

**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  
INCLUDING CUMULATIVE IMPACTS  
ON THE CAIRNGORMS NATIONAL PARK***

**PRECOGNITION  
OF  
DAVID TYLDESLEY**

**For**

**THE CAIRNGORMS NATIONAL PARK AUTHORITY**

## **INTRODUCTION**

1. I am David Tyldesley, I have written CNPA1 – CNPA5. They provide the basis for my precognition.
2. My evidence is restricted to the impacts of the Dorenell proposal on the landscape, visual amenity (natural beauty and amenity), the ‘special qualities’ and the setting of the Cairngorms National Park.
3. I am aware of national policy in respect of renewable energy and specifically wind farm development. I do not reiterate it. It will be examined in detail by others. In reaching my conclusions about the unacceptability of this proposal in terms of its impact on the Park I have given considerable weight to the case for the meeting and where possible exceeding of targets for renewable energy generation.
4. However, the case for renewable energy is not unrestrained<sup>1</sup> and this case is a different category from the Beaully – Denny proposal<sup>2</sup>. Given that the Dorenell proposal would have significant adverse effects on the special qualities (including the landscape) and enjoyment of the Park, then notwithstanding these national policies the effect of the proposal is such that it should be refused.

## **IMPACTS ON THE PARK**

5. The CNPA’s objection is not based merely on proximity, or because there would be an adverse effect on the landscape; but also because of the scale and location of the proposal. This very large wind farm would be located in an area where the landscape character is the same on both sides of the Park boundary and is of the highest quality and sensitivity<sup>3</sup>. It is in an area that forms an integral part of the setting of the Park<sup>4</sup>, and which exhibits strong qualities of wildness<sup>5</sup>. The impacts on the Park would impede the ability of the CNPA and partners to collectively achieve the aims of the National Park Plan, for which they have statutory duties<sup>6</sup>.

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<sup>1</sup> E.g. paragraphs 131 and 187 of SPP CD B 9

<sup>2</sup> Referred to extensively by the applicants in APP P 2

<sup>3</sup> CNPA 3 at 3.4, 3.22 and 3.23

<sup>4</sup> CNPA 5 at 5.37 – 5.45

<sup>5</sup> CNPA 4

<sup>6</sup> CNPA 5 especially 5.33 – 5.36

6. National Park Local Plan policies are designed to protect the Park. Their application would lead to a rejection of such a proposal in the Park. I readily accept that they do not apply outwith the Park. But as the effect on the Park would be much the same if the proposal was 3+km to the south, and therefore located partly in the Park, the outcome should be no different.

### **Scale of the proposal**

7. Dorenell is the largest single proposal that would affect the Park, with 59 turbines and the highest turbines of any proposal. Together, the 34.8km of tracks and 5.3km of upgraded arterial estate roads would exceed the distance by road between Grantown-on-Spey and Nairn.

### **Setting of the Park**

8. Assessing effects on setting does not equate to introducing a protective ‘buffer’. There is no automatic exclusion of, or presumption against, developments in the setting of National Parks or in locations close to their boundaries. Each case must be assessed on its merits. However, PAN 45<sup>7</sup> advises a cautious approach needs to be taken in deciding proposals that affect a National Park and its wider setting. There is no doubt that the application site is in, and the proposal significantly and adversely affects, the setting of the Park<sup>8</sup>. The significant effects are not ‘limited’<sup>9</sup> but substantial. From some important vantage points it will appear as though the proposal is in and/or forms part of the Park landscape.
9. The application site hills are not “unremarkable” and they are prominent<sup>10</sup>. The site is not “very well contained by surrounding land form”<sup>11</sup> from the Park<sup>12</sup>. The landscape character and quality of the application site is worthy of protection in its own right, but additional weight should be attached to it because it makes a positive contribution to the Park.

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<sup>7</sup> Paragraph 75 CDC1. It cautions that “it may be difficult to accommodate wind turbines without detriment to natural heritage interests”.

<sup>8</sup> CNPA 5 at 5.37 – 5.45

<sup>9</sup> APP P 2 at 5.4.137

<sup>10</sup> APP L 2 at 5.2.2

<sup>11</sup> APP L 2 at 5.2.3, 6.1.2, 6.1.3, 6.1.5

<sup>12</sup> As conceded in APPL 2 6.1.2

## **Wildness**

10. The characteristic of wildness (wild land character) in the Ladder Hills, within and outwith the Park, would be destroyed by the construction of the turbines and tracks of the proposal. This loss of wildness would be contrary to national policy<sup>13</sup>, would be detrimental to people who enjoy this area, and of deep concern to the CNPA. The characteristic of wildness would also be affected in other parts of the Park.
11. The LVIA process does not easily capture effects on the perception of wildness and yet it is one of the Park's special qualities and its extensiveness makes the Cairngorms different to other UK National Parks.
12. The objective is to protect wildness wherever it occurs in the Park<sup>14</sup>. I disagree with the assertion that there is no significant coincidence of the ZTV with wild areas; the Ladder Hills are as wild as parts of the central massif<sup>15</sup>, and the ZTVs extend over parts of the central massif from 20 – 35km<sup>16</sup>. The analysis of the effects on wildness in APPL2 is superficial.

## **Special qualities**

13. The qualities that would be affected<sup>17</sup> are particularly important for the many users of the high level footpaths and summits in the area and highly sensitive areas such as the Ladder Hills and Braes of Glenlivet. The Park is important for recreation. Visual intrusion is just as significant or greater where it affects remoter landscapes and those who actively seek the experience of the Park's hills<sup>18</sup>. Significant effects are not limited to 15km<sup>19</sup> and views from summits well in excess of this can be significantly affected by wind farms in various light conditions.
14. Those who seek wildness, by definition fewer in numbers, are perhaps the most sensitive visual receptors of all, in terms of the impact of a large wind farm. Less weight should not be afforded to parts of the Park which may be visited by fewer people<sup>20</sup> not least because to do so would fail to safeguard areas of wild land character<sup>21</sup>.

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<sup>13</sup> SPP CD B 09 para 128

<sup>14</sup> Paragraph 5.9.1 in APP L 2 is therefore incorrect

<sup>15</sup> CNPA 4 at 4.13 – 4.15

<sup>16</sup> APP L 3, Figure 17

<sup>17</sup> See further CNPA 5, CD Q 14, CD F 4 (page 25) and CNPA 17

<sup>18</sup> CNPA 9 and CNPA 14

<sup>19</sup> See CNPA 2 at 2.29 (there is a typographical error, "Effects up to 30km" should read "Effects up to 35km"), CNPA 2 at 2.30, APP L 2 and CD C 1 at page 27 Figure 8

<sup>20</sup> Nor, in my view, should less weight necessarily be accorded to areas with a trunk road running through it

<sup>21</sup> SPP CD B 09 para 128

15. It is self-evident that the landscape varies across the Park<sup>22</sup>. However, the idea that this Park has a particularly inward looking emphasis<sup>23</sup> is misleading. The diversity of the Cairngorms underpins its designation as a National Park, recently extended; the special qualities go well beyond those found in or related to the central massif.

## CUMULATIVE IMPACTS

16. CNPA has serious concerns about the cumulative effects of wind farms around the Park, particularly to the north-east and north-west. The applicants agree there is a high degree of wind farm activity in the area surrounding the site, that a number of wind farm 'clusters' is emerging in north eastern Scotland, around the perimeter of the Park, and that these groups are particularly apparent from the fringes of the Cairngorms, from where they are seen sequentially<sup>24</sup>.
17. Dorenell would be the most significant addition to baseline and is the most significant proposal in terms of cumulative impact on the Park<sup>25</sup>. The applicant's assessments of the significance of the cumulative impacts on the Park in the ES, the SEI and the APP L documents are not agreed. The impacts from the elevated viewpoints in the Park are not necessarily made more acceptable because they are seen in a wider context<sup>26</sup>. On the contrary, it is these viewpoints that are accessed in order to enjoy the unspoilt panoramic views. Contrary to the assertion that external views are not identified as one of the special qualities of the Park<sup>27</sup>, the vast and distant panoramic views which are frequent throughout the Park is explicitly cited as a special quality<sup>28</sup>.
18. I note that the applicants argue that Dorenell could not undermine the aims of the Park because the parts of the Park affected are already subject to the influence of wind farms<sup>29</sup>. This argument feeds the risk of increasing cumulative effects.
19. Because of the way in which wind farms can affect the character of adjacent areas, as well as the areas in which they are constructed, there is a serious risk of progressively changing the perception of the landscape character of the Park and its enjoyment. The special qualities and the character of the Park could be steadily eroded if inappropriate consents are granted.

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<sup>22</sup> APP P 2 at 5.4.74

<sup>23</sup> APP L 2 at 10.2.2

<sup>24</sup> APP L 2 at 7.1.1 and 7.1.3

<sup>25</sup> CNPA 3 and CNPA 5 at 5.46 – 5.54

<sup>26</sup> APP L 2 7.1.7

<sup>27</sup> APP L 2 at 10.2.2

<sup>28</sup> CD Q 14 at page22 – grand panoramas and framed views

<sup>29</sup> APP L 2 at 11.0.2

20. I accept that ‘precedence’<sup>30</sup> must be taken into account with caution. Yet the applicants refer to the outcome of many previous decisions as if they are precedents in favour of their case. Furthermore, this Inquiry will consider the cumulative effects of wind farms already permitted. Permitting Dorenell would undoubtedly make it more difficult to refuse other large scale wind farms close to the Park because applicants would cite it in support of their applications. This is not an argument in favour of a ‘buffer zone’. It merely reflects the importance of the setting of the Park and how previous decisions are used to support new proposals.

### **APPLICANT’S ASSESSMENT OF IMPACTS ON THE NATIONAL PARK**

21. The ES and SEI fail to adequately address the implications of the proposal affecting the Park and its setting, and apply inappropriate tests<sup>31</sup>.
22. All landscape types and selected viewpoints in the Park should be assigned a ‘high’ level of sensitivity according to Tables 9.2 and 9.3 (ES), but all are not. I agree that ‘major/substantial’ and ‘moderate’ levels are significant in EIA terms, a point confirmed by Ms Alexander<sup>32</sup> and consistent with guidance<sup>33</sup>. In adopting a different and lower level for significance Mr Welch is at odds with the ES and Ms Alexander and comes to some different conclusions as to the significance of the proposals,
23. The applicants appear to consider that the Park is not a landscape designation<sup>34</sup>. Whilst not purely a landscape or scenic designation, its landscape and scenery are a fundamental reason for its designation on ‘natural heritage’ grounds and they are one of the strongest influences on its special qualities which underpin the designation.
24. To apply a test<sup>35</sup> as to the effect of the proposal on the Cairngorms National Park as a whole, is fundamentally wrong, contrary to national policy<sup>36</sup> and misleading. The larger the Park (the Cairngorms is Britain’s largest) the smaller the effect is bound to be. If applied to all developments it could lead to the systematic destruction of landscape character across all or most of the Park, because all proposals would only affect a part of the Park and no individual development would ever have a significant effect on the

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<sup>30</sup> APP P 2 at 5.4.134

<sup>31</sup> CNPA 3 and 5

<sup>32</sup> APP L 11 2.2

<sup>33</sup> Discussed in CNPA 2 at 2.27

<sup>34</sup> E.g. APP L 2 at 5.3.1, 5.4.1, 5.14.1 and 11.0.2

<sup>35</sup> For example paragraphs 9.547 – 549 ES and in many other places in the applicant’s evidence

<sup>36</sup> SPP para 138 CD B 09

Park as whole. All of the area of the Park affected by the proposal is of outstanding national importance.

25. It is a distraction to argue<sup>37</sup> that much of the Park in the study area is not affected, and the wind farm would not be seen from a range of areas listed. The key issue is the impact on those areas that are affected and how the proposal would affect the special qualities of the Park. Dorenell would have the most extensive visibility (based on the blade tip ZTV), and bearing in mind the number of turbines would have the highest potential impact on the Park of any other wind farm considered in the ES/SEI<sup>38</sup>.

## **THE CNPA POSITION**

26. The CNPA has taken a measured approach to consultation and has objected only when there have been serious concerns about individual proposals and their cumulative effects. This proposal contributes significantly to the cumulative effects on the Park and its setting, and the Park's potential to contribute to the economic and societal well-being of Scotland<sup>39</sup>. The Park is one of only two in Scotland, it is an important national asset.
27. There is a clear agreement between the CNPA and SNH in which SNH leaves commenting on impacts on the National Park to the NPA (June 2007)<sup>40</sup>. (As to the finding of the Reporter in the Kildrummy decision<sup>41</sup>, on a very much smaller proposal, the CNPA has expressed its concern to the DPEA about this)<sup>42</sup>.
28. The SNH position is not unqualified and supportive<sup>43</sup>. It expressly excludes effects on the National Park and even then refers to being not so strongly opposed to the visual impact to warrant an objection<sup>44</sup>.
29. I agree the CNPA position and conclude that the application should be refused by the Scottish Ministers.

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<sup>37</sup> ES para 9.543

<sup>38</sup> See Figures 9.34 – 9.38 ES and Figures 8 – 14 SEI

<sup>39</sup> Paragraphs 49, 99 and 223 NPF CD B 1

<sup>40</sup> CNPA 20

<sup>41</sup> Para 15 CD T 12

<sup>42</sup> The Reporter had been advised at the Inquiry that the agreement post dated the comments on the first Kildrummy proposal for 11 turbines (29/4/2005) which is why SNH commented on National Park issues in that case, but not the later consultation on 8 turbines (9/8/2007).

<sup>43</sup> APP P 2 at 5.4.121

<sup>44</sup> CD K 20 SNH letter of 18<sup>th</sup> June 2009