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### By Email and Post

27 April 2009

Dear Ms Krawczynska

#### **Cairngorms National Park Local Plan Inquiry Scottish and Southern Energy Plc and its Subsidiary Companies Objector Reference 447**

Jones Lang LaSalle, on behalf of our client Scottish and Southern Energy plc and their Subsidiary Companies, are pleased to submit this written representation to the Local Plan Inquiry. The representation details our suggested alternative policy wording and additional text for inclusion within the Local Plan in relation to Policies 3, 4, and 18.

The recommended changes should be read in the context of the written representations lodged within our Statement of Case, the previous written objections to the Plan, and my letter to you of April 17 2009.

#### **Policy 3 'National Natural Heritage Designations'**

##### **Current CNPA Local Plan Wording**

Development that would adversely affect the 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 interests of the designated area 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 are mitigated by enhancement of qualities of equal importance to the natural heritage designation.

##### **Recommended Policy Wording**

*Development that would adversely affect the 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 the 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 are appropriately mitigated.*

It is considered that the suggested revised wording more closely reflects the wording of paragraph 25 of NPPG 14 (and is therefore less likely to give rise to conflict with national planning policy). In particular, the vague term “interests of the designated area” has been revised to refer to “objectives” which is the word found within NPPG 14 (and also used in draft policy 4 below). Also, the requirement for “enhancement” mitigation, which is not found within NPPG 14 and is apt to give rise to uncertainty, has been deleted and replaced with a more general requirement that appropriate mitigation is put in place (as would be expected where there are significant adverse environmental effects).

#### **Policy 4 ‘Other Important Natural and Earth Heritage Sites and Interests’**

##### **Current CNPA Local Plan Wording**

Development that would adversely affect an ancient woodland site, semi-natural ancient woodland site, Geological Conservation Review site, or other nationally, regionally or locally important site recognised by the planning authority will only be permitted where it has been demonstrated that:

*a) the objectives of the identified site and overall integrity of the identified area would not be compromised; or*

*b) any significant adverse effects on the qualities for which the area or site has been identified are mitigated by the provision of features of commensurate or greater importance to those that are lost.*

##### **Recommended Wording**

*Development that would adversely affect an ancient woodland site, semi natural ancient woodland site, geological conservation review site, or nationally, regionally or locally important site identified by the Local Plan will only be permitted where it has been demonstrated that:*

*a) the objectives of the identified site and overall integrity of the site would not be compromised; or*

*b) any significant adverse effects on the special qualities for which the site has been identified are appropriately mitigated.*

In addition to the above,

Policy 4 would appear to be aimed at bestowing upon “other important sites” the same level of protection as that afforded to national natural heritage designations under paragraph 25 of NPPG 14. It is doubted whether that such an approach is necessary or justifiable in relation to “locally important sites” which may not have specific natural heritage “objectives” (see para a)) and which, in the absence of any “special

qualities”, may play no substantive part in contributing to the distinctive character and coherent identity of the Park. The Reporters are asked to give this point specific consideration. Even if such an approach is in general appropriate, at the very least the site should be identified and consulted upon before being included in the Local Plan along with the relevant “objectives” so that developers are given notice as to those sites to which policy 4 will apply and the objectives which are to be respected. In addition, in relation to para b) the “qualities” which are adversely affected should be those “special qualities” (adequately defined by the Plan) which are capable of contributing to the Park’s distinctive character and coherent identity (and are of relevance to the National Park aims). The recommended wording also tidies up some of the language by deleting reference to “area” since the policy is concerned with identified sites and the use of the word “area” could give rise to unnecessary confusion.

SSE’s Statement of Case also identifies that the policy wording, particularly the requirement for the “provision of features of commensurate or greater importance” is unclear and also potentially impossible to achieve. This can be demonstrated when the policy is read in the context of paragraph 4.19 and 4.24 of the Local Plan. Paragraph 4.19 notes that “once an area of long established woodland has been lost, it is impossible to replace it with a diverse habitat”. Paragraph 4.24 also states that “For clarity, commensurate will be taken to mean a replacement habitat which has the capacity to support the genetic integrity and size of population, have the same level of connectivity and the same level of complexity.” It is clear that there is a significant inconsistency between the policy wording and the ‘Background and Justification’ for the policy, in terms of what the CNPA consider should be provided by way of “provision of features of commensurate or greater importance” and what could practically be achieved. This further emphasises the need to ensure that the final policy is drafted in clear, practical, and implementable terms.

### **Policy 18 ‘Design standards for development’**

SSE’s Statement of Case at paragraphs 2.3.31 to 2.3.33 notes that objections to this policy would be withdrawn, on the basis that the supporting text of the Local Plan is amended to make appropriate reference to the policy not being directly applicable to the consideration of infrastructure or renewable energy development proposals. In this regard it would be appropriate to add additional text to the end of paragraph 5.9, which we recommend is as follows:

*“It is recognised that there are some forms of development, an example being an infrastructure project such as a power line, which by their nature could not be expected to comply with every aspect of this policy. Nevertheless, good design and sustainability should be a feature of such projects wherever possible. Account will also be taken of the extent to which such projects facilitate achievement of the National Park Plan strategic objectives set out above. Similarly, renewable energy generation schemes are unlikely to meet all aspects of this policy (eg. to reinforce the local vernacular) but a design statement should be prepared which demonstrates the extent to which it has been possible to comply with policy 18.”*

Paragraph 5.14 of the Local Plan also refers to a ‘Sustainable Design Guide’, which requires to be completed and submitted with every planning application. This is to be provided through Supplementary Planning Guidance (SPG) and it is not clear from the Local Plan text how, or even whether, the SPG would be used to assess compliance with Policy 18. While the SPG does not form part of the Local Plan, it is particularly important to ensure that the SPG recognises that different types of development will be quite different in the sustainable credentials that can be achieved.

**Conclusions**

It is considered that the suggested policy wordings above are more consistent with national planning policy (as referenced within our Statement of Case) and with the 'Background and Justification' for the policies contained within the Local Plan. We also consider that the suggested policy wordings and accompanying text maintain the objective of each policy and will result in it being applied in a more practical and consistent manner.

I trust that the above written representations will be read by the Reporters in the context of SSE's wider case to be presented to the Inquiry and as already set out within SSE's Statement of Case. We also invite the CNPA to contact Jones Lang LaSalle with a view to agreeing appropriate policy wording in order to resolve these outstanding objections.

I trust that you will find the above to be in order but should you require to discuss any matter please do not hesitate to contact me.

Yours sincerely  
For Jones Lang LaSalle

**Stuart Winter**  
**Senior Development Planner**  
**Planning and Development**

cc Hazel Scott (SSE)  
Mark Turnbull (MTLA)