

Rebuttals to the CNPA's Statements of Case

Statement of Case (SOC)	Paragraph	Rebuttal
CNPA General – Links to other Plans / Policies	8.2	<p>The CNPA refer to paragraph 30 of SPP1 in that it requires National Park Plans to provide the strategic context for Development Plans. The SOC also notes that the approach to detailing special qualities has been approved by Scottish Ministers through the Park Plan and the CNPA imply that the strategic approach is appropriate on this basis. In response to this we wish to highlight that the Park Plan could be considered to be provided on a strategic basis; however, the Local Plan does not appropriately take the National Park Plan from a strategic level to a more detailed and local specific level as would be expected for a Local Plan. This is generally the case when considering a Structure Plan (which is required to provide the strategic policy) and a Local Plan which then takes the strategic policy and details this for the local level to provide more detailed land use guidance. This is not the case for this Local Plan.</p> <p>The CNPA also place heavy reliance upon the Topic Papers and Supplementary Guidance (SG), to further define special qualities. We have set out our assessment of the Topic Paper on Special Qualities within our SOC and Document SSE-2. It is our position that the Topic Papers do not form part of the Local Plan and as such we would question the appropriateness of defining special qualities through such Topic Papers and not the Local Plan itself. The SOC also places heavy reliance on SG that is in the process of being prepared.</p> <p>The reference to SG raises a significant concern in that under the new style 'Local Development Plans' SG (note it is important to recognise the distinction between SG and Supplementary Planning Guidance (SPG)) can become part of the Development Plan. As the Cairngorms National Park Local Plan is being progressed as a Local Plan and not a Local Development Plan, it would be more appropriate for the CNPA to refer to the preparation of "<u>Supplementary Planning Guidance</u>". In this respect, as SG or SPG can not have a statutory footing, as part of this Local Plan, and as the CNPA place heavy reliance on SPG to add much of the detail to the Local Plan, we suggest that the Reporters consider the merits of recommending that the CNPA set out within the Local Plan, clearly, the consultation and approvals process that will be adhered to for the SPG. We suggest that it would be appropriate for the consultation on SPG to last for at least six weeks, to be advertised in a local paper as well as the CNPA's website. Any adoption of the SPG by the CNPA should require approval by the CNPA Planning Committee who would be required to have due regard to any representations made during the consultation process, formally noted through a consultation report. It is also relevant to note that it is usual for a Local Plan to set the planning policy framework to guide development within the plan area and for SPG to provide the detail to this policy framework, but not to provide additional important guidance that would have been better placed within the Local Plan itself.</p>

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	<p>This principle is clearly set out within paragraph 96 of Circular 1/2009 which states “<i>Scottish Ministers intention is that much detailed material can be contained in Supplementary Guidance, allowing the plans themselves to focus on vision, the spatial strategy, over arching and other key policies, and proposals</i>” (this is relevant to Local Development Plans, however, it clearly sets down the Scottish Government’s expectations for SG). In addition, the Circular also provides examples of the topics that the Scottish Government envisages can be covered by SG, one of which is “<i>Allocations of small areas of land or local policy designations that do not impact on the spatial strategy of the wider plan area</i>”.</p> <p>The potential scope of SG is further detailed through Regulation 27 (2) of The Town and Country Planning (Development Planning) (Scotland) Regulations 2008, which states:</p> <p><i>“Supplementary guidance adopted and issued under section 22(1) of the Act in connection with a particular strategic development plan or local development plan may only deal with the provision of further information or detail in respect of the policies or proposals set out in that plan and then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance”</i></p> <p>We consider that the CNPA’s approach to setting out detailed matters within SPG is significantly at odds with the above principles. We therefore suggest that there should be an appropriate spatial strategy in place for the CNPA first of all, which can then be further detailed through SPG. The CNPA’s approach to defining special qualities and the reliance on providing further guidance to developers through SPG, is inconsistent with the Circular, in that there is not an appropriate spatial strategy within the Plan in the first place, to base SPG on, and also that defining special qualities in this way has significant implications for the spatial strategy of the wider plan area. In this regard it is relevant to refer to document SSE-2 which illustrates that the spatial definition of special qualities is of such importance that it should be dealt with by way of an early Alternation to the Park Plan and then carried through in early course into the Local Development Plan.</p> <p>With regard to the CNPA’s reliance on the topic papers to define special qualities, we would suggest that there is no provision within the topic papers to outline how the special qualities combine to give a distinctive character and coherent identity or that this combination may vary with place and time. In addition we also suggest that the topic papers miss the point that it is the integrity of the Park as a whole that should be conserved and enhanced. The approach the CNPA has taken to set out the special qualities of the National Park is that there is no distinction between importance or value of special qualities, meaning that they all have the same value in terms of their contribution to the</p>
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		<p>the Local Plan. Again the CNPA is being overly reliant on SPG and consultation.</p> <p>It should be noted that, as set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, pre-application consultation with a planning authority is only required for "Major" developments. Whilst pre-application discussions between an applicant and a Planning Authority is recognised good practice, it is inappropriate to place a requirement on developers to consult with the planning authority on every development proposal which has the potential to affect the special qualities of the National Park as the primary means by which to obtain planning guidance. The Local Plan should be capable of being relied upon as the primary land use planning guidance for developers.</p>
<p>CNPA – Policy 7 – Landscape</p>	<p>3</p>	<p>It is clear from the summary of objections within the CNPAs Statement of Case that there are several objections to this policy and that some objectors share similar matters of objection. SSE's objection is not adequately represented. We also have a concern that the CNPA have interpreted our objections to this policy as requiring the word significant to be removed from the policy wording. In fact, our objections stated the opposite whereby we suggested that it would appropriate for the term 'significant' to be included within the policy text – this was accepted by the CNPA and the Local Plan amended as such through the First Alteration. This is also set out within our letter of 28 September 2007 to the CNPA.</p> <p>We also have a general concern with regard to the officer suggested Post Inquiry Modifications to policy wording. It is not clear whether the CNPA's SOC has been based on this suggested alternate policy wording, or on the policy wording within the Local Plan which is before the Local Plan Inquiry. The SOC reads as if it may be based on both.</p> <p>The CNPA consider that this policy is adequate due to the arguments relating to the special qualities of the Park being set out within Topic Paper 2. This however fails to take account of SSE's objection that, in order to provide appropriate land use planning guidance to developers and investors, the special qualities of the National Park require to be spatially defined. The CNPA do not explain why the special qualities have not been spatially defined and they have also failed to recognise the benefits of doing so.</p> <p>The CNPA's summary and response to SSE's objection fails to take account of the fact that the policy automatically presumes against any development that does not positively enhance landscape character. We consider that this policy wording is inappropriate and that it would be more appropriate to refer to a presumption against development that has an adverse effect on the landscape character of the National Park.</p>

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		<p>In terms of the proposed officer modifications to the Policy, we wish to note that the removal of the word significant from the second paragraph is inappropriate and that SSE objects to this policy amendment, particularly if advertised as a Post Inquiry Modification. It is SSE's position that it is inappropriate for the policy to require the mitigation of any adverse effect to the satisfaction of the Planning Authority. This could potentially render a development proposal contrary to this policy, which may have a very minimal landscape effect and one that may not be to the detriment of the distinctive character or coherent identity of the National Park. It is considered that such a policy drafting is not only inappropriate but would also be in conflict with realising the fourth National Park aim which is <i>"to promote sustainable economic and social development of the areas communities"</i>. It is recognised that the National Park Scotland 2000 sets out that the four aims must be achieved collectively and in a co-ordinated way. In this respect, it is SSE's position that it would generally be a significant (as opposed to any) adverse effect that would conflict with the first aim which is <i>"to conserve and enhance the natural and cultural heritage of the area."</i></p>
<p>CNPA – Policy 16 – Energy Generation</p>	<p>7.6</p>	<p>The CNPA's SOC sets out the link between the National Park Scotland Act 2000, the four aims of the National Park, and the Local Plan. The CNPA's SOC and the Local Plan are provided on the basis that there is a negative presumption against large scale renewable energy developments such as commercial wind farms. This is set out within paragraph 4.99 of the Local Plan. We consider that paragraph 4.99 is not consistent with SPP 6, specifically the first bullet point of paragraph 39 which states that <i>"Policies in all cases should: support the Scottish Minister's commitment to renewable energy and provide positively for its development"</i> and Annex A which provides policy guidance on planning for windfarms over 20 megawatts.</p> <p>Should the Local Plan be providing positively for renewable energy development, the presumption against large scale renewable energy developments (such as commercial windfarms) in paragraph 4.99 would not exist. We suggest that it would be more appropriate, and more consistent with SPP 6, for this reference to be removed and for all renewable energy development proposals to be assessed against the relevant Local Plan policy criteria on the basis of their individual merits. Annex A to SPP 6, which is applicable to windfarms over 20 megawatts, requires planning authorities to set out, spatially, areas of search for windfarms over 20 megawatts. Annex A also requires, within areas designated for their national or international importance (such as national parks), that areas of search are provided away from such locations. There is therefore an implication within SPP6 that windfarms (not all types of renewable energy development) over 20 megawatts are unlikely to be consistent with the objectives of national and internationally designated sites. In this respect the approach to providing policy for renewable energy development by the Loch Lomond and the Trossachs National Park (LLTNP), within policy REN 1 'Wind Renewable Energy Policy and the</p>

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		<p>supporting plan text', is relevant. The LLTNP provide a positive policy framework for windfarms up to 20 megawatts within the park, subject to relevant policy criteria. This policy does not presume against commercial windfarms (commercial windfarms can be under 20 megawatts in size).The supporting policy text also defines what is meant by 'large scale' 'medium' and 'small scale', which provides appropriate clarity to the policy interpretation. It is considered that the LLTNP approach to providing a positive policy framework for wind farms is more consistent with SPP 6 than the approach taken by the CNPA. As identified within our SOC, alternate wording for paragraph 4.99 will be provided to address this matter of objection.</p> <p>The CNPA also identify their intention to provide further guidance for renewable energy developments within SPG. We again take the view that as this would be an important policy document (that would require to be consistent with national planning policy as well as the Scottish Government's renewable energy policy) and it would be appropriate for the Reporters to consider the merits of setting out the recommended consultation and committee approvals process for such SPG as part of the Local Plan, as referred to above. Also, in the interests of achieving consistency within the plan, SSE will suggest an alternate wording for paragraph 4.97 of the Local Plan.</p>
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