

CNPA 5

**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

DORENELL WIND FARM

NEAR DUFFTOWN, MORAY

***LANDSCAPE AND VISUAL IMPACTS
ON THE CAIRNGORMS NATIONAL PARK***

TOPIC PAPER CNPA 5

NATIONAL PARK CONSIDERATIONS

CAIRNGORMS NATIONAL PARK DESIGNATION AND ITS IMPLICATIONS WHEN DETERMINING THE APPLICATION

5.1 The Cairngorms National 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 (CD A 20)*. The power to designate National Parks is derived from section 6 of the Act (**CD A 4**). The Park is therefore a national designation, created and protected by statute.

5.2 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 **statutory conditions** which must be satisfied for a designation to be granted. Those conditions are:

- a. that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage;
- b. that the area has distinctive character and a coherent identity; and
- c. 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.

5.3 The Park has four **statutory aims** (referred to in para 9.537 of the ES). These aims are set out in Section 1 of the Act and repeated in the National Park Plan (**CD F 4**). 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.

- 5.4 Section 9 of the Act requires the Cairngorms National Park Authority (CNPA) to ensure that these four aims are collectively achieved in a co-ordinated way. However, the CNPA necessarily relies on others, such as other local authorities, statutory agencies and Reporters to help with that achievement, and with the collective responsibility of all public bodies to help to implement the National Park Plan.
- 5.5 Section 14 of the Act states that the Scottish Ministers, the 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). Ministers approved the National Park Plan 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.
- 5.6 The National Park Plan does not therefore apply just within the National Park. The duty is to have regard to the plan so far as affecting the National Park. Things may affect the National Park without being located in it.
- 5.7 It should be noted that, in accordance with an agreed protocol, and as referred to in the SNH consultation responses (**CD K 18**), SNH does not comment on effects on the National Park when responding to relevant consultations. To avoid unnecessary duplication, SNH leaves the CNPA to advise decision makers on the effects of proposals on the National Park. To ensure that this point is clear, SNH has explicitly restated it in the letter from Dr Bale dated 15th October 2010 (**CNPA 18**).

CONSIDERATION OF THE NATIONAL PARK IN THE ES AND SEI

- 5.8 The National Park Plan is therefore a material consideration and it is not considered that the Applicants have afforded it, or indeed the National Park designation itself, sufficient weight, for several reasons discussed below.
- 5.9 Paragraphs 9.536 – 9.549 of the ES seek to analyse the impacts on the National Park. However, they do so as a subsidiary analysis to that applied to the Cairngorms NSA; the National Park is not even listed as a designated landscape in paragraph 9.522. The NSA, self evidently, is a smaller area, designated at a much earlier time (1978), for a different purpose (**CD Q 1**).

- 5.10 Whilst there are two NSAs in the National Park's designated area, they cover a lesser area and do not include several parts of the National Park potentially affected by the proposed wind farm. In assessing the effects on the National Park the effects on the NSAs are taken into account, because the special qualities are not significantly different (see **CD Q 14** at section 2.5 page 5), but that is not the case in reverse. Assessing the effects on the NSAs does not properly assess the effects on the National Park.
- 5.11 The analysis uses a similar methodology to assess the effects on the National Park as that carried out for the AGLV and ALS. In the SEI the additional work focuses on the two non-statutory landscape designations, there is no mention of impacts on the National Park, even though one of the viewpoints subject to further work is in the National Park.
- 5.12 Paragraph 9.541 correctly states that the Dorenell proposal is not in the National Park, but it is a very large scale development extremely close to it and irrespective of whether impacts are direct or indirect, there would be very significant impacts on the National Park and its special qualities. The emphasis in the last sentence of 9.541, on the boundary of the Park, would seem to be misplaced, even if it were correct to say that the impacts of Dorenell would be "experienced from a distance" from the National Park, which is not correct, the proposal is less than 3km away.
- 5.13 Even if 5.4% of the National Park is affected (ES para 9.542), it still amounts to over 200km² of designated area. That is a significant area and there is a significant effect in much of that area (see CNPA 3). In any event, judging the impact on the National Park by reference to the overall size of the Park is meaningless, and misses the point about the Park. For example, not only is the Park large, it has recently been enlarged, which means that the percentage figure is now reduced. However, it is obvious that the impact on the Park will not be reduced just because the Park is bigger. This is the biggest National Park in Britain, and covers an area the size of a small country, indeed it is now about twice the size of the Grand Duchy of Luxembourg.
- 5.14 Considering Table 9.15, firstly it should be borne in mind that the 'special qualities' and 'strategic objectives' "summarised" in the table are a pale shadow of those actually expressed in the National Park Plan (**CD F 4**). Consequently, the assessment in the ES is inadequate and incomplete. Furthermore, in addition to the points made above:

- a) It is incorrect to say (rows 1 and b) that the wind farm would not be visible or would be over 35km from the 'core' of the Cairngorm massif (see paras 3.30 – 3.40 CNPA 3).
- b) It is also incorrect to say (row 1) that Dorenell would mainly be seen “in isolated locations rather than any extensive area”, this is not consistent with the information shown by the ZTVs.
- c) The ES's assessment (rows 3 and b) of effects on wildness are limited to an analysis on the SAWL; this is not the only area of the Park where wildness is important, as stated in the NPP (**CD F 4**) at section 5.1 page 38 (see also CNPA 4).
- d) It is considered to be wholly inappropriate to suggest (rows 4 and c) that the construction and operation of a very large scale wind farm has any relation to the “characteristic evidence of management within the surrounding hill / moorland area ... such as estate tracks, grouse butts and muirburn”; and it is ludicrous to suggest that it would “extend the existing historic character of features such as old whisky routes, and abandoned crofts”, which are recognised as special qualities of the Park.
- e) The characterisation of areas such as the Ladder Hills as “marginal to the mountain core” reveals a misunderstanding of the integral nature and important contribution the North Eastern Hills make to the Park (row 8).

5.15 The ES asserts that the sensitivities of the Cairngorms National Park have been adequately assessed by conventional LVIA, but this misses the point that statutory duties and tests come with National Park designation.

5.16 Nowhere, for example, does the ES undertake an analysis of whether or not consenting the proposed development would help to achieve the statutory aims.

IMPACTS ON THE SPECIAL QUALITIES OF THE NATIONAL PARK

5.17 The special qualities of the Park, which should be at the heart of the analysis of how the proposal affects the Park, are clearly described and extensively discussed in the National Park Plan

5.18 Since then, as part of the further development of a Landscape Framework for the Park, to help to implement the European Landscape Convention, and to complete a 'suite' of descriptions of the special qualities of Scotland's NSAs and National Parks, the 'special landscape qualities of the Cairngorms National Park' have been further described and analysed (**CD Q 14**). Part 2 of this report lists and describes the special qualities. Those which would be affected by the proposed development are discussed below.

General Qualities including distinctive landscape

5.19 *Vastness of space, scale and height*: the proposed wind farm would diminish the enjoyment of the qualities of vastness of space and scale of landscapes in the National Park and would diminish the height of the Ladder Hills and the hills in the setting of the Park, as described in CNPA 3 re the Ladder Hills, and below in relation to the setting of the Park.

5.20 *A landscape of layers from inhabited strath to remote, uninhabited upland*: the proposed wind farm would destroy the feeling of remoteness in the uninhabited uplands of the Ladder Hills, and diminish it in other areas of the Park from where the turbines would be visible, as described in CNPA 3.

5.21 *The harmony of complicated curves*: the proposed wind farm would disrupt the harmony of the curves of the landscape, as perceived both within and in the setting of the Park, which are a strong characteristic of the hills, by introducing a complex array of vertical, rotating structures and interlinking tracks unrelated to the natural curves of the landscape

The Mountains and Plateaux

5.22 *The surrounding hills*: the proposed wind farm would diminish the significant contribution that the hills surrounding the unifying central massif and plateaux, such as the Ladder Hills and Hills of Cromdale, make to wild, untamed nature of the area, and which are accessible from the main roads

Moorlands

5.23 *Extensive moorland, linking the farmland, woodland and high tops*: the proposed wind farm would affect the characteristics of the moorlands, especially those on the Ladder Hills, as described in CNPA 3 re the Ladder Hills, and the section below relating to the setting of the Park.

Wildlife and nature

5.24 *Wildness*: the consideration of the impacts of the proposed wind farm on wildness is set out in CNPA 4.

5.25 *Dominance of natural landforms*: the proposed wind farm would diminish the dominance of the natural land forms in the hills and introduce a development that is not small scale and incidental to the wider, outer landscape; rather it would be a very large scale human modification and would overwhelm parts of the wider, outer landscape.

Visual and sensory qualities

5.26 *Layers of receding ridgelines*: the proposed wind farm would disrupt the distinctive layers of the receding ridgelines as seen towards and in the Park from viewpoints outwith the Park, and from within the Park looking across the Park and outwards. The special qualities emphasise that the receding ridgelines give great 'depth' to the landscape, that distant views are important, that the ridgelines are reflected in the logo of the National Park and their special qualities rely on being unbroken by human structures.

5.27 *Grand panoramas and framed views*: the proposed wind farm would adversely affect many important views, including grand panoramas from viewpoints in the National Park, as described in CNPA 3.

Culture and history

5.28 *Dramatic historical routes*: the impacts on historical routes within and linked to the National Park are referred to in CNPA 3 especially in respect of the Braes of Glenlivet, but they will also be described in the evidence of 'Scotways', so they are not repeated here. Suffice to note that these routes are recognised as a special quality of the National Park.

5.29 *Focal cultural landmarks of castles, distilleries and bridges*: the Park is well known for these focal points, or landmarks in the landscape. They are found in the straths and glens not in the uplands. The proposed wind farm is so close to the National Park boundary that it would become a major focus in views of and from the National Park, of a kind that is alien to the landscapes and views of the Park, in terms of the nature, scale and location of the wind farm.

Recreation and enjoyment

- 5.30 *A landscape of opportunities*: all recreational opportunities in the Cairngorms derive pleasure directly from what the landscape has to offer. The impacts on recreational users and visitors, especially on hill walkers and others enjoying the high ground of the mountains and moorlands of the Park, is described in CNPA 3.
- 5.31 *Spirituality*: the proposed wind farm would seriously detract from the spiritual enjoyment and refreshment available in the hills and mountains of the National Park by forming a large scale, modern, moving, industrial-like intrusion into the remoteness, peacefulness, calmness and tranquillity of the hills and the Braes of Glenlivet, as described in CNPA 3 and CNPA 4.
- 5.32 It is not accepted, as asserted in paragraph 9.539 of the ES, that the special qualities of the Park can only be assessed if their sensitivity is both qualified and quantified in respect of the distinctiveness and integrity of the Park. Special qualities cannot be quantified or qualified in such a way, and decision makers do not have difficulty in taking account of the Park's special qualities in planning and management decisions. Whilst the 2010 report was obviously not available at the time of the ES, the special qualities were clearly described and analysed in the National Park Plan.

IMPACTS ON THE AIMS OF THE NATIONAL PARK

- 5.33 Of the four aims listed in paragraph 5.3 above, the three which would be affected by the Dorenell proposal are as follows.
- 5.34 *To conserve and enhance the natural and cultural heritage of the area*: the proposal would be detrimental to the natural heritage of the Park because of the significant impacts on landscape character described in CNPA 3, CNPA 4 and in this paper.
- 5.35 *To promote sustainable use of the natural resources of the area*: development that has significant adverse impacts on landscape character and visual amenity is not sustainable development even if it is using the natural wind resources of the area.
- 5.36 *To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public*: the development would significantly adversely affect the enjoyment of the special qualities of the Park by the public.

THE SETTING OF THE NATIONAL PARK

5.37 The National Park does not sit in isolation; it is a part of the wider landscape. The area of landscape outwith the Park, and what happens in it, influences the character and special qualities and the enjoyment within the Park, and vice-versa. It is universally accepted in landscape and visual impact assessment that landscapes and visual receptors outwith the location of a proposed change can be affected by that change and the impacts should be assessed.

5.38 PAN 45 (paragraph 75) (**CD C 1**) indicates how a cautious approach needs to be taken in deciding proposals that affect a National Park and its wider setting. The ‘setting’ of a National Park has been defined by the English and Welsh National Park Authorities Associations as follows:

“The landscape setting for a National Park is the area whose landscape character compliments that of the National Park itself, either through similarity or contrast, and in some way supports or enhances its landscape. It is not a simple buffer zone based upon a set distance from the boundary; but will be visible from the National Park. It varies in depth according to the surrounding landscape character area and the topography. Major developments in the setting of a National Park are likely to have landscape effects within the National Park. This will be dependent upon the nature of the development – but needs to be recognised in policy; assessment processes; and decision making¹”.

5.39 Whilst it is fully recognised that each appeal or application must be dealt with on an individual basis and considerations inevitably vary from case-to-case, the way in which other decision makers have approached impacts on the setting of National Parks is informative, especially given the limited experience of this in Scotland so far, for example: paras 157 - 162 of **CD T 3** (Appeal by Berrier Hill Wind Energy Ltd, Berrier Hill, Lake District NP); paras 12 – 15 **CD T 12** (appeal by Npower renewables Ltd, Kildrummy, Cairngorms NP), paras 31 – 36 **CD T 17** (Appeal by Derbyshire Wind Energy Ltd, Matlock Moor, Peak District NP) and paras 59 – 64 of **CD T 20** (Appeal by Airtricity at Three Moors and the Exmoor NP).

5.40 There is clear and extensive inter-visibility between the application site and land in the National Park. The turbines would be only 2.4km from the boundary of the National Park, at the nearest point, which is less than 20 times the height of the turbines to blade tip.

¹ http://www.enpaa.org.uk/uk_renewable_energy_strategy_-_joint_response_by_the_english_and_welsh_national_park_authorities_associations_sept_2008_-2.pdf

- 5.41 The Blackwater Forest and other hills between the Park boundary and Dufftown, and between the B9009 and the A941, play a strong complimentary role in supporting and enhancing the National Park, through the obvious similarity and consistency of landscape character between them. The 1996 LCA (**CD Q 5**) clearly indicates on Figure 17, how the landscape character extends beyond what is now the National Park boundary. The application site is an extremely important part of the views from the Park outwards, especially from the Ladder Hills, and also an important part of the foreground views of the National Park when seen from viewpoints to the north.
- 5.42 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.
- 5.43 The landscape character here is strong and not transitional.
- 5.44 Furthermore, the Park ‘borrows’ qualities from the application site, such as the expansive views, openness, large scale and remoteness, which enhance the character of the National Park itself.
- 5.45 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. This is not to suggest that the application site should be within the Park, or to seek to apply National Park policies to the application site. The boundary is drawn where it is, mainly along a local government administrative boundary. Rather this is to emphasise that even though the site lies outwith the Park, it should be protected as part of the setting of the Park, and indeed other policies do seek to protect the Park from such adverse effects.

CUMULATIVE IMPACTS ON THE NATIONAL PARK

- 5.46 CNPA 3 includes an analysis of cumulative impact on the parts of the National Park most significantly affected. It is important also to consider cumulative landscape and visual impacts in terms of the National Park generally. There is a ‘wider’ picture of cumulative effects of wind farms around the Park, particularly to the north, north-east and north-west.

5.47 The National Park Authority has responded to consultations on 12 wind farms as shown in Table 5.1 below.

Table 5.1 CNPA response to wind energy proposals

Scheme	Status	Proposal No x ht to BT in metres	Distance from NP boundary (approx)	CNPA response
Berry Burn	Consented	29 x 104	6km	No comment
Clashindarroch	Undetermined	18 x 110	9km	Objection
Cushnie	Undetermined	7 x 125	5km	Objection
Corriegarth	Consented	20 x 120m	10km	No objection
Dorenell	Undetermined	59 x 126	2km	Objection
Dunmaglass	Undetermined	33 x 125	10km	Objection
Glenkirk	Undetermined	31 x 110	km	Objection
Kildrummy	Consented	8 x 93	4km	Objection
Mile Hill	Uncertain	6 x 100	10.5km	No objection
Mountboy	Refused	3 x 105	20km	No objection
Rhynie	Operational	4 x 80	14km	No objection
Tom nan Clach	Undetermined	17 x 110	5km	No objection alone but objection combined with Glenkirk

5.48 As demonstrated by Table 5.1, the CNPA has taken a measured, selective and pragmatic view to consultation responses and has objected only when there have been serious concerns about individual proposals and their cumulative effects. However, 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.

5.49 It should be noted that the CNPA was not consulted in respect of the following wind farms mentioned in the ES or SEI, because they pre-dated the National Park or were considered by the planning authorities to be too small in scale and / or too distant to affect the Park:

Aultmore,	Balnagoon Farm,	Broombank Farm,
Boyndie Airfield,	Cairnmore,	Droop Hill,
Drummuir,	Dummuies,	Farr,
Findhorn,	Glens of Foudland,	Hill o Balquhinoachy,
Hill of Burns,	Hill of Easterton,	Hill of Fiddes,
Mains of Hatton,	Meikle Carew,	Methlick Farmers,
Mid Hill (Fetteresso),	Myreton,	Paul's Hill,
Roths,	St John's Well,	Strath of Brydock,
Tillymorgan		

5.50 ES Figure 9.3 and the SEI Figures 1 – 3 and 6 show an array of some of the existing, consented and proposed wind farms around parts of the Cairngorms National Park. Figure 1 shows some 46 wind farms within 60km of Dorenell. Figure 2 and Table 2.2 of the SEI show the 14 wind farms which are subject to the cumulative assessment in the SEI. Because this is limited to those wind farms within 35km (or thereabouts) of Dorenell it does not cover all the wind farms that affect, or would affect the National Park (e.g. Farr, Glenkirk, Tom nan Clach and Cairn Duihe). Equally, there are some wind farms in the Figure and the Table that are not considered to have cumulative effects on the National Park owing to small scale and distance.

5.51 Unsurprisingly, there is an overlap between the 12 in Table 5.2 and the 14 in Table 2.2 of the SEI. In total there are 22 wind farms in the two lists, including Dorenell; of which it is considered at least 16 would have a cumulative effect on the northern arc of the National Park (those listed in Table 5.2 below). Wind farms in Table 2.2 of the SEI which are not considered to contribute to this cumulative effect on the National Park are: Balnamoon Farm, Mains of Hatton and Myreton. Mountboy and Rhynie are not considered to contribute to a cumulative effect, Mountboy having been refused in any event. Mile Hill is to the south of the National Park, so it is not relevant to the analysis of cumulative effects to the north, but it is relevant to the accumulating ‘ring’ of wind farm proposals almost all around the National Park.

**Table 5.2 Wind farms contributing to cumulative effects on the National Park
(North / NE / NW of the boundary)**

Scheme	Status	Proposal No x ht to BT in metres	Distance from NP boundary (approx)	CNPA response
Berry Burn	Consented	29 x 104	6km	No comment
Clashindarroch	Undetermined	18 x 110	9km	Objection
Cushnie	Undetermined	7 x 125	5km	Objection
Corriegarth	Consented	20 x 120m	10km	No objection
Dorenell	Undetermined	59 x 126	2.4km	Objection
Dunmaglass	Undetermined	33 x 125	10km	Objection
Glenkirk	Undetermined	31 x 110	km	Objection
Kildrummy	Consented	8 x 93	4km	Objection
Tom nan Clach	Undetermined	17 x 110	5km	Objection
Cairnmore	Operational	4 x 80	13km	Not consulted
Dummuies	Operational	7 x 80	23km	Not consulted
Farr	Operational	40 x 100	9km	Not consulted
Glens of Foudland	Operational	20 x 78	26km	Not consulted
Paul’s Hill	Operational	28 x 104	5km	Not consulted
Roths	Operational	28 x 100	16km	Not consulted
Tillymorgan	Undetermined	3 x 80	30km	Not consulted

5.52 The 16 wind farms in Table 5.2, would have 352 turbines in total. Dorenell would be the most significant addition to baseline (existing and consented wind farms) and the most significant proposal, because of:

- (a) Its size – at 59 turbines it is by far the largest single proposal, alone adding 20% to the number of turbines in all the other wind farms in the baseline and proposed wind farms, and adding 32% to the 184 turbines in the baseline;
- (b) Its scale of development - turbines of 126m high to blade tip (the highest turbines proposed in Table 5.2), and 34.8km of tracks and 5.3km of upgraded arterial estate roads (together more than the distance by road between Grantown-on-Spey and Nairn), a sub-station of 5,400m² and a borrow pit (quarry) 4ha in area up to 20m deep); and
- (c) Its proximity - only 2.4km from the National Park boundary, it would be the nearest.

5.53 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 steadily eroded by granting further consents. The process has the potential to accelerate and wind farms to encroach ever closer to the Park boundary, in a ring almost all around it.

5.54 The concept of an area having reached 'capacity' for wind farm development has been recognised in policy (**CD B 9** paragraph189) 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.

CONSULTATION WITH THE CNPA

5.55 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 Committee Report (**CD K 13**).

5.56 The CNPA Planning Committee decided to strongly object to the proposal (**CD K 14**), agreeing with the Planning Officer's report to the committee. Particular concerns were raised with regard to the following points (amongst others) and how these impact upon the core aims of the National Park in terms of the Act:

- a) the remote and wild area of the Proposed Development's location;
- b) the Proposed Development's effects on the Park in this vicinity;
- c) 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;
- d) 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.