

THE ELECTRICITY ACT 1989

THE PLANNING ETC (SCOTLAND) ACT 2006

**Town and Country Planning (Appeals) (Scotland) Regulations
2008**

**INQUIRY INTO AN APPLICATION UNDER SECTION 36 OF THE
ELECTRICITY ACT**

**By
DORENELL LTD (UK)**

**To
CONSTRUCT AND OPERATE A WIND FARM,
NEAR DUFFTOWN, MORAY**

**CAIRNGORMS NATIONAL PARK AUTHORITY
STATEMENT OF CASE**

1 INTRODUCTION

- 1.1 This document represents the Cairngorms National Park Authority's ("CNPA") Statement of Case with regard to landscape, visual impact and landscape policy issues, including cumulative impacts and impacts on the Cairngorms National Park ("the Park") in respect of the application by Dorenell Limited (UK) ("the Applicants") to construct and operate a wind farm near Dufftown (the "Proposed Development"), to be heard at inquiry sessions.
- 1.2 Despite being out with the Park boundary, the CNPA strongly objects to the Proposed Development. The Proposed Development is considered to have an unacceptable landscape and visual impact, including a cumulative landscape and visual impact, and this has a consequential effect upon the aims of the Park and the ability of the CNPA to achieve those aims.

2.0 DESCRIPTION OF APPLICATION

- 2.1 The Applicants propose to erect 59 turbines, each with a likely output of 3 megawatts, on Glenfiddich Estate. The site is located approximately 3.8 kilometres south west of the nearest settlement, Lower Cabrach, and approximately 8 kilometers south of Dufftown. The site is 2.2 kilometres from the boundary of the Park, the nearest turbine being 2.4 kilometres from the boundary.
- 2.2 The site occupies moorland between the valleys of the Blackwater and Fiddich Rivers. The elevation of the site ranges from approximately 400 metres to 755 metres in height. The most prominent hilltop within the site is Cook's Cairn at 755 metres in the south west part of the site. One public right of way runs to the north of the site from Glenlivet to Glenfiddich. Another runs from Glenlivet to the Cabrach travels through the site. The nearest hill range to the site from within the Park is the Ladder Hills. The Park boundary runs below the main ridge line of the Ladder Hills. Between the boundary of the Park and the site the landscape is characterized by rolling moorlands with little sign of infrastructure beyond a small number of tracks.

2.3 The site is located within an Area of Great Landscape Value (“AGLV”) in the Moray Local Plan. The River Fiddich drains into the River Spey Special Area of Conservation (“SAC”).

3.0 SCOPE OF EVIDENCE

3.1 The National Park Authority will call evidence from David Tyldesley DipTP(Dist), Dip LD, MIEEM, FRTPI, FRSA at the Inquiry session relating to landscape and visual impacts.

3.2 The CNPA will lodge a written submission by Andrew Tait BA (Hons) MA MRTPI on planning policy issues.

4.0 CONSULTATION WITH THE CNPA

4.1 The CNPA Planning Committee comprises all Board Members and meets every two weeks. The CNPA was consulted about the Dorenell proposal by the Scottish Government. The proposal was presented to the CNPA Planning Committee on 19 September 2008 and the relevant report underpins the CNPA’s Statement of Case for this Public Local Inquiry. The CNPA Planning Committee decided to strongly object to the proposal, agreeing with the Planning Officer’s report to the committee. Particular concerns were raised with regard to the following points and how these impact upon the core aims of the National Park in terms of the National Parks (Scotland) Act 2000 (“the Act”):

- the remote and wild area of the Proposed Development’s location;
- the Proposed Development’s effects on the Park in this vicinity;
- the Proposed Development’s proximity to hill walking areas and the visual impact it would have upon the experience of users of areas such as the Ladder Hills;
- the cumulative impact of the Proposed Development in terms of views both into and out of the Park; and

- the potential impacts of the Proposed Development upon the understanding and enjoyment of the Park by hill walkers and also those participating in traditional sporting activities in the area.

4.2 Concern was also raised regarding golden eagles at the site. There is a record of golden eagles at the site of the Proposed Development.

5.0 PLANNING POLICY MATTERS

5.1 The CNPA will be presenting a written submission on planning policy issues in accordance with the procedural timetable.

6.0 RELEVANT MATERIAL PLANNING CONSIDERATIONS

6.1 The acceptability of the Proposed Development will be assessed against the rationale for designation of National Parks, in particular the Cairngorms National Park, and the four statutory aims for National Parks as contained in the Act. It will also be assessed against government policy, guidance and advice as contained in Scottish Planning Policies, National Planning Policy Guidelines and Planning Advice Notes. It is the contention of the CNPA that the EIA landscape and visual methodology underplays the importance of the Park.

CAIRNGORMS NATIONAL PARK DESIGNATION

6.2 The CNPA will lead evidence that the Applicants have failed to adequately analyse the reasons for designation of the Park and the sensitivity of its landscape to a development of this scale. The CNPA will also present evidence to demonstrate that the impacts upon the landscape and visual interests of the National Park are greater than indicated in the Environmental Statement.

6.3 The Park was designated by the Scottish Ministers on 06 January 2003 pursuant to the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003. The power to designate National Parks is

derived from section 6 of the Act. The Park is therefore a national designation, created and protected by statute.

6.4 An area must meet certain statutory conditions before it is designated as a National Park. Section 1 of the Act sets out the aims of National Parks. Section 2 deals with the assessment of an area for designation and the conditions which must be satisfied for a designation to be granted. Those conditions are:

1. that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage.
2. that the area has distinctive character and a coherent identity; and
3. that designating the area as a National Park would meet the special needs of the area and would be the best means of ensuring that the National Park aims are collectively achieved in relation to the area in a co-ordinated way.

6.5 The CNPA's position is that the Applicants have given inadequate attention and consideration to the fact that the Park is a national designation.

6.6 The CNPA will lead evidence that the whole of the Park should be accorded the same level of national importance by virtue of its designation as a National Park. In other words the boundary is as important as the central area of the Park.

6.7 The Park has four statutory aims. These aims are set out in Section 1 of the Act and repeated in the National Park Plan. The aims are:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote sustainable use of the natural resources of the area;
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

- 6.8 Section 9 of the Act requires the CNPA to ensure that the aims under the Act are collectively achieved in a co-ordinated way. However the CNPA also relies on others, such as other local authorities, agencies and Reporters to help with that achievement. The CNPA's position is that the Applicants have not given adequate consideration to the four statutory aims nor does the Proposed Development assist the CNPA to collectively achieve those aims in a co-ordinated way.

THE NATIONAL PARK PLAN

- 6.9 The CNPA is required by section 11 of the Act to prepare a National Park Plan. The CNPA prepared a National Park Plan and Ministers approved that in March 2007 without modification. The National Park Plan was formally adopted by the CNPA on 20 April 2007. The National Park Plan sets out how the four aims of the National Park can be achieved in a collective and co-ordinated way. The CNPA will lead evidence that the proposed development does not comply with the National Park Plan.
- 6.10 The National Park Plan does not apply just within the CNP. Section 14 of the Act states that "*the Scottish Ministers, a National Park Authority, a local authority and any other public body or office-holder must, in exercising functions so far as affecting a National Park, have regard to the National Park Plan as adopted under section 12(7)(a)*". The Moray Council are a partner to the National Park Plan. The National Park Plan is therefore a material consideration and it is the CNPA's position that the Applicants have not afforded it sufficient weight.

GOVERNMENT POLICY, GUIDANCE AND ADVICE

- 6.11 Scottish Planning Policy ("SPP") was introduced in February 2010 and supersedes NPPG14. NPPG14 pre-dates the Act and designation of the Park. SPP refers specifically to the Act, the four aims of designation and the National Park Plan. The CNPA will lead evidence that the development which would affect a National Park must, in terms of SPP, be considered against the Act and

National Park Plan, regardless of whether the development is within or beyond the Park boundary.

- 6.12 Planning Advice Note 45 (“PAN 45”) advises that a cautious approach is necessary in respect of particular landscapes which are rare or valued, such as proposed National Parks and their wider setting. The CNPA’s position is that significant weight should be afforded to the setting of the Park in line with the requirements of PAN 45 and it will lead evidence on this issue.

7.0 LANDSCAPE AND VISUAL IMPACT AND IMPACTS ON THE CAIRNGORMS NATIONAL PARK

LANDSCAPE IMPACT

- 7.1 The evidence will describe the special qualities of the Park, which are relevant to the application, in the context of the Landscape Character Assessment of the Park and those of the Moray and Aberdeenshire areas. It will analyse the landscape character of the application site and that of the Park in the vicinity of the application site. It will review the landscape character assessment and landscape impact assessment in the Environmental Statement (ES) and Supplementary Environmental Information (SEI), indicating the extent of agreement or disagreement with the methodology and conclusions of the ES and SEI.
- 7.2 There are no landscapes in which a wind farm will not introduce a new and distinctive feature. Any wind farm is bound to have a significant effect on the landscape in which it is located. The CNPA’s objection is not based on mere proximity, or simply because there would be an adverse effect on the landscape; but because the location of the wind farm, and its large scale, both in terms of the number of turbines and the height of turbines, means that this proposal would have a substantial adverse effect on the landscape of the Park and thus its special qualities. It would impede the ability of the CNPA and partners to achieve the statutory purposes of a National Park and to achieve the aims of the National Park Plan.

- 7.3 Evidence will refer to the effects of the wind farm on landscape character in light of SPP, and advice in PAN 45, and will consider how special care needs to be taken in deciding proposals that affect a National Park and its setting.
- 7.4 The special value of the application site and its relationship to land now in the Park has been well established in policy and practice. The site lies in an AGLV in Moray, which is contiguous with an ASL in Aberdeenshire, and both of which extend well into the National Park. There is an irrefutable consistency in landscape character across the boundary, linking the application site to the National Park. There is a strong and positive relationship between the application site and the Park. It will be argued that the landscape character here is strong and not transitional. There is no doubt that the application site is in, and the proposal substantially and adversely affects, the setting of the Park. From some important vantage points it will appear as though the proposed wind farm is in the Park landscape.
- 7.5 Furthermore, the Park ‘borrows’ qualities from the application site, which enhance the character of the National Park itself.
- 7.6 The landscape of the application site is worthy of protection in its own right, but additional weight should be attached to the landscape character and quality of the application site because it is in the setting of the Park.
- 7.7 The evidence will refer to the European Landscape Convention (“ELC”) and how the CNPA takes the management of the Park landscape in this context very seriously. It will coordinate delivery of a landscape framework for the Park to meet the expectations of the ELC. The need for sound landscape management does not stop at the administrative boundary of the Park. It needs continuity of delivery across adjacent areas, and particularly the landscape that forms the setting of the Park, if the purposes of the ELC are not to be undermined in one of Scotland’s most important and iconic landscapes.

- 7.8 Some of the particular qualities and characteristics of the landscape that would be adversely affected by the Dorenell proposal include its broad, open horizons, uninterrupted views, uncluttered skylines, strong horizontal lines (and lack of high or vertical features), natural colours and textures and an ‘unspoilt’ quality with an absence of development and infrastructure. Stillness, tranquillity, remoteness, solitude and a sense of wild land are also important qualities that would be affected and which are particularly important for, and associated with, the Park and sought out by many users of the high level footpaths and summits in the area. Stillness and tranquillity and a sense of solitude are also valued by those visiting the historic College of Scalán, the surrounding Braes of Glenlivet and the various core paths in that area. Much of this area which is close to Chapelton would be affected by the proposal.
- 7.9 The strong sense of ‘wildness’ or wild land associated with the Park continues to be explored and investigated by the CNPA and others. It goes beyond the SNH approach of identifying potential areas of ‘wild land’.

VISUAL IMPACT

- 7.10 The evidence will describe the importance of the Park for recreation and how those who undertake outdoor recreation in the Park are particularly sensitive to the effects of visual intrusion of structures which are not characteristic of the Park. Visual impacts are greater where they impact on remoter landscapes and those who actively seek the experience of the Park’s hills. This is evidenced by the CNPA 2010 Visitor Survey and the SNH Report Public Perceptions of Wild Places and Landscapes in Scotland. Some visual impacts increase with increasing numbers of viewers affected, but others are the converse, and for those who seek the wild land experience, by definition few in number, are perhaps the most sensitive visual receptors of all, in terms of the impact of a large wind farm.
- 7.11 The visual impact of the Proposed Development from viewpoints within and out with the Park will be substantial and adverse, for example from the Ladder Hills and the Cromdale Hills.

- 7.12 The evidence will analyse the visual impact assessments in the ES and the SEI, indicating the extent of agreement or disagreement with their conclusions. The representativeness of the photomontages of what may be seen if the wind farm is permitted will be considered. It will be argued that some visual impacts are understated by the ES and the SEI.

CUMULATIVE LANDSCAPE AND VISUAL IMPACTS

- 7.13 The evidence will describe the importance of considering cumulative landscape and visual impacts in terms of the National Park. It will review the GLVIA? in the ES and the SEI and will indicate that some conclusions are not agreed, and that some impacts are understated or inappropriately analysed.
- 7.14 Evidence will refer to the 'wider' picture of cumulative effects of wind farms around the Park generally, and also, more locally to the north-east and north-west in particular. It will be argued that wind farm proposals have a serious potential to progressively change the landscape character of the Park and its surroundings. There is a gradual process of cumulative attrition, whereby the character and special qualities of the Park and its setting are potentially eroded by each new consent; the process has the potential to accelerate.
- 7.15 The concept of an area having reached 'capacity' for wind farm development has been recognised in policy and needs to be addressed more urgently in practice, especially in areas such as the Park and its setting. It is not just on the 'edge' of the Park that the sense of wildness can be eroded, but within its more central areas too.
- 7.16 The CNPA will produce a schedule of wind farm case work and demonstrate that it has taken a measured, selective, consistent and pragmatic view to consultation responses and has objected only when there have been serious concerns about individual proposals and their cumulative effects; but the need to object is becoming more urgent and widespread with the growing number of proposals

generating an ever more serious potential cumulative effect on the Park and its setting.

8.0 PROVISIONAL LIST OF DOCUMENTS

1. CNPA Committee Report dated 19 September 2008
2. CNPA Minute of the Committee dated 19 September 2008
3. Environmental Statement and Supplementary Environmental Information
4. Letter from Peter Fraser (Aberdeenshire Council) to Energy Consents Unit, Scottish Government, dated 5 October 2009
5. The National Parks (Scotland) Act 2000
6. The Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003
7. The Cairngorms National Park Core Paths Plan 2010.
8. Planning Advice Note 45 (PAN 45)
9. Planning Advice Note 45 (PAN 45) "Renewable Energy Technologies" Annex 2
10. Scottish Planning Policy (SPP)
11. National Planning Policy Guideline 14 (NPPG14)
12. Cairngorms Landscape Assessment, Review 75
13. Moray and Nairn Landscape Character Assessment (1998)
14. South and Central Aberdeenshire Landscape Character Assessment (1998)

15. Wildness Study in the Cairngorms National Park – Final Report
16. European Landscape Convention
17. Cairngorms National Park State of the Park Report 2006
18. Guidelines for Landscape and Visual Impact Assessment, Landscape Institute and the Institute of Environmental Assessment (2nd Edition)
19. Landscape Character Assessment Guidance for England and Scotland, Countryside Agency and Scottish Natural Heritage (2002)
20. Reporters' Report on Cairngorms National Park draft Local Plan 2009, Policy 7, Landscape
21. The Special Landscape Qualities of the Cairngorms National Park. SNH Commissioned Report No 374
22. Cairngorms National Park Visitor Survey (May 2010)
23. First Impressions. CNPA Internal Document Peter Crane
24. Sharing the Stories of the Cairngorms National Park. A Guide to Interpreting the area's distinctive character and coherent identity. CNPA 2008
25. Sustainable Tourism Strategy 2010. Enterprise Survey. The Tourism Company. June 2010
26. Berrier Hill Appeal Decision, Greystoke, Penrith, Cumbria (April 2010)
27. Matlock Moor Appeal Decision, Derbyshire (April 2010)
28. Three Moors Appeal Decision (January 2010)

9.0 CONCLUSIONS

9.1 The CNPA has objected to this application because:

- The Proposed Development will impact upon wild land value on and adjacent to the CNPA boundary and within the central mountainous area, especially within the Ladder Hills area.
- There is wide visibility from within the Park.
- There will be a dominant visual impact upon upland areas that are contiguous to landscape character and the setting of the Park.
- There will be cumulative effects from other windfarms upon the landscape character and wildness qualities of the North Eastern edge of the Park
- There will be an interruption of views to and from the Park to surrounding important locations.

9.2 The Proposed Development does not accord with the policies for protection of this national designation set out in statute, Scottish planning policy, guidance and advice, and policies set out in the Cairngorms National Park Plan.

9.3 The CNPA request that the Scottish Ministers be recommended to refuse the current application for consent under the Electricity Act 1989.