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[Redacted]

30 April 2020

Our reference:

phone

Your reference:

fax

e-mail: [Redacted]

Dear Sirs

[Redacted]
[Redacted]
[Redacted]
[Redacted]
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NPF4 Call for Ideas

On behalf of [Redacted] we set out our ideas and views on what we wish to see included in forthcoming National Planning Framework 4 (NPF4).

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We welcome the opportunity to continue to add to the debate and look forward to the next consultation stage.

[Redacted]
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Yours faithfully,

[Redacted]
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National Planning Framework 4 - Call for Ideas

On behalf of [REDACTED] we set out below our views on what we wish to see included in forthcoming National Planning Framework 4 (NPF4) and the important Scottish Climate Change commitment to achieve net-zero by 2045.

[REDACTED]

[REDACTED]

Whilst this response relates to the forthcoming NPF4 we would first acknowledge that the Scottish Government is seeking “transformative change” on climate change and that action has to be quick and decisive. An emergency requires action and cannot wait for new policies to emerge in years to come. Decisions through the planning system must be responsive to this position and to bring these highly material matters into play in planning determinations and so we would express some urgency on the need for speedy progress on NPF4.

Overall, the renewable energy policy framework will remain a very important consideration but the need case with regard to renewable generation and emissions reduction targets as set out in NPF3 and SPP are now somewhat dated and therefore NPF4 represents a vital opportunity to update and set an enduring framework for years to come. New statutory provisions on renewable energy targets and GHG emissions reductions needed to be incorporated in guidance and policy provision. We can only expect the expression of the need case to intensify in future policy documents such as NPF4.

Wider Policy Context

The Climate Change (Emissions Reduction Targets) (Scotland) Act (‘Climate Change Act’) 2019 received Royal Assent on 31 October 2019. The Act sets out more ambitious targets which reflect the recommendations of the Committee on Climate Change (CCC) for a net zero GHG emissions target by 2045 at the latest, with challenging interim stages, a 75% reduction target by 2030 and 90% by 2040.

A number of recent reports have made it clear that we are now seeing the substantial impacts of a global temperature rise. Moreover, we have seen in recent months:

- The hottest December day in Scotland – 18.7C recorded at Achfary, Highland on 28 December 2019;
- The highest temperature officially recorded in the UK;
- The European heatwave of July 2019 is estimated to be made up to 100 times more likely by the human driven climate crisis
- Globally, temperatures in July 2019 equalled (and may have surpassed) the hottest month recorded in history (following the warmest June on recorded), stated by the World Meteorological Association;

- The past decade was the warmest on record;
- Estimates from the World Meteorological Organisation which expects 2015-2019 to be the warmest five-year period ever recorded.

The very recent 'consultation on proposed amendments to the CfD scheme for low carbon electricity generation' was issued by the Department for Business Energy and Industrial Strategy (BEIS) in early March 2020. The document is informative in setting out the UK latest policy position in relation to renewables and 'net zero'. Key points arising with regard to the policy position within the consultation document include the clear policy to:

- Increase in ambition needed to achieve the Government's 2050 net zero target.
- Recognition that in terms of the generating mix in 2050, "renewables will play a key role,".
- The UK is the first major economy to set a legally binding target to cut emissions to net zero by 2050, "this is a landmark decision for the UK and one which demonstrates that we are continuing to lead the international effort to bring an end to climate change".
- The UK's new 2050 net zero emissions target means that we will continue to require substantial amounts of new, low carbon power sources to be built before 2050.

In the report on net zero the CCC states that the UK could require "four times the amount of renewable generation from today's levels, requiring sustained and increased deployment between now and 2050". NPF4 should therefore acknowledge and reflect recent new law and net zero related pronouncements which clearly go much further than the current targets in SPP and NPF3.

We set out below a number of principal themes which we would like to be considered for inclusion within the NPF4. The principal guiding factor relates to our commitment for the deployment of onshore wind at pace and the recognition and contribution that this plays in tackling the climate emergency and our net zero ambition.

Net-zero and the Climate Emergency

It is very clear that the mood has changed in 2019 with regard to the importance of tackling climate change. Timing is critical as with each year passing, the closer we are to the target dates, and time is lost in implementing the Government's Energy Strategy.

In the context of the declaration of a climate emergency by the Scottish First Minister and the adoption of legally binding targets to meet net zero it is not appropriate to adopt a business as usual approach to the determination applications for onshore wind development going forward. The urgent need for onshore wind, an increase in deployment of which is supported through a number of policy documents and by Scottish Government commitments is considered vital to attain targets. This support has only increased in line with the recommendations made by the CCC net zero publication.

Furthermore, the drive to attain net zero emissions is now legally binding at the UK and Scottish Government levels by way of recent amendments to the Climate Change Act 2008 and in Scotland with the provisions of the Climate Change Act.

This urgency needs to be reflected in the NPF4 and the weight to be given to the benefits of development which would secure contributions to targets, should be substantially increased.

The Presumption in Favour of Sustainable Development

Renewable energy development constitutes sustainable development in that it assists in the contribution toward climate change objectives and achieving the 2030 and 2045 net zero targets.

The presumption in favour of development that contributes to sustainable development as introduced in Scottish Planning Policy (2014) should be included and made explicit within NPF4. Little practical guidance is available and therefore the NPF4 presents an opportunity to clarify the approach to the application of the presumption which, for wind farm cases has been fairly consistently set out by a number of Reporters. The Caplich s.36 decision for example, (appeal case ref: WIN-270-7) issued on 27 April 2018 sets out a clear articulation of the presumption: It applies where a development proposal accords with the presumption as contained within SPP as well as relevant development plan policy, both of which should be accorded weight in the determination of applications;

“by being set out separately in SPP as a requirement to be followed both in policy formulation and decision making, the presumption has greater significance, and that it would not be “double counting” as the Council suggests, to give weight to the presumption, over and above the positive weight that would be given to a proposal that complied with the relevant development plan policy”.

The Reporter (and others) make further observations on the approach to be taken in order to decide whether or not the presumption applies and how it should be implemented and also on what is now widely known as the ‘tilted balance’ for development plans more than five years old.

We would welcome a discussion on how the Presumption should be framed within the NPF4 and that decision makers should evidence how they have applied the presumption in decision taking.

Consents in perpetuity

Renewable energy projects are considered differently to other forms of development in relation to the length of development. We consider that consents for onshore windfarms should, as a matter of course, be given in perpetuity. This partly reflects the provisions set out at Paragraph 170 of SPP which states that areas identified for wind farms should be suitable for use in perpetuity and that consents may be time limited, but nevertheless *“wind farms should ... be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities”.*

As set out in the Climate Change Act (as amended) and the Scottish Energy Strategy, there are now further very challenging carbon saving and renewable energy targets set for the long term that go beyond those referenced in NPF3 and SPP, wind farms operating on a long term, or in perpetuity basis, will clearly sustain and contribute to those targets.

Conditions upon consent can still be imposed to deal with the decommission of turbines if not operational for a period of time for example, but we consider that the onus should be on the determining authority to set out why it considers it appropriate to issue a temporary consent for development.

Repowering and lifetime extension of onshore wind farms

A significant number of wind farms and wind turbines will reach the end of their service life in the near future. There are three main options once wind farms reach the end of their planning consent: Repowering, Decommission or Life Extension.

The Scottish Government's Onshore Wind Policy Statement adopts a relatively wide approach to the question of repowering and measures designed to extend the life of components and turbines and NPF4 should incorporate the Scottish Government's 'clear support in principle for repowering at existing sites'. The contribution that repowering is likely to play in generating the energy needed to achieve net-zero should not be underestimated.

There remain a number of topic specific subtleties which will need to be carefully considered at an early stage in repowering proposals to ensure robust, proportionate assessments can be undertaken and NPF4 can provide some clarity around the requirements for prospective projects such as the existing windfarm should form the baseline for EIA. For lifetime extensions, recognising the presence of an existing scheme and the clear climate change and environmental and economic benefits in doing so, should be included within NPF4.

Extensions of existing wind farms and interaction with other schemes

New onshore wind energy development will be different in scale from older wind farms as they will incorporate more modern turbines. NPF4 should set out that only limited weight should be afforded to scale disparities between new and "legacy" turbine schemes given the climate emergency and the vital role that onshore wind will have in achieving the net-zero target. Such differences in scale should not be determinative in arguing against new development.

Moreover, the Scottish Government recognises the need to enable developments with modern turbines in the 2017 OWPS: "We acknowledge that onshore wind technology and equipment manufacturers in the market are moving towards larger and more powerful (i.e. higher capacity) turbines, and that these – by necessity – will mean taller towers, and blade tip heights"

Landscape Capacity/Sensitivity Studies

We advocate a move away from Landscape Capacity Studies (LCS) and the often-arbitrary turbine typology they promote which subsequently forms part of the evidence base for restrictive development plan policies. These often outdated LCS do not take into account the climate emergency and regard onshore wind turbines as an inherently negative proposition. LCS should be replaced by more enduring Landscape Sensitivity Studies (LSS) - SNH have moved away from the term LCS toward landscape sensitivity-based assessment.

Whilst we recognise that wind turbine height has a major influence on the scale and extent of effect, which, in turn, affects the potential suitability of areas for development the use of turbine height is for the sake of simplification since landscape and visual impacts are not directly proportional to turbine height. All the factors that underlie the nature of an effect including turbine numbers, design, layout, scale and cumulative impact are important considerations in wind turbine siting and design but should be considered on their planning merits.

Eskdalemuir

The Eskdalemuir Seismic Array is one of 170 stations across the globe used to monitor compliance with the Comprehensive Nuclear Test Ban Treaty. The UK is bound by the Treaty not to compromise the detection capabilities of the Eskdalemuir Array, and it is the responsibility of the Ministry of Defence (MoD) to safeguard these capabilities.

So far as proposed wind turbines are concerned, the MoD carries out its safeguarding function in Scotland under the Ministry of Defence (Eskdalemuir Seismic Recording Station) Technical Site Direction issued by the Scottish Ministers in 2005 under town and country planning powers. The Direction requires consultation by the relevant planning authority with the MoD before the grant of a planning permission for any wind turbine development. The area affected by the Direction extends to 50km from the Array in every direction. A Direction in the same terms was issued by the UK Government for relevant land in England on the same day as that for Scotland. Both Directions remain in force.

In July 2008 the MoD objected to a wind turbine development for the first time since the 2005 Directions as it breached the vibration threshold for the array. Issues with proposed wind energy development led in 2012 to the formation of the Eskdalemuir Working Group (EWG) with members drawn from developers, the MoD, the Scottish Government and other interests continues to explore ways in which the development potential for wind energy within the 50km zone may be taken forward without compromising the detection capabilities of the Array. EWG advises the Scottish Government who are responsible for planning policy and the MoD who are responsible for safeguarding the array.

On 4th December 2017, an EIA scoping report was submitted for development within 15km of the Array which would, if implemented, cause the vibration threshold of 0.336 nm to be exceeded. The MoD confirmed this in their response to the scoping report. An application for consent for the development was subsequently submitted and has received an MoD objection, officially exhausting the vibration budget. Under the system as operated until now, this would mean that budget cannot be allocated to any subsequent project while the development to which objection has been made remains a live application and therefore no further development can proceed within the 50km consultation zone. Without resolution, this would have the effect of sterilising the whole of the 50km consultation area to new development. This would have a clear and detrimental effect on the realisation of energy targets, recently given added importance by the Declaration by the First Minister of a Climate Emergency following the publication by the Climate Change Committee of its Net Zero report in May 2019.

During the EWG meeting in January 2019, it was agreed that developments proceeding under both the Planning and Electricity Acts should be allocated budget on receipt of a full application for consent, rather than for a scoping application in the case of Electricity Act applications.

The MoD have broadly accepted this recommendation and have acknowledged the intention to expand the exclusion zone to 15km and confirmed that they will manage their safeguarding responsibilities in accordance with such a policy as adopted by the Scottish Government. This position was given in response to the draft OWPS (January 2017) and again in April 2019 in response to the recommendations agreed by the EWG in January 2019.

In the interests of maximising the deployment of renewables in Scotland, it is our view that NPF4 should make it clear that the clear balance of advantage lies in extending the currently operated exclusion zone of 10km to 15km. In addition, projects within the 15km exclusion area should not be

able to hold budget unless they have the benefit of planning consent. This approach should take immediate effect for all schemes which do not currently have planning permission. For the avoidance of doubt this approach should apply both to schemes proceedings under the Town and Country Planning (Scotland) Act 1997 and under the Electricity Act 1989. This shall be a temporary measure until such time as there is sufficient evidence to revisit the extent of the exclusion zone.

Objections by Aviation Stakeholders to Wind Farm Developments

The relationship between aviation interests and wind farm development has historically given rise to issues which are technically and operationally complex, with mitigation solutions frequently involving detailed commercial negotiations often taking place over a number of months. Aviation objections have rarely been resolved quickly, with a significant amount of wind capacity either delayed in the planning or pre-construction phase, or abandoned altogether.

Radar objections to wind turbines have been the source of the most intractable safeguarding disputes for over a decade. Wind turbines are most problematic to primary surveillance radar (PSR), which is either used for air traffic control or air defence. The PSR is designed to detect moving targets and the turbine tips move at the speed of an aircraft and have a radar cross section not dissimilar to an aircraft. Put simply, the PSR reports a wind turbine as if it were an aircraft and this has the potential to confuse air traffic controllers/air defenders and, thus, may increase the risk and/or decrease the efficiency of the ATC/air defence operations.

In recent years however radar technology has advanced and a number of 'wind farm tolerant' or 'Next Generation' radars are now available that are able to differentiate between wind turbines and aircraft, allowing ATC and air defence operations to continue unimpeded. Current market leaders in this regard in the UK are the Terma Scanter 4002 and the Aveillant Theia series. Such radars have been installed at various locations across the UK, with further deployments planned in the near future. Indeed, there is now coverage across much of Scotland by wind farm tolerant radars.

In planning terms mitigation is only required where there is an impact. Wind farms that are visible to a wind farm tolerant / Next Generation radar do not lead to an impact on that radar, or the operations of the aviation stakeholder that operates the radar. There should therefore be no requirement for mitigation. NPF4 should make it clear that, wherever an aviation stakeholder has a wind farm tolerant / Next Generation radar installed, it is the responsibility of that aviation stakeholder to manage any effect from the wind farm on its operations, and any further mitigation through the planning system should not be sought.