
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: **CONSULTATION FROM SCOTTISH
GOVERNMENT ON APPLICATION UNDER
SECTION 36 ELECTRICITY ACT 1989
(additional environmental information)**

Prepared by: **ANDREW TAIT, PLANNING OFFICER
(DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: **CONSTRUCTION OF 31
TURBINE WIND FARM, ALLT
DUINE, KINCRAIG, HIGHLAND**

REFERENCE: **N/A**

APPLICANT: **RWE- N POWER RENEWABLES**

DATE CONSULTED **2 AUGUST 2011**

RECOMMENDATION: **AMEND OBJECTION**

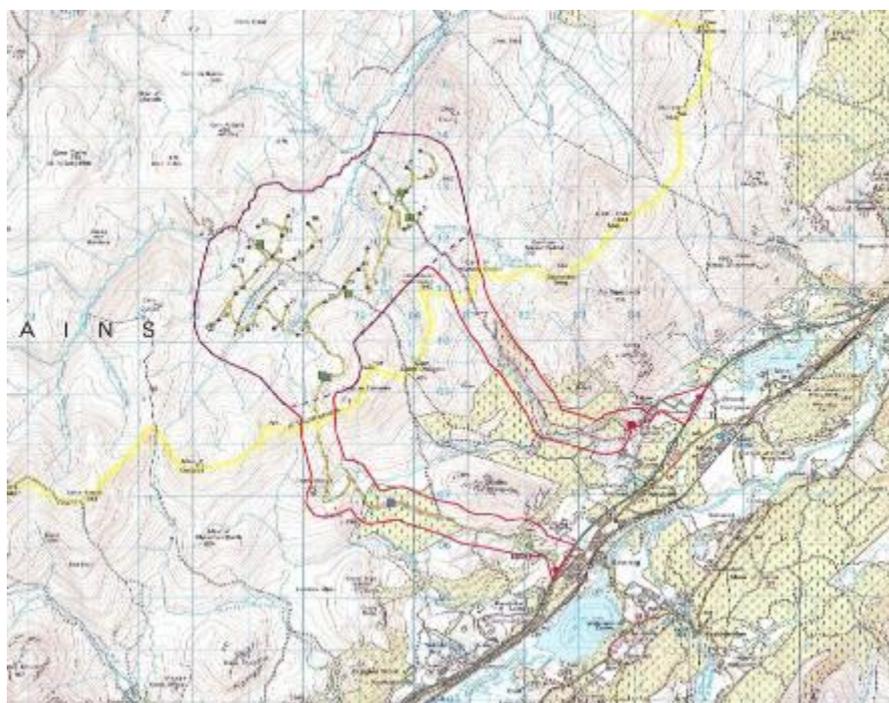


Fig. 1 - Location Plan (park boundary yellow)

PURPOSE OF REPORT

1. The purpose of this report is to provide a consultation response to the Scottish Government on this proposal for a 31 turbine wind farm. Other organisations are inputting into this process and replying direct back to the Scottish Government. This proposal was presented to the planning committee in May this year where the Committee decided to object to the proposal for a number of reasons relating to ecological, landscape, visual, tourism impact and in particular cumulative impact. A copy of that original report can be found here <http://www.cairngorms.co.uk/parkauthority/planning/planning-papers/?meetingID=643> Since then the developer has submitted further clarifications and additional information regarding ecology, and in particular ornithology. This is as a result of concerns raised by the CNPA and SNH.
2. The first reason for objecting to the application related to ecological issues and read as follows: *At this point in time there is considerable doubt with regard to the effect of the proposal on a number of protected species and habitats, with particular concern with regard to golden eagles as a European Protected Species. The proposal as it stands is not considered to accord with the strategic objectives of the National Park Plan 2007 'Conserving and Enhancing the Park which seek to conserve and enhance the condition and diversity of habitats and species present throughout the Park and seek to ensure that populations of species given special protection are stable or where appropriate increasing'. As it stands the proposal is not considered to comply with Policy 1 Natura Sites, Policy 2 National Natural Heritage Designations, Policy 4 Protected Species and Policy 5 Biodiversity of the CNP Local Plan 2010.*
3. In response to the concerns set out above the applicant has submitted an addendum to the application dealing in particular with the issues regarding golden eagles.

SITE DESCRIPTION AND PROPOSAL

4. The site is located to the east of the A9 in the Monadhliath Hills above Kincaig and to the north of Kingussie. The wind farm itself is located in a bowl to the North West of a hill ridge which runs parallel to the A9. The Park boundary generally follows this ridge which links the Corbetts (hills of over 2,500ft) of Geal Charn Mor and Carn Fhreiceadain. The site is located on Alvie, Dalraddy and Dunachton Estates.
5. The turbine site itself is located in a west facing bowl within the catchment of the River Dulnain which flows back into the Park boundary near Carrbridge on its way to the River Spey. The main access track and cable route to the proposed substation would be located on the east facing slopes within the National Park. The main access point to the application site is located at Leault Farm and the access point for the substation is located at West Delfour. Both access points have existing tracks direct onto the A9 (see plan at back of report).

6. The wind farm comprises 31 wind turbines with an anticipated maximum capacity of 3MW each. The maximum height would be 125m to the blade tip.



Fig. 6- View towards Cairngorms from Park boundary near site.



Fig. 7- View showing upper section of Dulnain catchment



Fig. 8- View showing central area of site (existing anemometer mast centre)

7. The ecology (ornithology) section of the original Environmental Statement (ES) identified a number of notable birds in the area including golden eagle, merlin, black grouse, golden plover, dunlin and other wading birds. Collision risk for golden eagles was a key consideration and the ES concluded that any adverse impacts predicted for golden eagles, merlins or golden plovers arising from the wind farm were considered to be insignificant at the scale of the Central Highlands Natural Heritage Zone (NHZ) and it was noted that no adverse impacts on the Cairngorms Massif SPA (Special Protection Area) were anticipated.
8. As a result of concerns raised by CNPA and SNH (with particular regard to golden eagle) further data has been provided by the applicant including clarification of surveys and data originally submitted but also information relating to further survey work that was carried out since the Environmental Statement was produced. This work was with particular regard to golden eagles but also covered a number of other bird species. The Scottish Government are seeking the CNPA's views on this additional environmental information.

DEVELOPMENT PLAN CONTEXT

Planning Policy Context (in so far as it relates to natural heritage issues)

9. **Scottish Planning Policy¹ (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
- The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
10. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government’s central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
11. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”

¹ February 2010

12. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes 'subject policies', of which two are particularly applicable to the proposed development and set out below. Topics include rural development, and landscape and natural heritage. In terms of renewable energy there is a clear commitment to increase the amount of energy generated from renewable as a vital part of the response to climate change. This will contribute towards more secure and diverse energy supplies and support sustainable economic growth.
13. **Landscape and Natural Heritage:** Scotland's landscape and natural heritage are internationally renowned and important underpinning significant industries such as the food, drink and tourism industry, and are a key component of the high environmental quality which makes Scotland an attractive place. The aim of the policy is to facilitate positive change whilst maintaining and enhancing distinctive character. Different landscapes will have a different capacity to accommodate new development, and the siting and design of development should be informed by local landscape character. The most sensitive landscapes may have little or no capacity to accept new development. Areas of wild land character in some of Scotland's remoter upland, mountain and coastal areas are very sensitive to any form of development or intrusive human activity and planning authorities should safeguard the character of these areas in the development plan. Planning Authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence for believing that significant irreversible damage could occur. Para 138 of the SPP sets out the aims of the National Parks noting that where conflict between objectives cannot be resolved the National Parks Act requires that the conservation of natural and cultural heritage should take precedence.
14. **Renewable Energy Wind Farms:** The design and location of any wind farm development should reflect the scale and character of the landscape. The location of turbines should be considered carefully to ensure that landscape and visual impact is minimised. When considering cumulative impact, planning authorities should take account of existing wind farms, those which have permission and valid applications for wind farms which have not been determined. Decisions should not be unreasonably delayed because other schemes in the area are at a less advanced stage. Cumulative impact will largely relate to the scale and proximity of further development
15. **Planning Advice Note 45 Renewable Energy Technologies (2011)** has been replaced by web based guidance relating to onshore turbines. The guidance sets out technical information and typical considerations for such development including impacts upon wildlife and eco systems and landscape. The guidance notes that as more sites are proposed within or near sensitive landscapes, landscape protection and designing appropriate mitigation through conditions will become a routine consideration alongside maximising the potential of wind energy.

Cairngorms National Park Plan 2007

16. **Strategic objectives for Landscape, Built and Historic Environment** include, amongst others; maintaining and enhancing the distinctive landscapes across the Park; conserving and enhancing the sense of wildness in the montane area and other parts of the Park; and ensuring development complements and enhances the landscape character of the Park. This section also emphasises the importance of assessing the potential impacts of public and private roads, masts, utilities, renewable energy developments (in and where relevant beyond the Park), to ensure that designs and locations do not detract from the landscape character. Strategic Objective a) on Biodiversity seeks to conserve and enhance the condition and diversity of habitats and species present throughout the Park. Objective e) seeks to ensure that populations of species given special protection under the Habitat Regulations, the Wildlife and Countryside Act, the Nature Conservation Act, and European Directives are stable or where appropriate increasing.
17. **Strategic objectives for Energy** include; contributing to national targets for greater renewable production through increasing community, business and domestic-scale renewable energy schemes. However, large scale wind farms are not considered to be appropriate in the National Park due to landscape and natural heritage impacts, but the development of domestic, and community-scale facilities in a full range of energy options should be pursued in appropriate locations.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

18. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
19. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
20. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the additional environmental information submitted.

21. Policy 1 Natura 2000 Sites: development likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994. Where an assessment is unable to ascertain that a development will not adversely affect the integrity of the site, the development will only be permitted where: a) there are no alternative solutions; and b) there are imperative reasons of overriding public interest, including those of a social or economic nature. Where the site has been designated for a European priority habitat or species, development will only be permitted where the reasons of overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).
22. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.
23. Policy 4 Protected Species: development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.
24. Policy 5 – Biodiversity : development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where:
 - (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
 - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.

25. Policy 15- Renewable Energy Generation : developments for small scale renewable energy schemes which support the aims of the National Park and the National Park Plan Strategic Objective regarding energy production, will be favourably considered where they contribute positively to the minimisation of climate change, and where they complement the sustainability credentials of development. Development, including any ancillary works. Will be sited and designed to have no significant adverse visual or landscape impact, including any cumulative impact, caused as a result of energy generation, transmission or distribution measures, and will not have any adverse impact on the amenity of neighbouring properties or any unacceptable impact on the environment
26. CNP Supplementary Planning Guidance (SPG) Natural Heritage: sets out 6 key principles to be used in assessing planning applications. The first principle is that development should result in no net loss of natural heritage interest of the CNP. The second principle is that where loss or damage is unavoidable, then the loss or damage will be minimised. The third principle is that loss or damage will be fully mitigated on the development site. The fourth principle is that if mitigation is not possible then on site mitigation and offsite compensation should be used. The fifth principle is that where full mitigation or compensation measures are not possible financial compensation will be required to be used to benefit natural heritage within the CNP. Principle 6 considers how compensation will take into account the quality of outcomes over time.
27. The CNP Local Plan is the subject of an appeal under section 238 of the Town and Country Planning (Scotland) Act 1997 against the decision of the CNPA to adopt the CNP Local Plan 2010. The Appeal will be decided by the Court of Session and is a material consideration. Therefore, account has been taken of the Appeal in the determination and recommendation made in respect of this application.

CONSULTATION

CNPA Ecologist commented on the proposal in spring 2011 as follows:

28. The access track traverses habitats that are listed in the habitats directive, namely blanket bog, wet heath, dry heath and lichen rich heaths. The majority of these habitats are listed as priority habitats on the Scottish Biodiversity list. The exact area of these habitats to be lost due to the creation of the access is not clear, although it is likely to be significant due to the access road being 15 metres wide (5 metre running width with 5 metres either side for cuttings/track batters). The proposal is not considered to fulfil the first aim to conserve and enhance. There is no consideration of compensatory habitat. Compensation and enhancement schemes need to be developed to ensure that the proposal complies with the first aim of the Park. There is significant risk of pollution to watercourses and bog habitats, it is

essential that construction method statements are submitted to the appropriate bodies including the CNPA.

29. In terms of mammal species the cable route appears to be directly on top of two potential pine marten dens. A more detailed survey of these den locations should be undertaken to ascertain if they are in fact pine marten dens. If pine martens are found the cable route should be altered to prevent any disturbance. With regard to water voles no burrows have been found, although there were a couple of latrines identified along the access road route. A pre-construction survey should be carried out and if burrows are found a 30 metre exclusion zone should be created around each burrow.
30. With regard to bird species the CNPA has previously raised concerns about the number of wind farms around the park and how this impacts upon bird populations within the Park. Given the turbines are outside of the Park the CNPA can only comment upon how they would affect populations within the Park. There are limited studies of bird movement from and to the Park. The CNPA Partner Project Raptor Track has satellite tagged several raptors in the vicinity of the proposed wind farm including 3 golden eagles and a peregrine falcon. The project provides crucial information on the importance of the site for raptors that is free of the inherent errors associated with vantage point surveys from a human observer potentially causing disturbance at a site. From this data there are two golden eagle territories in the area and not one.
31. While recognising that that the CNPA casework agreement with SNH means that SNH lead on EPS and European Protected Species such as golden eagle there are concerns about the methodology which makes it difficult to assess the true ornithological value of the proposed wind farm site. Within the information presented in the ES, there are few flights of any species within the proposed wind farm area; therefore the calculated collision risk is low for raptor species. However, this cannot be fully assessed due to the concerns with the data and SNH has asked for further information.
32. In general terms wind farms are known to have a barrier effect on some mammal and bird species. In particular golden eagles have been documented as avoiding wind farm areas. The CNP is concerned that the growing number of wind farms could create a barrier for some species, effectively resulting in habitat fragmentation. This particular application has provided no compensation measures for the loss of habitat for golden eagles. In the scoping report the CNPA suggested that potential impacts upon sea eagles and red kites should be considered but this has not been assessed. If the proposal is overall found to be acceptable a detailed construction statement would need to be developed to prevent disturbance to raptors. As wind farms are growing rapidly in number, if the proposal should prove acceptable the CNPA would recommend a minimum 3 year post construction fatality survey to be undertaken for birds.
33. **CNPA Ecologist has considered the additional information with regard to ornithology and comments that SNH are content that issues relating to ornithological information have been clarified and**

have advised “that the proposed Allt Duine wind farm, will not, by itself or cumulatively with other developments, have an adverse impact on the conservation status of any Annex I bird species within the Central Highlands NHZ”. As wind farms are growing rapidly the impact upon bird species is not fully understood. If this proposal were to be passed the CNPA would recommend a minimum 3 year post construction collision survey to be undertaken regularly with the aid of trained dogs or radar or other emerging technologies, developed to study fatality rates. Also no works should be undertaken during the breeding bird season (March-September (inclusive) unless otherwise agreed by the CNPA. With regard to comments on the access track there is still some concern about habitat loss from the works. However, it is also noted that the additional information refers to a Habitat Management Plan to be developed for the wind farm area. The CNPA would like to see this include the access track and cable route within the National Park. As per the key principles of the Natural Heritage SPG, compensation and enhancement is expected for development.

APPRAISAL

34. As mentioned in the introduction this report relates solely to reason I for the CNPA’s original objection to the proposal. No further information has been submitted regarding the other reasons for objecting. As reason I pointed out there was considerable doubt regarding the effect of the proposal on a number of species and in particular golden eagle. Concern was raised by both the CNPA and SNH regarding the vantage point data for some of the survey work and CNPA drew attention to a second golden eagle territory in the area which was not part of the original survey work.
35. As a result of concerns raised by CNPA and SNH the applicant has submitted additional data and information based on more recent survey work than that originally included within the ES. This information has been assessed by SNH and they have confirmed to the Scottish Government that the wind farm will not, by itself or cumulatively with other developments, have an adverse impact on the conservation status of any Annex I bird species in the Central Highland NHZ. CNPA Officers are of the same view but also note that the number of wind farms is growing rapidly and the impact upon bird species is not fully understood. Consequently, should the proposal prove acceptable to the Scottish Government then post construction surveys for bird collisions should be undertaken.
36. The first reason for objecting also included reference to CNP Local Plan policy relating to parts of the development such as the access track that is located within the CNP. There remains some concern regarding the loss of habitat from the track and cabling route construction. The stance of the CNP Local Plan is clear in that proposals have to conserve and enhance, it is still not clear how the infrastructure elements of the proposal within the Park boundary would conserve and enhance. However, reference to a habitat

management plan is welcomed and it is recommended that such a management plan cover the access track and cabling route. Consequently, the parts of reason 1 referring to the policy context are retained albeit in a slightly altered form by specifically referring to the infrastructure elements within the Park as well as potential for resolutions under the aforementioned habitat plan.

37. Consequently, the recommendation is that reason 1 for objecting to the proposal is amended as set out below.

RECOMMENDATION

38. **That Members of the Committee support a recommendation to AMEND reason 1 for objecting to the construction of a 31 turbine Wind Farm, Allt Duine, Kincaig, Highland as follows:**

1. There is concern with regard to habitat loss from the infrastructure elements within the CNP area. The proposal as it stands is not considered to accord with the strategic objectives of the National Park Plan 2007 'Conserving and Enhancing' the Park which seek to conserve and enhance the condition and diversity of habitats and species present throughout the Park and seek to ensure that populations of species given special protection are stable or where appropriate increasing. As it stands the proposal is not considered to comply with Policy 2 National Natural Heritage Designations, Policy 4 Protected Species and Policy 5 Biodiversity of the CNP Local Plan 2010 and the CNP Natural Heritage SPG. However, reference to a habitat management plan is welcome and together with habitat compensation and enhancement this may be capable of providing a resolution to the concerns set out in this reason for objecting to the proposal.

Reasons 2-4 Remain as per the original response

2. The outstanding and unique characteristics of the landscape extend beyond the administrative boundaries of the Cairngorms National Park. The proposal would have an adverse impact upon the experience of landscape character and special qualities of the Park from the Monadhliath Hills and the western part of the Cairngorms themselves. The proposal would impact upon the appreciation of wildness from the Monadhliath Hills and Cairngorm Plateau. There would be adverse visual impact upon the character of the Cairngorms National Park from the Allt Duine proposal and crucially, in combination with a number of wind farms and proposals for wind farms at various stages of development which are resulting in a marked encircling effect upon the Park. The proposal is not considered to meet with the strategic objectives of the National Park Plan to maintain and enhance the distinctive landscapes across the Park and to conserve and enhance the sense of wildness in the montane area and other parts of the Park. As the proposal stands more detailed elements such as the access track are not considered to comply with Policy 6 Landscape of the CNP Local Plan 2010.

3. Tourism is central to the economy of the Cairngorms National Park with visitors coming to the area to enjoy the unique character of the environment, especially its internationally recognised landscape as well as modern and traditional sporting activities. Whether visitors are experiencing the views and sense of wildness from the plateau or from popular smaller hills such as Meall a' Bhuchaille, the proposal has potential to impact upon that experience. The socio-economic study includes no direct survey of visitors to the Park regarding their views on this proposal or this proposal in combination with others. There is also no reference to the potential economic impacts of increased traffic on the A9 at and around the site. In the absence of such an assessment and while recognising that there are some positive economic benefits of the proposal, a precautionary approach should be taken to this development.

4. While recognising that the site lies within a preferred area for wind farm development within Highland Council Renewable Energy Strategy 2006 (which the CNPA did not support) the latest Draft Supplementary Guidance for Onshore Wind Energy (2011) indicates the site as potentially an area to be afforded significant protection. This is with particular regard to protection for the setting of the National Park. This is an important material consideration that reflects the importance to be placed upon protecting the National Park and should be taken into account in the determination of the application.

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5 October 2011

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.