

Appeal Decision Notice

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Decision by R W Maslin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2117
- Site address: land to the west of Carn Gorm, three kilometres north-east of Garve, Ross-shire IV14
- Appeal by PI Renewables Ltd against the decision by The Highland Council
- Application for planning permission, reference 13/0479/FUL, dated 20 December 2013 and refused by notice dated 5 September 2014
- The development proposed: erection of 14 wind turbines with height to blade tip of 115 metres and associated works
- Dates of inquiry session: 29 June and 31 August to 3 September 2015
- Dates of site visits by Reporter: 23 & 24 March, 29 & 30 June, 1 & 2 July and 4 September, all 2105

Date of appeal decision: 9 November 2015

Decision

I dismiss the appeal and refuse planning permission. A claim for an award of expenses is the subject of a separate decision notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the *Highland-wide Local Development Plan* (adopted 2012), the *Inner Moray Firth Local Development Plan* (adopted 2015) and the *Ross and Cromarty East Local Plan* (adopted 2007).
2. The determining issues in this appeal are the landscape and visual impacts and the economic and environmental benefits of the proposed development. These require to be assessed in the light of development plan policies and national policies.
3. A *Statement of Agreed Matters*, drawn up by the Appellant and the Council, identifies 16 policies in the *Highland-wide Local Development Plan* as being relevant to the appeal. Of these policies, I find that two policies are of particular relevance: 57: Natural, Built and Cultural Heritage and 67: Renewable Energy Developments.
4. The *Inner Moray Firth Local Development Plan* (pages 10 to 12) is relevant in that it confirms the boundary of the Ben Wyvis Special Landscape Area.



5. No part of the *Ross and Cromarty East Local Plan* has been drawn to my attention as having any relevance to this appeal.

6. National policy is contained chiefly in the *Third National Planning Framework* and *Scottish Planning Policy*.

Landscape impacts

7. I note the Appellant's contention that the reasons for refusal of planning permission relate solely to visual effects. I do not accept this contention. The first reason for refusal, among other things, refers to Policy 61. This policy is wholly concerned with landscape. The third reason for refusal refers to Policy 57, which, among other things, engages consideration of special landscape areas. The third reason also refers to Wild Land Area 29, which raises landscape matters. The Appellant quite properly addresses landscape considerations in the Statement of Appeal (Appendix 1, section 6). At the pre-examination meeting on 10 March 2015, there was no dispute that matters to be considered at the inquiry session should include landscape effects.

8. The proposed turbines would be mostly on an undulating plateau which has an elevation of 400 to 450 metres. To the east of the plateau, ground rises to the summit of Carn Gorm (556 metres). To the north, ground rises steeply to the summit of Little Wyvis (763 metres). To the west and south, the landform drops away sharply to the Black Water valley and to Loch Garve.

9. Maps depicting zones of theoretical visibility of the proposed turbines are included in volume 4 of the *Environmental Statement*. These show that there would be a relatively small core area of visibility immediately around the turbines. Visibility beyond this to the north and east is limited by Little Wyvis and its south-east shoulder which extends to and beyond Carn Gorm. Close-range visibility to the west and south of the core area is limited by the break in slope below which the ground drops away.

10. The summit of Ben Wyvis (1,046 metres) is some five kilometres north-east of Little Wyvis and some seven kilometres from the proposed turbines. There would be some visibility of some of the turbines from parts of Ben Wyvis. Beyond this there would be no visibility of the turbines to the north-east thanks to the screening effect of Ben Wyvis. To the west and south, turbines would be visible from east- and north-facing hill slopes and from parts of the straths that are traversed by roads A835 and A832. To the south-east and east there would be visibility from the general direction of Muir of Ord, Inverness and the Black Isle.

11. The *Ross and Cromarty Landscape Character Assessment* and the *Inverness District Landscape Character Assessment* identify landscape character types for the wider area within which the proposed wind farm would be located. The proposed turbines would be within the Rocky Moorland landscape character type. The access track to the turbines would be within the Rounded Hills landscape character type.

12. The *Environmental Statement* identifies significant effects on three landscape character types: Rocky Moorland, Rounded Hills and Narrow Farmed Strath.

Rocky Moorland landscape character type - Carn Gorm to Loch Luichart

13. The *Environmental Statement* finds an overall sensitivity of medium to high within the Carn Gorm to Loch Luichart section of the Rocky Moorland landscape character type. Magnitude of change would be high at close range and medium-to-high for the north-east-facing upper slopes of Cnoc na h-Iolaire. Magnitude of change is assessed as medium from localised areas to the south, including around Rogie Farm and at Tarvie. Medium magnitude of change is also identified at locations to the north-west, including the east-facing upper parts of Creagan an Eich Ghlais and Carn Bad Leabhraidh. At all of these locations, the landscape effect of the proposed turbines would be significant.

14. Cumulative effects within the Rocky Moorland landscape character type arise in conjunction with existing wind farms at Fairburn and Lochluichart and with the approved wind farm at Corriemoillie. The *Environmental Statement* finds that intervening landform and forestry limit visibility and that the cumulative effects of Carn Gorm would be not significant.

15. The Appellant states that a number of wind farms have been consented or are operational within the Rocky Moorland landscape character type, including Fairburn and a small part of Corriemoillie.

16. I am in general agreement with this assessment regarding the Rocky Moorland landscape character type.

Rounded Hills landscape character type - Ben Wyvis section

17. The extensive Rounded Hills landscape character type includes land to the north-east, north and north-west of the proposed turbines. Little Wyvis and Ben Wyvis are within this landscape character type.

18. The *Environmental Statement* notes the Ben Wyvis special landscape area and the Fannichs, Beinn Dearg and Glen Calvie special landscape area. The value of the landscape is assessed as medium-to-high. "This is owing to the absence of any national designation, as well as the extent to which the landscape has been modified internally by extensive commercial forestry, reservoirs and dams, roads and electricity transmission lines and externally by surrounding wind farm developments."

19. Sensitivity is assessed as generally medium, with medium-to-high to the south of Little Wyvis. Within a small area closest to the turbines magnitude of change would be high. To the north, south-facing slopes of Ben Wyvis would experience a medium-to-high magnitude of change. Upper, south-east-facing slopes of Carn na Dubh Choillie would experience medium magnitude of change.

20. The *Environmental Statement* says that significant effects on the Rounded Hills landscape character type would be confined to three areas: an area to the immediate north of the turbines and extending north-west across the slopes of Strathgarve; south-east-facing slopes of Ben Wyvis; and south-east-facing slopes of Carn na Dubh Choillie.

21. With regard to cumulative effects, the *Environmental Statement* says that the most sensitive part of the Ben Wyvis section of the Rounded Hills landscape character type is Ben Wyvis itself. “Its sensitivity relates to the SLA [special landscape area] designation which is centred on the Ben Wyvis range and its location close to the proposed Windfarm increases the potential effects.”

22. In assessing the cumulative effect, the *Environmental Statement* notes that Novar wind farm to the north-west of Ben Wyvis has practically no combined visibility with the proposed Carn Gorm wind farm. Intervisibility with Lochluichart wind farm would occur at a few small localised patches, including one around An Cabar. Fairburn is also visible. “Although ... the addition of the proposed Windfarm will be seen to add notably to the cumulative effect, the more distant ranges of Lochluichart, Corriemoillie and Fairburn moderates their influence on the cumulative situation and in so doing limits the overall cumulative magnitude of change which the proposed Windfarm has on the character of the LCT. This is considered to be medium to low.”

23. The *Environmental Statement* assesses other locations where there would be combined visibility and goes on to conclude that the cumulative effect of the proposed development across the Ben Wyvis part of the Rounded Hills landscape character type would be not significant.

24. The Appellant states that the Rounded Hills landscape character type has been found to be acceptable as a host for other wind farms, including Novar and Lochluichart.

25. I find that the assessment regarding the Rounded Hills landscape character type understates the effects of the proposed development. The landscape character type covers a very extensive area, and the *Environmental Statement* correctly restricts attention to the Ben Wyvis part of the area. The *Environmental Statement* also acknowledges the existence of the special landscape area designation (paragraph 21, above).

26. I find that it would be appropriate to consider the landscape effect of the proposed development on that part of the Rounded Hills landscape character type that is very broadly coincident with the Ben Wyvis special landscape area. This part of the Rounded Hills landscape character type has not been “modified internally by extensive commercial forestry, reservoirs and dams, roads and electricity transmission lines”. There is certainly visibility of such features from within the Ben Wyvis area, but I find that external influences are not so great as to limit the value of the landscape to “medium-to-high”.

27. Regarding the cumulative effect, I find that Lochluichart wind farm and, when constructed, Corriemoillie wind farm would have a considerable influence on those parts of Ben Wyvis from which they will be seen. They would present a considerable concentration of turbines and would be very eye-catching for anyone looking towards the west.

28. Fairburn wind farm has much less influence. Its turbines are seen as a line rather than as a concentration. It is to the south and so for most times of the day could not have any front-lighting from the sun. During the times that I viewed Fairburn, the distant topography beyond had a much greater ameliorating effect than was the case with Lochluichart wind farm.

29. I do not accept any suggestion that lack of combined visibility necessarily means there is little or no cumulative effect. A cumulative effect can occur from seeing wind farms in sequence. Such an effect occurs on the summit area of Ben Wyvis when one moves from an area with visibility of Lochluichart wind farm to an area with visibility of Novar wind farm.

30. I am therefore not convinced that Novar wind farm should be dismissed because it has “practically no combined visibility with the proposed Carn Gorm wind farm”. From my inspection, I found that Novar wind farm was not visible on the approach to the summit of Ben Wyvis from An Cabar, but on reaching the summit it came quite suddenly into view. The intervening trench containing Loch Glass was invisible so, at first glance, the Novar turbines appeared to stand on a distant continuation of the Ben Wyvis summit plateau. Being to the north-east, they were front-lit in the sunlight. The overall effect was quite striking.

31. The main path to the summit of Ben Wyvis goes over An Cabar. From a short section of the path as it approaches An Cabar, some of the proposed Carn Gorm turbines would be visible at relatively close range. Visitors would thus be aware of their presence as they continued to the summit. From the summit, this awareness along with visibility of the Novar turbines (and of Lochluichart and Corriemoillie turbines) would, in my view, tend to give a feeling of being surrounded by wind farm development. It is for this reason that I conclude that the cumulative effect of the proposed development across the Ben Wyvis part of the Rounded Hills landscape character type would be significant.

Narrow Farmed Strath - Strath Garve

32. The Narrow Farmed Strath landscape character type found in Strath Garve comes within 1.3 kilometres of the proposed wind farm. It is a small, contained area that includes the village of Garve and part of the A835 road corridor. The *Environmental Statement* identifies overall sensitivity as medium.

33. The proposed wind farm would not be visible from the south-east part of the Narrow Farmed Strath landscape character type. Moving north-westwards, visibility would increase in stages. Up to 14 turbines would be visible from a small part of the north-westernmost section of the landscape character type.

34. The *Environmental Statement* says that magnitude of change would vary from low to medium. There would be a significant effect across the northern half of the landscape character type, to the north of Garve. Cumulative effect would be not significant.

35. I am in general agreement with this assessment regarding the Narrow Farmed Strath landscape character type.

Ben Wyvis special landscape area

36. The Ben Wyvis special landscape area includes the summit of Little Wyvis and the steep hillside to its south-west. The boundary of the special landscape area runs along the foot of this hillside. The plateau on which most of the proposed turbines would be situated extends south-westwards from the foot of the hillside. The *Environmental Statement*

(volume 4, figure 6.4b) shows five of the proposed turbines just inside the south-western boundary of the special landscape area.

37. Special landscape areas are mentioned in paragraph 21.1.2 of the *Highland-wide Local Development Plan* and are thus one of the features to which sub-paragraph 1 of Policy 57 applies. The policy says that developments will be allowed if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.

38. Policy 57 and its supporting text (paragraph 21.1.8) refer to Appendix 2 of the plan. Appendix 2 includes a section on special landscape areas:

These areas were identified by the Council by virtue either as being large scale areas of regional importance for scenic quality, or as being small scale areas of local scenic and recreational value. The Council will consider the potential impacts of development proposals on the integrity of the SLAs, including impacts on the wider setting. When determining the impact on the landscape character and scenic quality and overall integrity of the SLA, attention will be given to its citation and in particular the Key Landscape and Visual Characteristics, its Special Qualities, and its Sensitivities to Change.

Citations are found in *Assessment of Highland Special Landscape Areas*. The Ben Wyvis special landscape area is depicted in the map on page 11 of the *Inner Moray Firth Local Development Plan*.

39. In relation to the Ben Wyvis special landscape area, the *Environmental Statement* says that Ben Wyvis “presents an iconic landscape feature and a focus in views from many parts of the surrounding landscape. The views from Ben Wyvis of the surrounding landscapes are also of importance, as experienced by the many hill walkers drawn to this area.” The value of the Ben Wyvis special landscape area is assessed as high. I agree with this assessment.

40. The *Environmental Statement* goes on to assess magnitude of change on the Ben Wyvis special landscape area with respect to the twelve matters that constitute the Key Landscape and Visual Characteristics, Special Qualities, and Sensitivities to Change (see the quotation in paragraph 38, above). For most of these, the magnitude of change is assessed as low or medium-to-low. There are two exceptions to this.

41. The first exception relates to change arising from additional visible evidence of human occupation and the second relates to “further large scale features”. In both cases, magnitude of change is assessed as being high where visibility occurs within the first kilometre of the southern boundary and medium-to-high where visibility occurs beyond this and up to six kilometres from the boundary. I agree with these assessments.

42. Regarding the other assessments in this part of the *Environmental Statement*, I disagree with the assessment with respect to the first of the twelve matters. The first of the twelve matters is one of four under the heading “Key Landscape and Visual Characteristics”. It reads as follows:

Ben Wyvis stands in an isolated position, forming a dominant ‘whaleback’-shaped landmark in the landscape, especially when viewed from the south. The broad ridge and gently ascending upper slopes surmount the very steep middle slopes of Ben Wyvis. The nature of these slopes means that the summit of the mountain is concealed from view from locations at or near its base.

In relation to this matter, the *Environmental Statement* assesses the magnitude of change as medium-to-low. For the following reasons, I find that the magnitude of change would be greater than this.

43. I do not agree that the downslopes of Little Wyvis on which the proposed wind farm would be located do not form part of the wider setting of the Ben Wyvis range. From my site inspections, including visits to the Knock Farril and Kinellan viewpoints, I find that Ben Wyvis is seen as open ground rising above encircling forestry. This open, higher ground extends to and a little to the south of the location of the proposed wind farm and in my view this southern extension is part of the wider setting of Ben Wyvis. The Ben Wyvis special landscape area extends to and into the area within which the turbines would be erected. The turbines would clearly be within the setting of the special landscape area.

44. The *Environmental Statement* says that “the limited visibility of the mountain from at or near its base means views are only available from a greater range and from which the proposed Windfarm appears smaller in scale and has a reduced effect”. I note that the Knock Farril viewpoint is 7.7 kilometres from the nearest proposed turbine and that the Kinellan viewpoint is 5.4 kilometres from the nearest turbine. I find that these are distances within which the turbines would still have a significant effect, bearing in mind that the turbines would appear on the skyline.

45. The *Environmental Statement* then goes on to consider the significance of the effect of the proposed wind farm on the Ben Wyvis special landscape area. The effect is assessed as significant in those parts of the south-west of the designated area that are within six kilometres of the turbines and from which the turbines would be visible. Reflecting findings in relation to cumulative effects on the Rounded Hills and Rocky Moorland landscape character types, the *Environmental Statement* concludes that cumulative effects on the Ben Wyvis special landscape area would be not significant. In the *Summary of Effects* the assessment in relation to the Ben Wyvis special landscape area is “significant in part”.

46. In my view, the correct assessment in relation to the Ben Wyvis special landscape area is an unqualified “significant”. As already seen, the development plan refers to impact on overall integrity of the special landscape area. Having noted what is said in closing submissions regarding its meaning, in my view the plain meaning of “integrity” in this context includes “entireness, wholeness”. These qualities would be impaired by the proposed wind farm and this would be significant.

47. As already indicated (paragraphs 27 to 31, above), I do not accept that cumulative effects would be not significant.

Landscape impacts considered in relation to policy - Ben Wyvis special landscape area

48. Policy 57 of the *Highland-wide Local Development Plan* is headed “Natural, Built and Cultural Heritage”. Developments will be allowed if, among other things, it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource. Policy 67 contains a similar provision in that renewable energy developments will be supported if, among other things, they are located, sited and designed such that they will not be significantly detrimental to natural heritage features. Appendix 2 is headed “Definition of Natural, Built & Cultural Heritage Features”. Appendix 2 includes special landscape areas. The special landscape areas section requires that consideration be given to impacts on the integrity of special landscape areas.

49. Some of the proposed turbines would be just within the boundary of the Ben Wyvis special landscape area, the others would be nearby. I find that the proposed development would seriously damage the landscape qualities of the south-western part of the Ben Wyvis special landscape area. This would impair the integrity of the special landscape area.

50. Appendix 2 of the *Highland-wide Local Development Plan* requires that attention be given to certain matters included in the special landscape area citations. The proposed development would cause a high magnitude of change in relation to additional visible evidence of human occupation and further large scale features. Magnitude of change would be high where visibility occurs within the first kilometre of the southern boundary and medium-to-high where visibility occurs beyond this and up to six kilometres from the boundary. I find that this magnitude and extent of change confirms that the integrity of the special landscape area would be impaired.

51. I find that the proposed development would be within the setting of Ben Wyvis and would be damaging to the setting.

52. I also find that the proposed development would give rise to an unacceptable cumulative effect on the Ben Wyvis special landscape area.

53. My conclusions are that the proposed development would have an unacceptable impact on and would be significantly detrimental to the Ben Wyvis special landscape area. For these reasons, the proposed development does not accord with Policies 57 and 67 of the *Highland-wide Local Development Plan*.

Wild land

54. The approach to the issue of wild land set out in Appendix 6.2 of the *Environmental Statement* follows the methodology contained in *Assessing the Impacts on Wild Land: Interim Guidance Note*, published by Scottish Natural Heritage in 2007. It takes account of the nearest search area for wild land, which was centred on Beinn Dearg but did not include Ben Wyvis. It identifies and assesses a “Wild Land Study Area” which covers the Beinn Dearg search area and much of the Ben Wyvis massif. In my view this approach is reasonable.

55. In the *Core Areas of Wild Land in Scotland 2013*, Core Area 29 covers Beinn Dearg and also includes Ben Wyvis. The core areas of wild land were to be subject to a

consultation process and the 2007 *Interim Guidance Note* remained - and still remains - in force. In my view, there was thus no requirement for the “Wild Land Study Area” to cover the whole of the Ben Wyvis part of Core Area 29.

56. In 2014, the Ben Wyvis part of Core Area 29 became part of Wild Land Area 29. Mindful of the terms of the recent decision relating to a proposed wind farm at Limekiln in Caithness, the Appellant prepared a *Supplementary Landscape and Visual Report for the Appellant* which, among other things, assesses the four areas of land that are outwith the “Wild Land Study Area” but within Wild Land Area 29. I find that this was a reasonable and helpful course of action.

57. The *Environmental Statement* finds that the effects of the proposed wind farm on those parts of the “Wild Land Study Area” from where there would be visibility of the wind farm would not be significant. There would be changes regarding physical attributes and perceptual responses on the closest margins of the “Wild Land Study Area”, but these would be “very much localised and experienced in a context in which existing wind farm development forms a notable component of the baseline situation. The change across the WLSA as a whole would be minor.” “Across the vast majority of the WLSA, and in particular the original SAWL, there will be little or no change to the experience of wildness The notable influence of Corriemoillie and Lochluichart Windfarms combined with extensive commercial forestry plantations in and around the WLSA, means that the landscape south of the SAWL, including the Ben Wyvis range, is not considered true wild land.”

58. The *Supplementary Landscape and Visual Report for the Appellant*, with reference to the Limekiln case, says that Wild Land Area 39: East Halladale Flows is appreciably smaller than Wild Land Area 29 and that this has relevance when considering the impacts upon the whole wild land area in each case. All of Wild Land Area 39 is within the Limekiln 35 kilometres radius study area, whereas Wild Land Area 29 extends well beyond the Carn Gorm study area.

59. The *Supplementary Landscape and Visual Report for the Appellant* refers to the finding in the Limekiln report that there would be significant impact on part of Wild Land Area 39 but not to a level that would lead to the conclusion that impact on the wild land area as a whole would be unacceptable. It also says that the part of Wild Land Area 39 that would have had visibility of most of the Limekiln turbines would have been substantially greater than the part of Wild Land Area 29 that would have visibility of most of the Carn Gorm turbines.

60. The *Report* goes on to say that the part of Wild Land Area 29 with highest theoretical visibility of the proposed turbines lies south-west of the Little Wyvis ridgeline. This area is referred to as the Little Wyvis ‘node’. The Little Wyvis node includes ground that rises to the summit of Carn Gorm as well as the eastern half of the undulating plateau on which most of the proposed turbines would be erected. Eight of the turbines would be within the node and thus within Wild Land Area 29.

61. The *Report* says that the node would be subject to a significant landscape and visual effect, but it is not true wild land in terms of the Scottish Natural Heritage guidance. Given the small scale of the impact relative to the size of Wild Land Area 29, the proposed wind

farm would not impact unacceptably on the integrity of the Wild Land Area as a whole. It is “inconceivable that the impact on the ‘node’ could amount to an unacceptable impact on the integrity of the whole WLA.”

62. I note in the Limekilns report that the reporters refer to impact on Wild Land Area 39 as a whole. This does not mean that in the present case the relevant test is necessarily impact on Wild Land Area 29 as a whole.

63. The fact that WLA 29 is one of the larger wild land areas (more than five times larger than Wild Land Area 39) means it may be appropriate to consider impact on a portion of the wild land area. This is the approach adopted by the landscape witness for Scottish Natural Heritage. Her study area is the part of Wild Land Area 29 that encompasses the Ben Wyvis massif. This study area includes Little Wyvis and part of the appeal site. I find that this study area provides a suitable baseline when giving consideration to the impact of the proposed development.

64. The *Environmental Statement* concludes that the landscape south of the Beinn Dearg search area for wild land, including the Ben Wyvis range, is not true wild land. This conclusion is reached because of the “notable influence” of the Corriemoillie and Lochluichart wind farms and the extensive commercial forestry plantations. It is a conclusion that is disputed by Scottish Natural Heritage.

65. Scottish Natural Heritage’s *Interim Guidance Note* states that a location will not be true wild land if one of the perceptual responses listed in Box 2 of the guidance is not evoked.

66. A baseline assessment of the study area mentioned in paragraph 63 was undertaken by the landscape witness for Scottish Natural Heritage. She recognises that there are adverse effects on Wild Land Area 29, mainly from wind farms. She considers that the Ben Wyvis massif within the wild land area continues to display a high degree of wildness across all attributes. I agree with this assessment.

67. The landscape witness for Scottish Natural Heritage goes on to consider effects of the proposed development on the study area. She assesses magnitude of change as high in relation to the attribute “lack of constructions or other artefacts” and medium-high in relation to “little evidence of contemporary land use”. She considers that, if the proposed wind farm were to be constructed, two of the perceptual responses - “sanctuary or solitude” and “arresting/inspiring qualities, sense of awe - prospect” would no longer be present in the vicinity of Little Wyvis and would be adversely affected across parts of the wider Ben Wyvis massif.

68. I note that assessing magnitude of change as “high” means that total loss or alteration to the attribute would occur (*Interim Guidance Note*, table 3). In my view this would not be the case in relation to “lack of constructions or other artefacts”. I find that there would be a partial loss of the attribute and that the impact should be rated as medium. Otherwise, I accept the assessment made by Scottish Natural Heritage’s landscape witness.

69. Regarding cumulative effect, I agree that Corriemoillie wind farm when built and Lochluichart wind farm will indeed have a notable influence on the wild land character of the Ben Wyvis massif. By reason of its proximity, Carn Gorm would have a very strong influence, adding considerably to the effect of not only Corriemoillie and Lochluichart but also of Novar and Fairburn wind farms.

70. Regarding the Little Wyvis node not being true wild land, I accept that there is justification for saying that not all of the perceptual responses are evoked, but I do not agree that the node is therefore not true wild land. The *Interim Guidance Note* refers to “an area of sufficient size”. In my view the node is not an area of sufficient size. A more appropriate extent of area for assessing wild land attributes is the study area adopted by the landscape witness for Scottish Natural Heritage. In this study area, I find that all of the perceptual responses are evoked and that the node is part of a wider area that is wild land.

71. Regarding relative visibility of turbines when Carn Gorm is compared to Limekiln, I find that the local landscape context at Limekiln appears to be quite different from that at Carn Gorm. For this reason, the Limekiln decision does not necessarily provide a persuasive precedent for approval of the Carn Gorm proposal.

Landscape impacts considered in relation to policy - wild land

72. Appendix 2 of the *Highland-wide Local Development Plan* defines natural, built and cultural heritage features. It includes “Wild areas”. The wild areas section notes that Scottish Natural Heritage will be identifying areas of wild land. The introduction to Appendix 2 says that features of the types that are included in the appendix but which have not yet been mapped will still be protected by Policy 57. Policy 57 says developments will be allowed if, among other things, it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource. This includes wild areas.

73. Policy 67 contains a similar provision in that renewable energy developments will be supported if, among other things, they are located, sited and designed such that they will not be significantly detrimental to natural heritage features. This includes wild land.

74. The *Third National Planning Framework*, *Scottish Planning Policy* and the Wild Land Areas map are more recent than the *Highland-wide Local Development Plan*. The *Third National Planning Framework* says “Scotland’s landscapes are spectacular, contributing to our quality of life We also want to continue our strong protection for our wildest landscapes – wild land is a nationally important asset.....” Protection of wild land is given more detailed attention in *Scottish Planning Policy*.

75. *Scottish Planning Policy* is a material consideration that carries significant weight, especially as it is more up to date than the local development plan.

76. Paragraphs 161 to 166 of *Scottish Planning Policy* come under the heading of onshore wind. Planning authorities are to include in development plans a spatial framework identifying areas that are likely to be most appropriate for onshore wind farms. The accompanying table 1 includes areas of wild land in “Group 2: Areas of significant

protection”. The explanatory text reflects the wording of paragraph 215. I consider paragraph 215 below.

77. Paragraph 169 of *Scottish Planning Policy* refers to considerations in relation to proposals for energy infrastructure developments. It says that these considerations are likely to include landscape and visual impacts, including effects on wild land. I find that landscape and visual impacts, including effects on wild land, are relevant considerations in the present case.

78. Paragraph 215 of *Scottish Planning Policy* says that, in areas of wild land, development may be appropriate in some circumstances. In the present case, part of the application site is within Wild Land Area 29 and part is outwith. I find that, as part of the site is within the wild land area, paragraph 215 is engaged.

79. There has been a suggestion that paragraph 215 should be applied only to that part of the development that lies within the wild land area. I do not agree with this suggestion. The development that is proposed is a unitary entity. All of the supporting material and all of the assessments by the various parties have treated the development as an entity. This is the correct approach.

80. Paragraph 215 says that development in areas of wild land may be appropriate in some circumstances. This means that development in areas of wild land is not ruled out as a matter of course. Paragraph 215 continues: “Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.”

81. The first issue to consider is whether the proposed development would have any significant effects on the qualities of Wild Land Area 29. I find that the proposed development would have the following significant effects.

- It would introduce, in the form of turbines and access tracks, major constructions and artefacts into part of the wild land area.
- It would introduce a contemporary land use into part of the wild land area.
- The presence of the development would be apparent from ground within the southernmost part of Wild Land Area 29.
- Particular locations within Wild Land Area 29 from which the development would be visible include the south end of the summit area of Little Wyvis and at and near the summit of An Cabar. Both of these are major features in this part of the wild land area.
- That part of Wild Land Area 29 which takes in Ben Wyvis and Little Wyvis (in other words, the part to the south of the Beinn Dearg search area for wild land) is and will be affected by existing and approved wind farm developments at Novar, Lochluichart, Corriemoillie and Fairburn. The cumulative effect of these other wind farms would be augmented very considerably by the addition of the proposed Carn Gorm wind farm.

82. All of these effects would be significantly detrimental to wild land qualities of Wild Land Area 29.

83. The second issue to consider is whether these effects can be substantially overcome. The site selection process and design evolution described in the *Environmental Statement* (pages 3-2 to 3-8) show the large amount of effort that has gone into identifying a suitable site and minimising environmental effects. This effort has been successful in that the impact on the surroundings is less than might be expected for so large a wind farm on elevated ground, but significant adverse effects remain.

84. I have considered whether these significant adverse effects could be substantially overcome by imposing conditions on any permission for the development. For example, whether a condition requiring omission of one or more turbines would make the development acceptable. I have concluded that the adverse effects could not be overcome in this way.

85. I therefore conclude that the proposed development is not appropriate in terms of paragraph 215 of *Scottish Planning Policy*.

86. Paragraph 215 of *Scottish Planning Policy* includes a reference to paragraph 200 of the same document. Paragraph 200 says that plans should identify and safeguard the character of areas of wild land identified on the 2014 Scottish Natural Heritage map of wild land areas. In the case of Highland, this will no doubt be done when the *Highland-wide Local Development Plan* comes to be updated or replaced. What is more relevant to this appeal is the statement that “Wild land character is displayed in some of Scotland’s remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development.” I find that this reinforces my conclusion regarding paragraph 215.

87. I find that the detrimental effects on Wild Land Area 29 indicate that the proposed development does not accord with *Highland-wide Local Development Plan* Policy 57 where it refers to impact on the natural environment, amenity and heritage resource. Nor does the proposed development accord with Policy 67 where it refers to significant effects on natural, built and cultural heritage features. The “resource” and the “features” both include wild areas as defined in Appendix 2 of the plan.

Visual impacts

88. The *Environmental Statement* includes an assessment of the effect on views of the proposed development. It identifies a significant effect at viewpoints 1, 4, 5, 8, 10, 17 and 18. It also identifies a significant effect on receptors at five locations or routes - Gorstan, Tarvie, road A835 over five short stretches, road A832 for one kilometre between Torriegorrie and Gorstan, and the path at Knock Farril.

89. I find that effects at Marybank (viewpoint 7 and A832), Ben Wyvis summit (viewpoint 11) and Contin have been understated.

90. Regarding the viewpoint at Marybank, the *Environmental Statement* identifies five factors that are considered to moderate the magnitude of change. I find that, while the

viewpoint is 9.5 kilometres from the nearest proposed turbine and that distance reduces apparent size, the turbines would nevertheless be prominent features. All 14 turbines would be visible. They would be in an elevated position and most would be seen against the sky. They would be to the north-west of the viewpoint and so at times could be front-lit in sunny weather. They would become a focus of attention in the view.

91. The viewpoint at Marybank is close to the A832. Under the heading “Assessment of Effects on Principal Visual Receptors”, the *Environmental Statement* gives consideration to the A832. It says that “views open up on the approach [from the east] towards Marybank”. “...the first clear view of the proposed Windfarm only occurs along the straight stretch of the A832 on the approach to Marybank.”

92. From inspection, I find that, to the east of Marybank, there is a stretch of the A832 that is about 1.5 kilometres long from which west-bound travellers would have largely uninterrupted views of the proposed turbines. The turbines would be up to 11 kilometres away, and this distance would reduce their apparent size and impact, but their presence would be unmistakable.

93. To the west of Marybank there is an unclassified road, a short way along which is a white-on-brown road sign saying “Welcome to Strathconon Scenic Glen for 17 miles”. From inspection, I find that the proposed turbines would be visible from approximately the first 800 metres of this road. Views would be very much filtered by the line of trees on the north side of the road. Where views would be possible, the scenic quality is of a high order, with the River Conon in the foreground, a well-managed agricultural landscape and then rising ground with forestry and open hill ground beyond.

94. Views from within Marybank itself would be non-existent or very limited due to the screening effect of trees and buildings. There would be some views from The Brae (the road that goes south from the crossroads).

95. From my observations in the Marybank locality and taking account of the evidence that has been presented to me, my conclusion is that the proposed development would have a significant effect on Marybank.

96. Regarding the view from the summit of Ben Wyvis, the wireline and accompanying photographic material in figure 6.32 of the *Environmental Statement* show how intervening landform would largely conceal the proposed turbines. The parts of the two or three turbines that would be visible would be back-clothed by distant landscape and would not normally ever be front-lit by the sun. Blade movement would attract attention.

97. The visibility depicted in the wireline overlay that forms part of figure 6.32 is theoretical in that it assumes bare ground. The Appellant makes the point that vegetation or snow cover would reduce or even remove visibility. From my inspection, I find that the vegetation across the summit area is very low-growing. This is reflected in the photo montages, which show only a small part of the turbines obscured by vegetation in comparison with the wireline overlay. Regarding snow cover, the gently-undulating open character of the summit plateau could mean that any wind sweeps snow away into the surrounding corries. There may be occasions when snow accumulates thickly on the

plateau, but it seems likely to me that, in clear weather, the turbines would be visible from the summit at most times of the year.

98. There is a more general point that misty weather is common and makes visual impacts of no significance. I accept that, although there was no quantitative evidence on the subject and no comparison with hills of similar height, there will be many days in the year when the summit of Ben Wyvis is cloud-covered. However, all assessment in the *Environmental Statement* and in other submissions proceeds on the basis of effects in clear weather. I find that this is the correct approach in this case.

99. In relation to the Ben Wyvis summit viewpoint, the *Environmental Statement* refers to Fairburn, Corriemoillie and Lochluichart wind farms. “This means that the proposed Windfarm will not appear as a new or unfamiliar feature but will add a closer range example of this type of development.” “The proposed Windfarm will be added to this context in which windfarm development is already an established feature of the view.”

100. I find that evidence shows that the vast majority of persons visiting the summit of Ben Wyvis start from the Ben Wyvis car park on the A835 and use the path that goes over the summit of An Cabar. From An Cabar they would, assuming mist-free weather, have seen seven or more of the proposed turbines at relatively close range (about five kilometres) and have an awareness of the presence of the wind farm. Although only a very small portion of the proposed development would be visible from the summit of Ben Wyvis, this visibility would be a reminder of the presence of the wind farm, a presence closer to the viewer than the other wind farms that would be in view.

101. I find that there is already a considerable cumulative effect on the summit of Ben Wyvis. The proposed development would add to this, with the result that the cumulative effect would exceed an acceptable level.

102. Regarding Contin, the *Environmental Statement* says that the hills around Carn Gorm and west of Loch Achilty “give Contin a sense of place by marking its location on the edge of the upland landscape.” I would add to this by noting that the approach to Contin from the east on the A835 presents an attractive and dramatic transition from lowland to highland.

103. The *Environmental Statement* summarises visibility of the proposed turbines from within Contin. From my site inspection, I noted that there will also be visibility from a short section of the A835 for west-bound travellers just before they reach the 30 mph speed limit signs.

104. Notwithstanding the relatively short sections of the A835 from which the proposed turbines would be seen, I find that they would have a significant effect on west-bound travellers bearing in mind the qualities of the setting of Contin. This effect would be confirmed by seeing turbines again from parts of the A835 just west of the Rogie Falls car park.

105. As already noted, the *Environmental Statement* identifies a significant effect at seven viewpoints and on receptors at five locations. I find that the effect at An Cabar (viewpoint 18) and on the A832 between Torriegorrie and Gorstan would be particularly marked.

106. As part of my inspection, I visited An Cabar on the way to the summit of Ben Wyvis. The final kilometre of the path to An Cabar gradually steepens and high up takes the form of rock steps. At places, the path is at the edge of a very steep slope, dropping seemingly almost vertically 500 metres to Bealach Mor. This clearly is the most dramatic part of the walk to the summit of Ben Wyvis. It is also the part from which there would be views of the proposed turbines. I find that the proposed turbines would detract considerably from the wildness that is experienced on the ascent of An Cabar.

107. Regarding the A832 between Torriegorrie and Gorstan, from my inspection I find that, for east-bound travellers, tree cover would provide little screening and turbines would be in view nearly all of the time. The turbines would be in the centre of the view and prominent. Some turbines would be “stacked”, one behind another. The full height of two or three would be seen, others would be partly concealed to a variety of extents. I find that the proposed turbines would have a particularly discordant effect on this part of A832.

Visual impacts considered in relation to policy

108. Policy 67 of the *Highland-wide Local Development Plan* says that renewable energy development proposals will be supported if they are not significantly detrimental having regard in particular to eleven matters. One of these is visual impact.

109. Taking account of the visual impact on Marybank, the summit of Ben Wyvis, Contin, An Cabar and the A832 from Torriegorrie to Gorstan as considered above, I find that the proposed development would have a significantly detrimental effect. This would not accord with Policy 67.

Benefits of the development

110. The proposed development would have a number of beneficial effects. The proposed turbines would have a capacity that could be as much as 42 megawatts. This could make a significant contribution to meeting the demand for electricity. It would be a secure contribution in that it would not be from a foreign source. Employment would be created, chiefly during the construction phase.

111. In my view, the proposed development would be “sustainable” in that the energy used to generate electricity would be from a source that does not involve releasing greenhouse gas into the atmosphere. In connection with this, there have been representations concerning the effect of the proposed development on carbon-rich soil and concerning the “pay-back” period of the proposed development. I have considered these representations and responses from the Scottish Environment Protection Agency and the Appellant. I conclude that the effect on carbon-rich soil would be likely to be limited and that the payback period would be likely to be very substantially less than the life of the proposed development.

112. *National Planning Framework 3* makes clear the importance of lowering carbon emissions associated with energy generation. In particular, the Scottish Government wishes to continue to capitalise on the wind resource. “Onshore wind will continue to make a significant contribution to diversification of energy supplies.”

113. *Scottish Planning Policy* supports sustainable economic growth and aims to reduce carbon emissions. There is a presumption in favour of development that contributes to sustainable development. This presumption is a material consideration in this case. Ambitious targets are set for producing energy from renewable sources. These targets are not a cap. The proposed development would accord with some of the principles in paragraph 29 of *Scottish Planning Policy*, in particular economic benefit, supporting delivery of energy, and supporting climate change mitigation and adaptation.

114. I find that the benefits of the proposed development would be substantial. These accord with the support for renewable energy contained in the *Third National Planning Framework* and *Scottish Planning Policy*.

Other matters

115. In giving consideration to landscape and visual effects, I am aware that I have not referred to a number of effects that have been either raised in submissions or considered at the inquiry session. The effects to which I refer in this decision notice are those that have a determining influence on the outcome of the appeal. Other effects, mainly on locations that are at greater distances from the proposed development, I find have lesser impact and do not require detailed assessment.

116. The Council's reasons for refusal of planning permission cite Policy 28: Sustainable Design and Policy 61: Landscape. Among other things, Policy 28 refers to impact on landscape and scenery and Policy 61 refers to landscape characteristics and special qualities. These matters are embraced by Policies 57 and 67 and do not require separate consideration.

117. When the planning application was under consideration, some 183 persons made representations against the proposed development and some 15 made representations in support. Following submission of the appeal, fifteen further individual representations against the proposal were submitted to the Directorate for Planning and Environmental Appeals. I have taken account of the points made for and against the proposed development.

118. Highlands and Islands Airports Limited objected to the proposed development. It stated that the proposed turbines could possibly affect the electronic and aeronautical systems operated at Inverness airport. Dialogue between Highlands and Islands Airports Limited and the Appellant culminated in a Statement of Agreed Matters. From this, I find that aeronautical safety may be satisfactorily addressed by imposing a condition on any planning permission that might be granted for the proposed development.

119. The process by which Scottish Natural Heritage arrived at its decision to object to the proposed development was examined during the inquiry session. I find that the evidence presented by Scottish Natural Heritage reflects its current view of the proposed development. Any concern about internal procedures followed by Scottish Natural Heritage is not for me to consider. In terms of its technical competence and soundness of judgement, I have examined the evidence submitted by Scottish Natural Heritage in the

light of the cross-examination of its witnesses, the case presented on behalf of the Appellant and the observations that I made during my site inspection.

120. One of the documents submitted by Scottish Natural Heritage is an extract from a draft document called "Description of Core Areas of Wild land". This document says that Ben Wyvis is particularly attractive to hillwalkers. A footnote refers to there being over 40,000 visitors to the Ben Wyvis national nature reserve. Scottish Natural Heritage has subsequently said that the figure of 40,000 is likely to have been a typo for a rounded 4,000 figure based on records from a people-counter during 2004.

121. In my consideration of the appeal, I discount the 40,000 figure. The existence of the path to An Cabar and the erosion scar, obviously caused by walkers, from An Cabar to the summit of Ben Wyvis indicate that Ben Wyvis may properly be described as a popular destination for walkers.

122. Reference has been made to supplementary planning guidance and to the Council's consultation paper *Spatial Planning for Onshore wind Energy in Highland*. I agree that these are of limited weight. They do not have a determining influence in the present case.

Environmental impact assessment

123. The proposed development requires environmental impact assessment. The *Environmental Statement* submitted with the application for planning permission was supplemented by further information. The environmental information addresses the direct and indirect effects of the proposed development on the landscape, heritage and archaeology, ecology, ornithology, surface and groundwater hydrology, aviation, radar and telecommunications, traffic and transport, noise, socio-economics, tourism, recreation and climate change.

124. I set out above my conclusions on the significant landscape and visual effects that the proposal would have. So far as the other topics addressed in the environmental information are concerned, the Appellant concluded that there would be no significant adverse effects or that any significant effects could be mitigated by way of appropriate conditions. The Council's reasons for refusal were not based on significant environmental effects other than landscape and visual effects.

125. None of the bodies responsible for advising on the other matters addressed in the environmental information is maintaining an objection to the proposal, subject to the imposition of appropriate conditions. I agree that, other than landscape and visual impact, there would be no significant effects on the environment that could not be mitigated through conditions, and that there would not be any other significant residual effects of an adverse nature on the environment. I set out above my conclusions on the significant benefits that the development would have in relation to the generation of renewable energy and the reduction of carbon emissions.

Conclusions

126. From all the foregoing, my conclusions are as follows.

- The proposed development would have an unacceptable impact on and would be significantly detrimental to the Ben Wyvis special landscape area. For these reasons, the proposed development does not accord with Policies 57 and 67 of the *Highland-wide Local Development Plan*.
- The proposed development is not appropriate in terms of paragraph 215 of *Scottish Planning Policy*.
- The detrimental effects on Wild Land Area 29 indicate that the proposed development does not accord with *Highland-wide Local Development Plan* Policy 57 where it refers to impact on the natural environment, amenity and heritage resource. Nor does the proposed development accord with Policy 67 where it refers to significant effects on natural, built and cultural heritage features.
- The visual impact on Marybank, the summit of Ben Wyvis, Contin, An Cabar and the A832 from Torriegorrie to Gorstan would be significantly detrimental and would not accord with Policy 67 of the *Highland-wide Local Development Plan*.
- The benefits of the proposed development would be substantial. These would accord with the support for renewable energy contained in the *Third National Planning Framework* and *Scottish Planning Policy*.

127. National support for the proposed development is not unconditional. The *Third National Planning Framework* refers to guiding new wind energy development “to appropriate locations, taking into account important features including wild land.” *Scottish Planning Policy* says that considerations regarding proposals for energy infrastructure developments are likely to include “landscape and visual impacts, including effects on wild land.” One of the principles in paragraph 29 of *Scottish Planning Policy* is protecting landscape and the wider environment.

128. I have considered the benefits of the proposed development and the support contained in national policy. My conclusion is that the presumption in favour of sustainable development and the proposed development’s accord with other aspects of national policy would not be sufficient to outweigh the conflict with protecting landscape and safeguarding the character of areas of wild land. This conflict justifies refusal of planning permission.

129. I have also considered those aspects of the development plan that refer to support for renewable energy developments. I conclude that the benefits of the proposed development are clearly outweighed by the extent of the conflict with development plan policies and that the proposed development does not accord overall with the relevant provisions of the development plan. This conflict also justifies refusal of planning permission.

130. There are no material considerations that would justify approval in the face of these conflicts and the appeal should be dismissed.

R W Maslin
Reporter



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