrary to these policies.

7.33 Policy NE2 is also an important policy to consider. It provides protection to Regional Scenic Areas and requires decision makers to consider the relevant special qualities of the

area and the factors taken into account in designating the area and whether they would be significantly affected by a proposal. Shepherd's Rig would be clearly contrary to this policy as three relevant special qualities would be significantly adversely affected by the proposal.

7.34 The draft National Planning Framework 4 and the Onshore Wind Policy Statement Refresh (CD007.053) were recently produced for consultation. As they are draft documents, reliance cannot be placed on them to justify a decision.

7.35 Annex 1 of the Onshore Wind Policy Statement Refresh (CD007.053) identifies that there is in excess of 1.7 GW of planned onshore wind development that is being impacted by the current policy position which covers Eskdalemuir. The draft sets out four options. It should be seen as a positive move towards reducing the restrictions in this area and undermines the pessimistic view put forward by the applicant's team.

7.36 The criteria set out in the draft National Planning Framework 4 are similar to those set out in paragraph 169 of Scottish Planning Policy. The draft emphasises the importance of considering environmental effects and identifies that where impacts are unacceptable there is a presumption against support for development.

7.37 The council considers that draft policy 19 of the draft National Planning Framework 4 is of greatest relevance to the proposal, while draft policies 1, 2, 31 and 32 are also applicable. It notes that while draft policy 19 supports wind energy in principle, support is not unconditional, for example, where identified impacts are considered to be unacceptable. It considers that in-principle support for renewable energy and wind energy is already contained in policies IN1 and IN2 of the local development plan, where acceptability is assessed against listed criteria. Draft policy 32 also provides continued support for local designated landscapes, such as the Galloway Hills Regional Scenic Area.

7.38 The council considers that the consultative draft National Planning Framework 4 does not indicate any lessening of environmental considerations in the assessment of proposals, or that wind farm proposals considered to be unacceptable at present by virtue of their impacts on environmental considerations should now be considered acceptable. It also considers that the draft is likely to be subject to change and, as such, extremely limited weight should be given to it.

7.39 The reporters are directed to previous decisions at Crystal Rig (CD009.027) and Golticlay (CD009.030). In the Crystal Rig decision, reference is made to not allowing development at any cost, while the Golticlay decision highlights that onshore wind is not the sole renewable option and that environmental effects must still be considered alongside the increased emissions reductions targets.

7.40 In conclusion, the proposal is contrary to the development plan. The renewable energy benefits and other socio-economic benefits of Shepherd's Rig do not outweigh the considerable unacceptable significant effects including significant effects on the factors taken into account in designating the area as part of the Galloway Hills Regional Scenic Area. This is the wrong place for this development.

Summary of Mountaineering Scotland's position

7.41 UK and Scottish Government energy policy and climate change targets all strongly support substantial long-term growth in renewable energy. Several Scottish and UK

Government documents stating policy or flagging future policy have been published since the climate emergency and net zero goal were declared but none has suggested that future policy will change the weight attached to the different elements to be considered in the planning balance. There is a very substantial pipeline of onshore wind projects, which is continually being added to. This has been, and continues to be, achieved under current planning and energy policies, which contain repeated references to development being supported only in the right place.

7.42 The urgency which the applicant will seek to attach to the needs case, to the benefit of the current application, is not evident in the detail of the documents, where the focus of ambition is clearly moving offshore. Only with offshore can generating capacity on the scale required for the coming decades be deployed (assuming wind is not displaced by new technologies emerging in the future).

7.43 While Scotland has missed its emissions targets in recent years, greater support for onshore wind should not be drawn from this than policy already provides, since the annual reports show the standstill in emissions reduction is for multiple reasons unconnected with renewable electricity generation, which has continued to increase rapidly while emissions reductions have now stalled for three years (CD007.045, page 2 and chart B3). With a substantial backlog of unbuilt consents and a large number of onshore wind applications currently in progress in the planning system, the outcome of any single application is not material to the realisation of policy overall.

7.44 In relation to the Government's promotion of an additional 8 - 12 GW of onshore wind installation by 2030, Mountaineering Scotland agrees that there is a need for substantial increases in renewables but considers that other sources of renewables will come forward. It is less pessimistic than the applicant about how many of the consented schemes will be constructed and points to a large number of scoping reports submitted to the Energy Consents Unit in the last 12 months.

7.45 Scottish Planning Policy (CD005.001) and the National Planning Framework (CD005.003) lay proper emphasis not simply on the desirability of development in the abstract but on the need for specific developments to be appropriately located. No document issued since the current Scottish Planning Policy and National Planning Framework 3 were published has questioned that basic principle or suggested that the importance attached in decision-making to visual impact and landscape quality is now or will be diminished.

7.46 The visual impact of the proposed Shepherd's Rig wind farm is significantly adverse and unacceptable, degrading a significant and distinctive – and in the Southern Uplands increasingly rare – mountaineering resource. This is not outweighed by the benefits of the proposed scheme, which are common to all such schemes. Thus it is not compliant with Scottish and local policy and must be refused.

7.47 The draft National Planning Framework 4 highlights the requirement for a planned approach in relation to onshore wind in the south of Scotland. Draft policy 19 is of most direct relevance to the proposal and while it appears to strengthen high-level support for onshore wind, the detail of development management – with its concern inter alia for landscape, cumulative and recreational impacts – is unchanged. This continuity from Scottish Planning Policy (2014) is most striking. Scotland's need to make rapid progress on decarbonisation means that the adopted National Planning Framework 4 is unlikely to

deviate markedly from the draft in terms of its underlying philosophy and motivations, and therefore that the draft should have a degree of significance attached to it that is greater than would normally be attached to a consultation draft. Nevertheless, the detail of development management as it relates to onshore wind is essentially unchanged from Scottish Planning Policy to the draft National Planning Framework 4 and Mountaineering Scotland believes that the proposal is not acceptable under either policy framework.

Reporters' policy conclusions

National energy policies

7.48 Chapter 2 sets out the energy policy context. We agree with the parties that current renewable energy policy is a matter that should be afforded significant weight in this case. There is a strong need case for the ongoing delivery of renewable energy and we recognise that this need is intensifying, in light of the Scottish Government's stated Climate Emergency in 2019 and legally binding targets introduced in 2020 for net zero greenhouse gas emissions by 2045, including a 75% reduction by 2030. Shepherd's Rig has a proposed generating capacity of 70.2 MW of renewable energy and a modest 6 MW of battery storage. We find that this would make a useful and significant contribution towards the delivery of renewable energy targets, help to reduce carbon emissions and help to tackle the climate change emergency, with an acceptable carbon payback period of 2.4 years (assessed at 25 years).

7.49 While national energy policy does not specify that onshore wind is the only way to meet the targets (for example with offshore wind and other forms of renewable energy also contributing, alongside the decarbonisation of heat, transport and industrial processes), we find that it plays a crucial part. Although there are differences in opinion between the parties around how much capacity will be delivered from currently consented schemes and those currently in the planning process, the parties agree, as do we, that a significant amount of additional onshore wind capacity will be required to meet the targets. We find that repowering of existing schemes and extensions to the lifetime of existing permissions are likely to play an important part alongside significant volumes of new development. Nevertheless, the concept of development being in the right place remains a part of current energy policy, with the Energy Strategy Position Statement (CD007.030) supporting an increase of onshore wind 'in the right places' to help meet the net zero target.

7.50 Further discussion during the inquiry, around whether and when the current Eskdalemuir constraints discussed in the draft Onshore Wind Policy Refresh (CD007.053) would be lifted, was inconclusive. We agree that there is some cause for optimism in this regard, but without any agreed timescale for removal of this constraint, there is no certainty that further wind farm development will be allowed in that area in the short, medium or long term. We therefore do not rely on the council's suggestion that this may provide more wind farm capacity in this area, reducing pressure on the Ken unit of LCT 19A.

National planning policies

7.51 National Planning Framework 3 is explicit in its support for renewable energy generally and wind farm development in particular. While the proposal is not a national development, it would contribute to the aims of the National Planning Framework 3. The National Planning Framework 3 (which is not currently part of the statutory development

plan) points to Scottish Planning Policy to provide more guidance on appropriate locations for renewable development.

7.52 There is strong support for renewable energy developments in the draft National Planning Framework 4, including their designation as national developments, for which there is in-principle support. Outwith national parks and national scenic areas, such proposals should be supported unless the impacts identified (including cumulative effects) are unacceptable. While the draft post-dates the legally binding targets and the declaration of a Climate Emergency, it continues to require all renewable energy developments to take into account a range of considerations similar to those currently found in paragraph 169 of Scottish Planning Policy. Nevertheless, as the final version may change, we find that little weight can be attached to the draft.

7.53 Scottish Planning Policy also provides clear support for renewable energy development, supporting the transformational change to a low carbon economy and seeking to guide development to appropriate locations. We agree that the site is in a Group 3 area, within which Scottish Planning Policy requires a more detailed development management process, to carefully consider the merits of the proposal against the full range of environmental, community and cumulative impacts as guided by the factors set out in Scottish Planning Policy paragraph 169.

7.54 Looking in detail at the provisions in paragraph 169, and taking into account our findings in Chapter 3, 4 and 5, we find the following:

- the proposals would have a modest positive net economic impact, including through local employment;
- the proposal would make a useful and significant contribution to renewable energy generation targets and the reduction of greenhouse gas emissions;
- significant adverse landscape and visual impacts, including cumulative effects, would be likely to occur, particularly in relation to views to and from the Cairnsmore of Carsphairn and related hills which are located in the Galloway Hills Regional Scenic Area;
- there would be no significant adverse visual impacts on settlements or on the amenity of individual dwellings, including in relation to noise or shadow flicker;
- the proposals would not affect wild land;
- with the exception of landscape effects, there would be no significant effects on the natural heritage, including birds;
- the impacts on carbon rich soils would be acceptable;
- there would be no adverse effects on public access, although there would be significant visual effects (including cumulative effects) experienced in areas that are important to hillwalking, including from the Southern Upland Way, core paths and designated heritage trails;
- there would be no unacceptable impacts on the historic environment, including scheduled monuments, listed buildings and their settings;
- impacts on aviation and defence interests and seismological recording would be adequately controlled;
- there would be no adverse impacts on telecommunications and broadcasting installations;
- impacts on road traffic and on adjacent trunk roads would be adequately controlled;
- effects on hydrology, the water environment and flood risk would be adequately controlled;

- the proposals would provide modest opportunities for energy storage; and
- proposed conditions would ensure effective decommissioning and site restoration, including suitable financial provisions to ensure effective restoration.

7.55 During our consideration of this proposal, Scottish Planning Policy reverted to its original 2014 version, including the policy principle that sets a presumption in favour of development that contributes to sustainable development. The policy hearing statements were received after this occurred and therefore reflect any relevant considerations on this matter by the parties. In line with the guidance in paragraphs 32 and 33 of Scottish Planning Policy, as the development plan is up to date, if we were to find that the proposals were not in line with the development plan, then the presumption in favour of development that contributes to sustainable development would be a material consideration (as opposed to a significant material consideration).

7.56 In reaching a view on whether the proposal would contribute to sustainable development, we are guided by the principles in paragraph 29 of Scottish Planning Policy. As such, we find that: due weight has been given to the economic benefits that would arise from the proposal; the proposal would make efficient use of the wind resources of the land in question and support the delivery of energy infrastructure; it would support climate change mitigation by increasing renewable energy and reducing carbon emissions; and it would protect cultural heritage and the quality of water, air and soil. It would also protect the aspects of natural heritage relating to the protection of flora and fauna. There are some concerns about the effect on areas that are important for hillwalking but overall we find that opportunities for social interaction and physical activity would be protected.

7.57 However, we also find that; by virtue of its siting and design it would not protect or enhance the landscape. Although these impacts might be expected from such a scale and type of development, we find that the proposal would significantly and adversely affect views to and from the Cairnsmore of Carsphairn and associated hills, including views from parts of the Southern Upland Way and the Stroanfreggan Heritage Trail, as well as having significant adverse effects on the Galloway Hills Regional Scenic Area, all of which are key recreational resources in the wider area. As a result, we consider that significant weight should be given to the adverse landscape and visual effects. Taking all of these factors into account, we conclude that the proposal would not contribute to sustainable development.

Development plan

7.58 In the determination of Section 36 cases, the development plan does not have the status attributed to it under Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) but may be a material consideration. The Dumfries and Galloway Local Development Plan 2 from 2019 is the relevant adopted plan. Also part of the development plan is the supplementary guidance on Wind Energy Development: Development Management Considerations, and within it at Appendix C, the Dumfries and Galloway Wind Farm Landscape Capacity Study. The proposals lie wholly within a Group 3 area, as described in Table 5 and Map 8 of the local development plan. In such areas, wind farms are likely to be acceptable, subject to detailed consideration against all relevant plan policies.

7.59 Turning to the relevant policies, we find local development plan policy IN1 to be an overarching policy, under which policy IN2 sits, providing specific guidance on the assessment of wind energy proposals (as opposed to other types of renewable energy).

Policy IN2 requires a number of factors to be balanced including: renewable energy benefits; socio-economic benefits; landscape and visual impacts; cumulative impact; impact on local communities and residential interests; impact on infrastructure; impact on aviation and defence interests; and other impacts and considerations (including how the proposal addresses any other significant adverse impact on the natural environment, including biodiversity, forests and woodland, carbon-rich soils, hydrology, the water environment and flood risk, the historic environment, cultural heritage, tourism and recreational interests and public access.

7.60 Chapters 3, 4 and 5 of our report contain an assessment of the proposed development against the detailed considerations in policies IN1 and IN2. We find that the proposal would comply with the considerations in policies IN1 and IN2, with the exception of landscape and visual impacts.

7.61 The council's supplementary guidance on Wind Energy Development: Development Management Considerations (CD005.006) provides detailed guidance to support assessment against the provisions of policy IN2. While we consider it is not a checklist and not all aspects must be achieved in all proposals, it nevertheless helps us to establish whether the proposal would generally meet the requirements of policy IN2. Of particular relevance to this case are parts C and D of section 3, dealing with landscape and visual impacts and cumulative impacts respectively.

7.62 Our assessment in Chapter 3 finds that the proposed siting of the turbines would affect sensitive receptor locations and the setting of the Cairnsmore of Carsphairn and associated hills, and we find that these effects would conflict with the advice in C14 of the supplementary guidance. We also find that the adverse impacts on the special qualities of the RSA and the proposal's cumulative impacts would not comply with the approach in C6 for proposals in RSAs, or with the criteria in D11 for cumulative impacts on patterns of development.

7.63 Further guidance is provided in the Dumfries and Galloway Wind Farm Landscape Capacity Study (CD005.007). This forms Appendix C to the supplementary guidance and is accepted by the parties as forming part of the local development plan. In light of our assessment in Chapter 3, we find that the study provides very limited support for large or very large typology turbines in the proposed location and that significant adverse effects would occur on the host landscape character type (LCT) and the adjacent LCTs. The proposed location would be inconsistent with the study's recommended landscape strategy to direct wind turbine development away from designated landscapes and to promote a clear pattern of larger wind farm development associated with less sensitive upland landscapes. Taking into account the considerations in policy IN2 and the related guidance, we therefore find that the proposals would not comply with the landscape and visual aspects of policy IN2.

7.64 Looking to policy NE2, given the location of proposed turbines in and adjacent to the Regional Scenic Area, we find that policy NE2 is directly relevant. The plan points to the Regional Scenic Area Technical Paper for further explanation on the designation process. There is some disagreement between the main parties on the extent to which the Technical Paper effectively defines the special qualities of the Regional Scenic Area. However, we find that the Technical Paper provides in narrative form a description of the relevant factors which make up those special qualities and we find little difference between the parties on what those factors comprise.

7.65 As set out in Chapter 3 we find that the position of the proposed turbines directly in front of key views of Cairnsmore of Carsphairn and associated hills, in some cases in relatively close proximity, would significantly adversely affect the sweeping and dramatic views of those hills, as well as diminishing their scale and interfering with the distinctive skyline formed by the sculptural peaks of the hill group. As a result, contrary to the applicant's opinion, we have found that the identified significant adverse effects on the Regional Scenic Area would also adversely affect the special qualities of the Regional Scenic Area. We therefore find that the proposals would not be in line with policy NE2.

7.66 Looking to other development plan policies, policies OP1 and OP2 are relevant but we find that they are not key to the decision, because policy IN2 and the related supplementary guidance provides sufficient detailed criteria, alongside specific consideration of the Regional Scenic Area in policy NE2. Beyond these policies, we find that any related aspects of other local development plan policies, for example on protection of cultural or natural heritage, are encapsulated in the detailed considerations of policy IN2.

7.67 Taking all of the development plan into account, we find that the proposal would not comply with policy IN2 or with the related supplementary guidance, and as a result, neither would it comply with policy IN1. We also find that it is not in line with policy NE2. As we agree that policies IN1 and IN2 are the lead policies relevant to the proposal, alongside policy NE2, we therefore find that the proposal does not comply with the development plan as a whole.

Presumption in favour of development that contributes to sustainable development

7.68 As the proposal is not considered to be in line overall with the development plan (although we note that section 25 of the 1997 Act is not engaged), the presumption in favour of development that contributes to sustainable development would be a material consideration. However, in light of our assessment above that the proposal is not development that contributes to sustainable development, we find that Scottish Planning Policy would not provide a policy presumption in favour of the development.

Other matters

7.69 We have been pointed to and have considered the relevance of other decisions on wind farm proposals both in Dumfries and Galloway and beyond. In particular, we find that the decision to dismiss the Longburn appeal (CD009.040), adjacent to the proposed site, is directly relevant. We share the reporter's concerns as expressed in that decision regarding the impacts on views from the east towards Cairnsmore of Carsphairn. In terms of location, Shepherd's Rig would sit further to the west than Longburn and therefore closer to Cairnsmore. It would also lie in the direct line of view between the more intimate, lower lying area at Stroanfreggan, for example, from near Stroanfreggan Cairn and around Smittons Farm (post-felling) and Cairnsmore/Beninner, to the extent that it would detract from key views of Cairnsmore, as set out in Chapter 3.

7.70 Our consideration of the cumulative effects of existing and planned schemes is also found in Chapter 3. As set out there, we find that other recent consents in the surrounding area, including those nearby at Troston Loch, Cornharrow and Glenshimmeroch (revised tip) would reflect and consolidate the existing wind farm pattern of turbines at higher

elevations, set back from the lower lying smaller scale landscape, in a way that we find Shepherd's Rig would not.

CHAPTER 8: OVERALL CONCLUSIONS AND RECOMMENDATION

8.1 This chapter draws together all of the considerations, having regard to the requirements of Schedule 9 of the Electricity Act 1989. By virtue of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, Scottish Ministers decision notices are required to provide, in the event that consent is granted, a reasoned conclusion on the significant effects of the development on the environment.

8.2 Our report sets out an assessment of the relevant environmental information and the required mitigation in so far as it applies to the main issues and potential significant effects. The Environmental Impact Assessment Report (and AEI and AEI II) covers a range of matters with sections on: forestry; landscape and visual; ecology; ornithology; cultural heritage; geology and peat; hydrology and hydrogeology; noise; traffic and transport; aviation; socio-economics; tourism and recreation; shadow flicker; telecommunications and utilities; health and safety; and climate change and carbon balance. Our conclusions on significant effects, reflected in earlier chapters, are up-to-date at the time of submission of this report. The table below provides a summary of the relevant matters.

Report Chapter	Description	Comment
Chapter 1: Background	Description of the development, summary of consultation responses and representations.	<p>The Environmental Impact Assessment Report (EIAR) was advertised and consulted on. Additional Information was published for consultation in October 2019 and March 2021. There is nothing in the submitted information to indicate any insufficiency in the arrangements for the public to participate in the process.</p> <p>All of the relevant environmental information was considered as part of this assessment.</p>
Chapter 3: Landscape and visual impacts	Environmental information and conclusions on potential effects and mitigation.	<p>This chapter summarises the relevant effects drawing on the information contained in chapter 8 of the EIAR and the Additional Environmental Information (AEI), chapter 2 (and sections 3.3 and 4.3) of the Additional Environmental Information II (AEI II), the submissions to the inquiry, as well as consultation responses and representations.</p> <p>Our conclusions identify a number of significant residual effects which cannot be mitigated.</p>
Chapter 4: Traffic and transport	Environmental information and conclusions on potential effects and mitigation.	<p>This chapter draws on information contained in chapter 15 of the Environmental Impact Assessment Report and the AEI, Chapter 3 of the AEI II, further written submissions and hearing statements.</p> <p>The potential for adverse transport effects can be mitigated through the use of planning conditions and careful traffic management</p>

		guided by an agreed Traffic Management Plan and monitored by a Traffic Management Officer.
Chapter 5: Other relevant matters	Environmental information and conclusions on potential effects and mitigation.	<p>This chapter draws on information contained in chapters 7, 9, 14 and 16-21 of the EIAR and AEI, the position statement submitted by the applicant and further written submissions.</p> <p>Subject to the application of a number of conditions, no residual significant environmental effects are identified in these areas.</p>
Chapter 6: Planning conditions	Recommended mitigation to be secured by condition in the event that consent is granted.	<p>These sections draw on the conclusions elsewhere in the report regarding mitigation and monitoring. In the event that consent is granted, it is recommended that a series of conditions should apply, as set out in Appendix A to this report.</p> <p>Some of the recommended conditions include provisions for monitoring.</p>
Chapter 7: Policy evidence and conclusions	Consideration of the relevant policies.	<p>This chapter draws on information contained in chapters 5 of the EIAR and the AEI, in hearing statements and closing submissions. In reaching our overall policy conclusions, we have considered and had regard to the matters which are listed in Schedule 9 of the Electricity Act as being desirable to preserve. In doing so, we have been assisted by the detailed policy and guidance available in Scottish Planning Policy and in the development plan. This is because the matters listed in Schedule 9 as being desirable to preserve are all also concerns of the development plan and Scottish Planning Policy.</p> <p>We have concluded that the proposal does not comply with the development plan and is not considered to be development that contributes to sustainable development in relation to Scottish Planning Policy.</p>
Chapter 8: Overall conclusions and recommendation	Overall conclusions.	This section takes account of the assessed environmental effects, the potential for mitigation, the relevant policy considerations and the benefits of the proposal to arrive at an overall conclusion and recommendation.

Overall conclusions

8.3 Drawing all of these issues together our overall conclusions are that:

- there is strong support for environmentally acceptable renewable energy developments in national energy and planning policy and in legally binding targets to increase renewable energy and reduce carbon emissions, but none of the extant or draft policies suggest that less protection should be given to the environment in favour of delivering renewable energy proposals;
- national and local policies continue to require detailed consideration of renewable energy proposals against a range of environmental considerations;
- the proposal would have significant adverse effects on views from Cairnsmore of Carsphairn and its associated hills, especially in views where there are currently no turbines, on which a premium should be placed, given the preponderance of turbines in views in other directions;
- the proposal would have significant adverse effects on views to these hills, especially from the Stroanfreggan and upper Glenkens area and parts of the Southern Upland Way between Culmark Hill and Benbrack, and other designated walking routes;
- there would be an adverse scale relationship between parts of the Head of the Ken Valley and the proposed development;
- the divergence from the emerging wind farm pattern in the wider area would result in more significant landscape and visual effects from the proposals compared to existing schemes;
- the significant adverse landscape and visual effects would adversely affect the special qualities of the Galloway Hills Regional Scenic Area;
- given that the Cairnsmore of Carsphairn (and associated hills), the Southern Upland Way and the Galloway Hills Regional Scenic Area form key parts of the regional recreational resource, we find that significant weight should be given to the adverse landscape and visual impacts;
- traffic and transport issues are likely to cause some inconvenience, particularly during the construction phase and the delivery of abnormal indivisible loads, but a range of measures are proposed through conditions to help mitigate such effects to the extent that they should not prevent the proposal going ahead;
- no significant adverse effects have been identified on any other matters;
- the proposal would not comply overall with the development plan and would not be considered to be development that contributes to sustainable development; and
- taking all of this into account, we find that the contribution to renewable energy targets and modest economic benefits do not outweigh the significant landscape and visual effects which impact on the area's key recreational resources.

Recommendation

8.4 We therefore recommend that consent under section 36 of the Electricity Act 1989 and deemed planning permission should be refused. Should Scottish Ministers disagree with this recommendation, we recommend that the conditions proposed in Appendix A should be attached to the consent.

Karen Heywood
Assistant Chief Reporter

Rosie Leven
Reporter

APPENDIX A – RECOMMENDED CONDITIONS

Section 36 conditions

1. Duration of the consent

The section 36 consent is for a period of 30 years from the date of final commissioning. Written confirmation of both the date of first commissioning and the date of final commissioning shall be provided to the planning authority and Scottish Ministers no later than one calendar month after those dates.

Reason: to define the duration of the consent.

2. Commencement of development

(1) The commencement of the development shall be no later than five years from the date of this consent, or such other period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of commencement of development shall be provided to the planning authority and Scottish Ministers no later than one calendar month before that date.

Reason: to ensure that the consent is implemented within a reasonable period and to allow the planning authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

3. Non-assignment

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

Reason: to safeguard the obligations of the consent if transferred to another company.

4. Serious incident reporting

In the event of any breach of health and safety or environmental obligations relating to the development during the period of this consent, the company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 24 hours of the incident occurring.

Reason: to keep Scottish Ministers informed of any such incidents which may be in the public interest.

Deemed planning permission conditions

5. Duration of deemed planning permission

The deemed planning permission for the construction and operation of the development is granted from the date of the decision notice for a period which will expire 30 years from the date of final commissioning.

Reason: To ensure the deemed planning permission is subject to a duration that aligns with the section 36 consent.

6. Commencement of development

(1) The commencement of development shall not occur later than five years from the date of this deemed planning permission, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of commencement of development shall be provided to the planning authority and Scottish Ministers no later than one calendar month before that date.

Reason: To avoid uncertainty and ensure that the consent is implemented within a reasonable period and in accordance with the time period for commencement set within the section 36 consent.

7. Approved details

Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the development shall be undertaken in accordance with:

(a) Environmental Impact Assessment Report Table 4.8: Summary of Mitigation and Enhancement Measures; and

(b) Additional Environmental Information Report Table 4.4: Summary of Mitigation and Enhancement Measures.

Reason: to ensure that the development is carried out in accordance with the application documentation.

8. Radar mitigation

(1) No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Scottish Ministers, in order to avoid the impact of the development on the primary radar of the operator located at Great Dun Fell and associated air traffic management operations.

(2) No part of any turbine shall be erected above ground until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved scheme.

Reason: in the interest of air safety.

9. Redundant turbines

If any wind turbine(s) fails to produce an electricity supply to the grid for a continuous period of 6 months then, unless otherwise agreed in writing by the planning authority, the wind turbine and any associated above ground infrastructure solely required for that turbine(s), together with turbine foundations to a depth of 1 metre below ground level shall be dismantled and removed from the site and the area around the turbine restored in accordance with a scheme to be submitted to, and approved in writing by, the planning authority. The scheme shall be submitted to the planning authority within 3 months of the expiry of the 6 month period and shall include a timetable for its implementation.

Reason: to ensure that any redundant wind turbine is removed from the site, in the interests of safety, amenity and environmental protection.

10. Design and operation of wind turbines

No development shall commence unless and until full details of the proposed wind turbines hereby permitted, including each turbine number and specific height of that turbine (as stated in Additional Environmental Information Volume 2 Figure 4.1 (Revised Development Layout)) have been submitted and approved in writing by the planning authority. The approved details shall be implemented.

Reason: to ensure that the planning authority is aware of the wind turbine details and to protect the visual amenity of the area.

11. Signage

No anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plant shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the planning authority.

Reason: in the interests of the visual amenity of the area.

12. Design of sub-station, ancillary buildings and other ancillary development

No development shall commence on the sub-station unless and until details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the planning authority. The approved details shall be implemented.

Reason: to safeguard the visual amenity of the area.

13. Site decommissioning, restoration and aftercare

(1) The development shall cease to generate electricity by no later than the date falling 30 years from the date of final commissioning. The total period for decommissioning and restoration of the site in accordance with this condition shall not exceed three years from the date from which the development ceases to generate electricity without the prior written approval of the Scottish Ministers in consultation with the planning authority.

(2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the planning authority (in consultation with NatureScot and SEPA). The strategy shall outline measures for the decommissioning of the development and restoration and aftercare of the site, and shall include without limitation, proposals for the removal of the above ground elements of the development, the treatment of ground surfaces, the management and timing of the works, and environmental management provision.

(3) Unless otherwise approved in writing by the planning authority, no later than 18 months before decommissioning of the development or the expiration of this consent (whichever is the earlier), a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the planning authority in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):

- a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c) a dust management plan;
- d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f) details of measures for soil storage and management;
- g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h) details of measures for sewage disposal and treatment;
- i) temporary site illumination;
- j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k) details of watercourse crossings; and
- l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.

(4) The development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until otherwise agreed in writing in advance with the planning authority (in consultation with NatureScot and SEPA).

Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

14. Financial guarantee

(1) Development shall not commence until full details of a bond or other financial provision to be put in place to cover all the decommissioning and site restoration measures outlined in the decommissioning, restoration and aftercare plan approved under condition 13, have been submitted to and approving in writing by the planning authority. Following such approval, documentary evidence shall be provided to the planning authority to confirm that financial provision is in place and that provision (or any replacement provision pursuant to paragraphs (2) and (3) below) must be kept in place until site decommissioning and restoration is complete in accordance with condition 13.

(2) The value of the financial provision shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations approved under the terms of condition 13. Subject to paragraph (3) below, the value of the financial provision shall thereafter be reviewed by a suitably qualified independent professional at least every five years from the date of final commissioning (unless there is agreement between the company and the authority over the value and/or an alternative review frequency) and thereafter increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations.

(3) Unless otherwise agreed by the company and the planning authority, within 6 months of the final written approval of the decommissioning, restoration and aftercare plan by the planning authority in accordance with condition 13, the value of the financial provision shall be reviewed by a suitably qualified independent professional and thereafter increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations as set out in the approved decommissioning, restoration and aftercare plan.

(4) Where the value of the financial provision has been reviewed and adjusted to reflect the final approved decommissioning, restoration and aftercare plan in accordance with paragraph (3) above, it will not be necessary to carry out any subsequent periodic review that might otherwise be required pursuant to paragraph (2) above.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the company.

15. Ecological Clerk of Works

(1) No development shall commence unless and until the terms of appointment of an independent and suitably qualified Ecological Clerk of Works (ECoW) by the company have been submitted to, and approved in writing by the planning authority (in consultation with NatureScot and SEPA). The terms of appointment shall:

(a) impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the Environmental Impact Assessment Report dated November 2018 and Additional Environmental Information dated October 2019 and Additional Environmental Information (II) dated March 2021 lodged in support of the application and the Construction Environmental Management Plan, Peat Management Plan, Biodiversity Plan, Species Protection Plan(s), Breeding Bird Protection Plan, Water Construction

Environmental Management Plan, Biosecurity Plan and other plans approved in terms of the conditions of this permission (the ECoW Works);

(b) advise on micro-siting proposals issued pursuant to condition 16;

(c) require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the construction project manager; and

(d) require the ECoW to report to the planning authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

(2) The ECoW shall be appointed on the approved terms during the establishment of the Habitat Management Plan and throughout the period from commencement of Development to completion of post construction restoration works and aftercare phase of the development.

(3) No later than eighteen months prior to decommissioning of the development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the company throughout the decommissioning, restoration and aftercare phases of the development shall be submitted for the written approval of the planning authority.

(4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: to secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development during the decommissioning, restoration and aftercare phases.

16. Micro-siting

(1) Unless otherwise approved in writing by the planning authority, all wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on plan reference Additional Environmental Information Figure 4.1 within the Additional Environmental Information. However, wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the redline boundary but micro-siting is subject to the following restrictions:

(a) no wind turbine, building, mast, track or hardstanding shall be moved more than 50 m from the position shown on plan reference Additional Environmental Information Figure 4.1;

(b) no micro-siting shall take place to a position where: i) the peat depth is greater than the location shown on Additional Environmental Information Figure 4.1; and ii) the peat depth at the proposed new location is more than 1.5 m, without the prior written approval of the planning authority;

(c) no micro-siting shall result in any infrastructure being moved within areas hosting ground water dependent terrestrial ecosystems; and

(d) all micro-siting permissible under this condition shall be approved in advance in writing by the Ecological Clerk of Works. Where possible, further design changes through micro-sitting should reduce the risk of displacement of birds.

(2) No later than one month after the date of first commissioning, an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development shall be submitted to the planning authority. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Ecological Clerk of Works or planning authority's approval, as applicable.

(3) Any proposed micro-siting that does not meet the criteria set out in part (1) of this condition may be permitted with the prior written approval of the planning authority.

Reason: to control environmental impacts while taking account of local ground conditions.

17. Borrow pits – scheme of works

No works to excavate a borrow pit shall commence unless the following borrow pit details have been submitted to and approved in writing by the planning authority:

- (a) precise location, extent and means of working;
- (b) proposed volume of material to be extracted;
- (c) storage of overburden;
- (d) assessment of the potential for air over pressure or ground vibration to disturb nearby buildings as a result of any aspect of use of the borrow pits, with proposals for mitigating any nuisance that might arise;
- (e) details of any need for blasting and, if proposed, a scheme for publicising the times and dates of any such blasting; and
- (f) a fully detailed restoration scheme with landscaping, planting and timescale information.

Thereafter, the excavation works shall be implemented in accordance with the approved details. Rock crushing will at all times be confined to inside the borrow pits.

Reason: to ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and to secure the restoration of borrow pit(s) at the end of the construction period.

18. Borrow pits – blasting

Blasting shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.

Reason: to ensure that blasting activity is carried out within defined timescales to control the impact on amenity.

19. Construction Environmental Management Plan

(1) No development shall commence unless and until a Construction and Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning

authority (in consultation with NatureScot, HES, SEPA, the roads authority and the council's Environmental Health Officer). The CEMP shall integrate best practice methods for the Scottish / UK wind farm industry with the mitigation measures identified in the EIA and AEI reports.

The CEMP shall include the following matters:

- (a) a site waste management plan;
- (b) a sustainable drainage system (SUDS) design concept including run-off and sediment control measures and flood risk management;
- (c) details of foul drainage arrangements;
- (d) details of proposed temporary site compound for storage of materials, machinery, and designated car parking;
- (e) a pollution prevention plan (PPP);
- (f) an environmental management plan (EMP);
- (g) details of ecological monitoring to be implemented over the construction period including all necessary pre-construction surveys as detailed in the species protection plan(s);
- (h) details of any tree felling, felling waste and replacement planting;
- (i) details of on-site storage of materials, including fuel and other chemicals;
- (j) details of on-site storage and off-site disposal of excavated material;
- (k) details and timetable for phasing of construction works;
- (l) details of turning arrangements for vehicles on site, cleaning of site entrance, site tracks and the adjacent public road and the sheeting of all heavy goods vehicles taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the public road,
- (m) details of all internal access tracks, including accesses from the public road and hardstanding areas.
- (n) details and timetable for post construction restoration and/or reinstatement of the working areas and any other temporary works (including those carried out within the public road boundary);
- (o) details of the management of noise and vibration during construction;
- (p) the height and location of all stockpiles of aggregate;
- (q) a groundwater dependant terrestrial ecosystem protection plan; and
- (r) a water construction environmental plan, including a water quality monitoring programme;
- (s) a construction biosecurity plan in relation to identified invasive species; and
- (t) a peat management plan.

Thereafter, the construction of the development shall be carried out in complete accordance with the approved CEMP, unless otherwise agreed in writing with the planning authority.

Reason: to ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report accompanying the application, or as otherwise agreed, are fully implemented.

20. Hours of construction

(1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 18.00 on Saturdays, with no construction work taking place on a Sunday or on a

Public Holiday. Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection and delivery, maintenance, emergency works, dust suppression, and the testing of plant and equipment. In addition, access for security reasons, emergency responses or to effect any necessary environmental controls is permitted outwith these hours.

(2) HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on a Public Holiday.

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

21. Traffic management plan

(1) No development shall commence unless and until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the planning authority, in consultation with the roads authority. The TMP shall include details of:

- (a) construction vehicle routeing, management of contractors and sub- contractors;
- (b) vehicle numbers, signing and lining arrangements;
- (c) arrangements for emergency vehicle access;
- (d) measures to minimise traffic impacts on existing road users, including voluntary Heavy Good Vehicle speed limits; and
- (e) measures to accommodate pedestrians and cyclists and a nominated road safety person.

(2) Prior to the commencement of delivery of wind turbine construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland.

(3) Prior to the movement of any abnormal load, the proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority and Police Scotland. Any accommodation measures required including the removal of street furniture, junction widening and traffic management must similarly be approved. Thereafter, the development shall be carried out in full accordance with the approved TMP, unless agreed otherwise in writing with the planning authority.

Reason: in the interests of road safety and to ensure that abnormal loads access the site in a safe manner.

22. Abnormal Load Route – trailer type

No development shall commence for the delivery of abnormal indivisible loads to the site until a scheme has been submitted to and approved in writing by the planning authority.

The scheme, which shall be implemented as approved, shall include provisions for minimising conflict with other traffic movements.

Reason: in the interests of road safety and to minimise delays for local residents and businesses.

23. Abnormal Load Route – offsite roadworks

No development shall commence on offsite roadworks until a scheme of landscape mitigation has been submitted to and approved in writing by the planning authority. The scheme shall be implemented as approved unless otherwise agreed in writing by the planning authority.

Reason: in the interests of landscape and visual amenity.

24. Floating Roads

Floating roads shall be installed in areas where peat depths are in excess of 1 metre. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the planning authority. The floating road shall then be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure peat is not unnecessarily disturbed or destroyed.

25. Biodiversity plan

(1) No development shall commence until a biodiversity plan has been submitted to the planning authority. The biodiversity plan shall be implemented as approved.

(2) The biodiversity plan shall set out proposals for the monitoring, restoration and management of the peatland habitat of the site during construction, operation and decommissioning.

Reason: to promote net biodiversity gain from the development.

26. Access

No development shall commence unless and until an access management plan has been submitted to and agreed in writing by the planning authority. The access management plan should ensure that public access is retained in the vicinity of Shepherds' Rig wind farm during construction, and thereafter that suitable public access is provided during the operational phase of the wind farm. The plan as agreed shall be implemented in full.

Reason: in the interests of securing public access rights.

27. Archaeology

No development shall commence unless and until the company has secured the full implementation of a programme of archaeological work in accordance with a Written

Scheme of Investigation (WSI) which has been submitted to and approved in writing by the planning authority. This written scheme shall include the following components:

- (a) an archaeological evaluation to be undertaken in accordance with the agreed WSI;
- (b) an archaeological recording programme, the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed WSI; and
- (c) the programme of archaeological work will include a scheme of forest felling and replanting in the vicinity of Craigengillan Cairn as described in paragraph 11.7.6 of the Additional Environmental Information (AEI) submitted on 4 December 2019 and shown on AEI Figure 11.14.

Reason: to protect and/or record features of archaeological importance on this site.

28. Air Safety

No development shall commence unless and until the company has provided the planning authority, MoD, Defence Geographic Centre and National Air Traffic Services with the following information, and has provided evidence to the planning authority of having done so:

- (a) the date of the expected commencement of each stage of construction;
- (b) the height above ground level of the tallest structure forming part of the Development;
- (c) the maximum extension height of any construction equipment; and
- (d) the position of the wind turbines and masts in latitude and longitude.

Reason: in the interests of aviation safety.

29. Hydrology

No development shall commence unless and until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Third Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the planning authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the date of first commissioning.

Reason: to ensure that surface water drainage is provided timeously and complies with the principles of SUDS, in order to protect the water environment.

30. Noise (*see guidance notes below)

The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached guidance notes, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

(a) the company shall continuously log power production, wind speed and wind direction, all in accordance with guidance note 1(d). These data shall be retained for a period of not less than 24 months. The company shall provide this information in the format set out in guidance note 1(e) to the planning authority on its request, within 14 days of receipt in writing of such a request;

(b) no electricity shall be exported until the company has submitted to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority;

(c) within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the company shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached guidance notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component;

(d) the assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the planning authority. The protocol shall include the proposed measurement location identified in accordance with the guidance notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the planning authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits;

(e) where a dwelling to which a complaint is related is not listed in the table attached to these conditions, the company shall submit to the planning authority for written approval proposed noise limits selected from those listed in the table to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the table specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached guidance notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling;

(f) the wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the guidance notes within 2 months of the date of the written request of the planning authority for compliance measurements to be made under paragraph (c), unless the time

limit is extended in writing by the planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in guidance note 1(e). The instrumentation used to undertake the measurements shall be calibrated in accordance with guidance note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions; and

(g) where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to guidance note 4(c), the company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the planning authority.

Reason: to protect nearby residents from undue noise and disturbance; to ensure that noise limits are not exceeded; and to enable prompt investigation of complaints.

31. Breeding Bird Protection Plan

(1) No development shall commence unless and until a breeding bird protection plan (BBPP) has been submitted to and approved in writing by the planning authority, in consultation with NatureScot and Royal Society for the Protection of Birds.

(2) The BBPP shall set out survey methods for the identification of sites used by protected and sensitive birds during construction and shall detail operational protocols to prevent or minimise disturbance of birds during construction of the development.

(3) The BBPP approved under part (1) shall be implemented during construction works.

Reason: to minimise impacts on birds during the construction phase.

32. Roads post-construction work

No development shall commence unless and until a scheme of the extent and detail of 'post construction' carriageway, verge and public road boundary restoration works within the public road boundary have been submitted to and approved in writing with the planning authority (in consultation with the relevant roads authority).

Reason: in the interests of road safety.

33. Roads post-construction work – compliance

That within 3 months of the completion of construction work hereby granted, the works approved in respect of condition 32 above shall be fully implemented to the satisfaction of the planning authority (in consultation with the relevant roads authority).

Reason: in the interests of roads safety.

34. Roads – extra-ordinary damage

Development shall not commence until the wind farm operator has entered into a Section 96 agreement with the council as roads authority.

Reason: in the interests of road safety; in order to ensure that there is sufficient provision to cover any extraordinary damage caused to the public road infrastructure during construction works.

35. Compensatory Planting

Prior to the commencement of development, a scheme to compensate for the removal of 62.72 hectares of existing woodland (the scheme) shall be submitted to and approved in writing by the planning authority in consultation with Scottish Forestry. Thereafter the scheme should be implemented.

Reason: to secure replanting and protect Scotland's woodland resources in accordance with the Scottish Government's policy on the Control of Woodland Removal.

36. Transport Monitoring Officer

(1) No development shall commence unless and until the terms of appointment by the company of an independent and suitably qualified consultant as Transport Monitoring Officer (TMO) have been submitted to, and approved in writing by, the planning authority. The terms of appointment shall:

(a) impose a duty to monitor compliance with the Traffic Management Plan approved in accordance with condition 21 of this permission;

(b) require the TMO to submit a monthly report to the planning authority summarising works undertaken in accordance with the Traffic Management Plan approved in accordance with condition 21 of this permission; and

(c) require the TMO to report to the planning authority any incidences of non-compliance with the terms of the Traffic Management Plan approved in accordance with condition 21 of this permission at the earliest practical opportunity.

(2) The TMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works.

Reason: to ensure compliance with the approved Traffic Management Plan.

37. Community Liaison Group

(1) Prior to commencement of development, a plan for the establishment of a Community Liaison Group shall be submitted to and approved by the planning authority.

(2) The Community Liaison Group plan shall set out provision for the group to act as a vehicle for the community to be kept informed of project progress, should it wish to be so informed, and, in particular, to allow discussion on the provision of relevant transport-related mitigation measures as set out in the Traffic Management Plan approved in accordance with condition 21.

(3) The Community Liaison Group plan will provide for the maintenance of the Community Liaison Group, should the community wish such a group to be set up, until the wind farm construction has been completed and is fully operational.

(4) The Community Liaison Group plan shall be implemented as approved.

Reason: to minimise interference with the safety and free flow of the traffic on the local and trunk roads and to minimise adverse impacts on residents and local businesses in the area.

38. Shadow Flicker

Prior to the erection of the first wind turbine, a scheme for the avoidance of shadow flicker effects caused by the operation of the development shall be submitted to, and approved in writing by the planning authority. The scheme shall be implemented as approved.

Reason: to offset impacts of shadow flicker on residential amenity.

* Table of Noise Limits Relating to Noise Condition

Table 1: Noise Level in dB LA90, 10-min at all times

Receptor	Standardised Wind Speed at 10 m AGL, ms ⁻¹								
	4	5	6	7	8	9	10	11	12
	Apportioned Noise Limits, dB, L _{A90,10min}								
Quiet Daytime									
1 Muirdrochwood	35.0	35.0	35.7	38.1	40.3	42.3	44.0	45.2	46.0
2 Muirdrochwood	35.0	35.0	35.7	38.1	40.3	42.3	44.0	45.2	46.0
Blackmark	35.7	37.6	39.9	42.5	45.4	48.7	52.3	52.3	52.3
Craigengillan	44.6	45.4	46.3	47.1	48.3	49.5	50.8	52.4	54.2
Craigengillan Cottage	44.6	45.4	46.3	47.1	48.3	49.5	50.8	52.4	54.2
Furmiston	36.3	38.6	40.9	43.1	45.3	47.4	49.3	51.1	52.7
Marbrack	41.9	43.6	45.4	47.3	49.2	51.2	53.2	55.3	57.6
Marshallloch Cottage	38.1	39.1	40.2	41.2	42.4	43.6	44.9	46.3	47.8
Moorbrock	35.8	37.7	39.2	41.1	43.1	44.7	46.2	47.3	47.9
Nether Loskie	38.1	39.1	40.2	41.2	42.4	43.6	44.9	46.3	47.8
Smittons	37.2	38.2	39.2	40.1	41.3	42.5	43.7	45.1	46.6
Strathanna farm	36.0	37.9	39.6	41.5	43.4	44.9	46.3	47.4	48.0
Stroanpatrick	35.7	37.6	39.9	42.5	45.4	48.7	52.3	52.3	52.3
Night-time									
1 Muirdrochwood	43.0	43.0	43.0	43.0	43.0	43.0	44.3	46.2	47.6
2 Muirdrochwood	43.0	43.0	43.0	43.0	43.0	43.0	44.3	46.2	47.6
Blackmark	43.0	43.0	43.0	43.4	46.6	49.9	53.6	53.6	53.6
Craigengillan	44.3	45.2	46.3	47.5	48.8	50.2	51.6	53.1	54.7
Craigengillan Cottage	44.3	45.2	46.3	47.5	48.8	50.2	51.6	53.1	54.7
Furmiston	43.0	43.0	43.0	43.0	43.6	46.2	48.6	50.8	52.6
Marbrack	43.0	43.0	44.5	46.7	49.0	51.3	53.4	55.3	56.8
Marshallloch Cottage	43.0	43.0	43.0	43.0	43.0	43.3	44.4	45.5	46.5
Moorbrock	42.9	42.9	42.7	42.6	42.5	44.0	45.6	46.9	47.8
Nether Loskie	43.0	43.0	43.0	43.0	43.0	43.3	44.4	45.5	46.5
Smittons	43.0	43.0	43.0	43.0	43.0	43.0	43.7	45.1	46.6
Strathanna farm	43.0	43.0	42.9	42.9	42.8	44.3	45.8	47.0	47.9
Stroanpatrick	43.0	43.0	43.0	43.4	46.6	49.9	53.6	53.6	53.6

Note to Table 1:

“Quiet Daytime” means 18:00 – 23:00 every day; 13:00 – 18:00 on Saturdays; and 07:00 – 18:00 on Sundays.

“Night-time” means all periods between 23:00 and 07:00.

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

Location	Easting	Northing
1 Muirdrochwood	261850	591137
2 Muirdrochwood	261826	591121
Blackmark	265286	591687
Craigengillan	263690	594831
Craigengillan Cottage	263628	594937

Furmiston	260307	592302
Marbrack	259697	593259
Marscalloch Cottage	260374	591371
Moorbrock	262939	596644
Nether Loskie	260023	591717
Smittons	263295	591702
Strahanna Farm	264550	595867
Stroanpatrick	264309	591961

**** Guidance Notes for Noise Conditions**

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) The LA90,10 minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

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

(c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the planning authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10 m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

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

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

Guidance Note 2

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

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

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10-metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

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

(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available

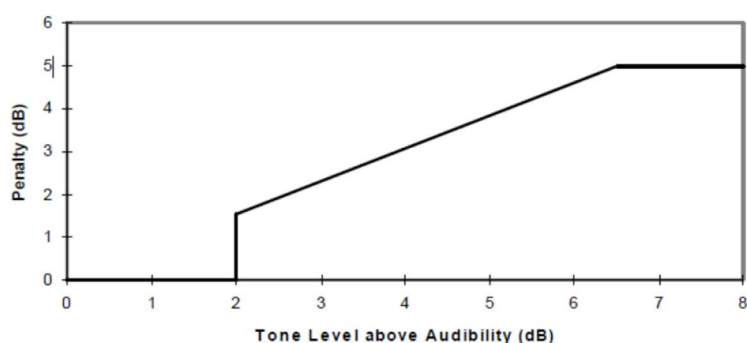
("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

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

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

(e) The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

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



Guidance Note 4

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

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

(c) In the event that the rating level is above the limit(s) set out in the Table attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the planning authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

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

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Table attached to the conditions or at or below the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table attached to the conditions or the noise limits approved by the planning authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the Development fails to comply with the conditions.

Definitions	
Commencement of Development	means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.
Company	means SETT Wind Development Limited (Company Number 10988810), having its registered office at 16 West Borough, Wimborne, Dorset, BH21 1NG or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.
Consent	means the consent granted under section 36 of the Electricity Act 1989 to construct and operate the generating station, which forms part of the Development, and any reference to Consent shall not be taken to include the deemed planning permission unless otherwise stated.
Construction period	means the period from the Commencement of Development until the approved site compound areas have been reinstated in accordance with the conditions of this consent.
Development	means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.
the Development	means the development and/or site described in Annex 1;
EIA Report	means the Environmental Impact Assessment Report submitted by the Company on 7 December 2018.
Final Commissioning	means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the

	Development erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.
First Commissioning	means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.
Planning Authority	means Dumfries and Galloway Council.
Primary radar mitigation scheme	means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the Development on the Great Dun Fell primary radar and air traffic management operations of the Operator.
Public holiday	<p>means New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.</p> <ul style="list-style-type: none"> • 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January. • Good Friday. • Easter Monday. • The first Monday in May. • The fourth Monday in May. • The first Monday in August. • The third Friday and fourth Monday in September • 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day. • Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December. • Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.

Annex 1

Section 36 Electricity Act 1989 Consent - Description of Development

The construction and operation of a wind powered generating station with an installed capacity of over 50 MW known as Shepherds' Rig Wind Farm situated within the Smittons and Craigengillan North plantations, approximately 5 km east of Carsphairn in the administrative area of Dumfries and Galloway Council. The Ordnance Survey grid reference for the Site is 262319E, 593591N. The location of the development is shown on Figure 2.1 within the Environmental Impact Assessment Report submitted in December 2018.

The development includes:

- up to 17 three-bladed horizontal axis wind turbines;
- associated turbine foundations, wind turbine hard-standings and crane pads;
- site tracks;
- underground electricity cables;
- substation;
- battery energy storage and control building compound;
- two borrow working areas;
- temporary construction compound;
- operational anemometry mast; and
- associated works/infrastructure.

Deemed Planning Permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 – Description of Development

The erection and operation of a wind farm of up to 17 wind turbines and associated development on land situated within the Smittons and Craigengillan North plantations, approximately 5 km east of Carsphairn within the planning jurisdiction of Dumfries and Galloway Council. The site of the wind farm and location of the proposed development and the location of the proposed development within the site is shown edged red attached on the attached plan (being AEI Figure 4.1).

APPENDIX B – CORE DOCUMENTS

A [core document list](#) was compiled by the applicant, in consultation with other parties. It is divided into document types with each document given a unique reference number. These are the documents that parties referred to during proceedings. The core documents are publically available on the DPEA website.

APPENDIX C – APPEARANCES AND WEBCAST

Oral sessions and links to webcast	Participating parties	
Landscape & visual impacts inquiry 9 November 2021 and 10 November 2021	<u>Applicant</u> Marcus Trinick QC Brian Denney <u>Mountaineering Scotland</u> David Gordon	<u>Dumfries & Galloway Council</u> Douglas Armstrong QC Dr Janet Swailes Fiona Clubb
Hearing session 1: policy 11 November 2021	<u>Applicant</u> Marcus Trinick QC David Bell <u>Mountaineering Scotland</u> David Gordon	<u>Dumfries & Galloway Council</u> Douglas Armstrong Chris McTier
Hearing session 2: traffic and transport 11 November 2021	<u>Applicant</u> Marcus Trinick QC Gordon Buchan <u>Carsphairn Community Council</u> Ben Ade Fiona Clubb	<u>Dumfries & Galloway Council</u> Douglas Armstrong Chris McTier Kevin Morrison
Hearing session 3: conditions 12 November 2021	<u>Applicant</u> Fraser Gillies Richard Frost	<u>Dumfries & Galloway Council</u> Douglas Armstrong Chris McTier Kevin Morrison